Interpretation of the Measures for the Administration of Construction Project Costs in Jiangsu Province

(First draft)

Chapter I General Provisions

This chapter consists of 5 articles, which stipulate the legislative purpose and basis of the measures, the scope of application, the principles to be followed by valuation activities, the supervision and management system, and the role of industry associations.

**Article 1 These Measures are formulated in accordance with the "Construction Law of the People's Republic of China" and relevant laws and regulations, combined with the actual conditions of this province, in order to strengthen the management of construction project costs, standardize acts related to construction project costs, and safeguard the legitimate rights and interests of all parties involved in project construction.**

【Interpretation】This article is a provision on the legislative purpose and legislative basis of the Measures.

The purpose of this article of legislation is mainly threefold: first, to strengthen the management of construction project costs; second, to standardize acts related to construction project costs; and third, to safeguard the legitimate rights and interests of all parties involved in project construction.

Construction project cost management is the core content of project construction management, which runs through the whole cycle of project construction, and it constitutes the three major control objectives of project construction together with quality management and construction period management. The purpose of engineering cost management is to effectively control and reasonably determine the project cost and maximize the investment benefits. Since the reform and opening up, our province has actively explored new ideas for project cost management that adapts to economic development, and has taken many measures in implementing the reform of the project cost management system and the reform of the cost formation mechanism, scientifically formulating and applying the basis for valuation, standardizing the market valuation behavior, and improving the guidance and service level of the project cost management institutions, and has made remarkable achievements. However, with the rapid development of economic construction in our province, the scale of project construction investment has been greatly improved, the process of marketization of project pricing has accelerated, and many new situations and new problems have emerged in project cost management, and the necessity of strengthening project cost management has become increasingly prominent. It is mainly manifested in four aspects: (1) China is a developing country with relatively scarce resources, and in order to maintain a moderate development rate, it is necessary to invest more construction funds. In 2009, the total investment in fixed assets in Jiangsu Province was 1,875.2 billion yuan, and the output value of the construction industry was 1,018.1 billion yuan, and the total investment in fixed assets in Jiangsu Province reached 1,021.17 billion yuan in the first half of 2010, and the output value of the construction industry reached 425.1 billion yuan, an increase of 20.5% over the same period last year. In the face of the rapid growth of the scale of fixed asset investment year by year, how to effectively use the resources invested in construction projects, with as little labor and material consumption as possible, to achieve higher economic and social benefits, to maintain the sustained, stable and coordinated development of the national economy, and to strengthen the management of the whole process of project cost is particularly important. (2) Although the investment system of engineering construction in our province has been diversified, state-owned investment projects still account for a considerable proportion, especially the national infrastructure investment of 4 trillion yuan and the construction of government investment (financing) projects have increased unabated. However, state-owned investment and construction projects have expanded the scale of investment and raised investment standards without authorization, and the phenomenon of budget exceeding the estimated budget and final accounts exceeding the budget occurs from time to time, resulting in the waste and loss of state-owned assets, and it is necessary to strengthen the control and supervision of the project cost of state-owned investment and construction projects. (3) Under the government's macro-control, the formation of prices through market competition has become the direction of the reform of the project cost formation mechanism, and the implementation of the project quantity list method of pricing and integration with the international market is an important part of the reform. In the period of reform of the project cost valuation method, it is the responsibility of governments at all levels to establish and improve a new type of project cost management system and formation mechanism through legal means and scientific guidance. (4) One of the contents of project cost management is to provide scientific and reasonable pricing basis for project construction participants, and under the new situation of rapid development of new technologies, new processes and new materials, it is necessary to continuously improve and update the project pricing basis to meet the needs of project construction and promote the realization of the goal of energy conservation and environmental protection and the development of green economy in our province.

In the process of marketization of project pricing, due to the imperfect construction of the legal system, the lack of market supervision, the low quality of engineering cost consulting enterprises and the working team, there are many irregularities in activities related to project pricing, resulting in many project cost disputes and social problems. For example, deliberately "overestimating and calculating" to obtain improper benefits, causing losses to the state or construction units; deliberately delaying the settlement of projects and paying for projects, resulting in social problems in which migrant workers' wages cannot be paid on time; a small number of construction enterprises collude in bidding for projects to win bids at a higher price than reasonable; and engineering cost consulting enterprises issue consultation reports showing fairness, seek improper benefits, and cause cost disputes, etc. Therefore, it is necessary to regulate the behavior related to the construction project cost.

Strengthen the management of construction project costs, standardize the behavior related to the construction project cost, and the foothold is to safeguard the legitimate rights and interests of all parties involved in the construction of the project. The so-called "legitimate rights and interests of all parties involved in project construction", simply put, is that under the premise of legality, the construction unit obtains higher investment benefits through reasonable investment; construction, survey and design enterprises obtain corresponding benefits through necessary efforts; and intermediary institutions such as engineering cost consulting obtain returns by providing scientific, fair and effective services.

The legislative basis of these Measures includes two aspects: legal basis and factual basis. The legal basis is mainly the Construction Law of the People's Republic of China, the Law of the People's Republic of China on Bidding and Bidding, and the Contract Law of the People's Republic of China; the main basis of the regulations is the Regulations of Jiangsu Province on the Administration of Engineering Construction, the Regulations on the Administration of the Construction Market in Jiangsu Province, and the Administrative Regulations of the Ministry of Construction, the Administrative Measures for the Contracting and ContractIng of Construction Projects, the Measures for the Administration of Engineering Cost Consulting Enterprises, the Measures for the Administration of Registered Cost Engineers, and the regulations on the management of project costs of other provinces, autonomous regions, and municipalities directly under the Central Government. Regulations. The factual basis is the actual and market project pricing activities of the province's project cost management.

**Article 2 These Measures shall apply to the determination and control of the cost of construction projects within the administrative region of this Province, as well as related supervision and management activities.**

**"Construction projects" as used in these Measures refers to all kinds of housing construction and municipal infrastructure, as well as the installation of lines, pipelines and equipment supporting them. The cost management of transportation, water conservancy, electric power and other projects shall be carried out in accordance with laws, regulations and relevant national regulations.**

**"Construction project cost" as used in these Measures refers to the expenses incurred in the construction activities of a construction project from the preparation to the delivery and use of the construction project.**

【Interpretation】This article is about the scope of application and adjustment objects of the Measures for the Administration of Construction Project Costs in Jiangsu Province, as well as the definition of construction projects and construction project costs.

The first paragraph of this article provides for the scope of application of the measures. It has two meanings: First, the geographical scope of the measures is the administrative region of the province, that is, the construction projects in the administrative region of the province are the scope of adjustment of these Measures. Second, the object of adjustment is the determination and control of the construction project cost, as well as related supervision and management activities. Project cost determination is to use scientific calculation methods and practical pricing basis at all stages of project construction to reasonably determine the investment estimate, design estimate, construction drawing budget, bidding base (bidding control price), contract contract price, project settlement price and completion final account. Engineering cost control refers to the use of scientific methods and means to correct deviations at any time at all stages of investment decision-making and implementation of construction projects, and to control the formation of project costs within the approved cost limit to ensure the realization of project management objectives. Relevant supervision and management activities refer to the supervision and management activities carried out by relevant government departments on the project cost in accordance with their respective duties, including formulating project cost valuation policies and management systems, implementing administrative permits and administrative penalties in accordance with law, formulating pricing basis and pricing specifications, approving (or approving) the cost and management of state-owned investment and construction projects, and supervising and inspecting market valuation in accordance with law.

The first layer of the second paragraph of this article means to define construction projects as "all kinds of housing construction and municipal infrastructure, as well as the installation of lines, pipelines and equipment supporting them". "All kinds of housing construction" refers to the housing construction in the construction project and its supporting lines, pipelines, equipment installation projects, such as office (office) buildings, residential buildings, teaching buildings, scientific research experimental buildings, medical buildings, commercial buildings, production plants, warehouses, various venues and institutes, etc.; "municipal infrastructure" refers to urban roads, public transportation, water supply, drainage, gas, heat, gardens, sanitation, sewage treatment, garbage disposal, underground public facilities and ancillary facilities of civil engineering, pipelines, equipment installation projects. The Measures stipulate that the determination and control of the cost of the above two types of projects, as well as supervision and management activities, shall be subject to these Measures. The second level of the second paragraph of this article means to stipulate the cost management of transportation, water conservancy, electric power and other professional projects, which shall be carried out in accordance with laws, regulations and relevant national regulations. Broadly speaking, construction projects should include professional projects managed by various professional departments. However, in view of the fact that China's current engineering construction management system is based on the implementation of different uses of construction projects to implement division of labor management, transportation, water conservancy, railway, electric power, communications, chemical and other industries in charge, have their own pricing basis, standard procedures and project cost management system, at this stage it is difficult to achieve the management system and valuation basis of unification. Therefore, the construction projects of these Measures are only defined as housing construction and municipal infrastructure projects.

Paragraph 3 of this Article defines the cost of a project. "Construction project cost" as used in these Measures refers to the expenses incurred in the construction activities of a construction project from the preparation to the delivery and use of the construction project. Theoretically, the project cost is divided into a broad sense of cost and a narrow sense of cost. In a broad sense, the project cost refers to the total fixed asset investment cost of the expected or actual expenses of a project, that is, the sum of the one-time costs required for a project to form the corresponding fixed assets through construction. This meaning is defined from the perspective of investors (owners), in this sense, the project cost refers to the project price, that is, the total price of the construction project that is expected or actually formed in the land market, equipment market, technical labor market, and contracting market for the completion of a project. In the narrow sense, the cost is the contracting price of the project, which is the contracting price jointly recognized by the demand entity investors and the supply entity builders through bidding or direct contracting in the construction market. The project cost referred to in these Measures refers to the first meaning, that is, the total fixed asset investment cost of the expected or actual expenses of the construction of a project. The costs referred to here include construction and installation works, equipment and other related costs.

**Article 3 The construction cost activities shall follow the principles of legality, objectivity, fairness, and good faith, and shall not harm the social public interest or the lawful rights and interests of others.**

【Interpretation】This article is a provision on the guidelines for construction project cost activities.

The guiding principle of engineering cost activities is the general code of conduct for carrying out engineering cost activities, which is of universal significance. The principles of cost activities provided for in this article are: legality, objectivity and fairness, honesty and creditworthiness, and do not harm the public interest and the legitimate rights and interests of others. The so-called "legal" means that the participants in the project cost activities must abide by the laws, regulations and rules of the state and local governments, which is the premise of the activity, and the acts or agreements made without this premise are illegal, and the benefits and rights obtained by the illegal acts are not protected by law. The so-called "objective and fair" means that the participants in the project cost activities in the process of determining the project cost, based on objective facts, are not biased, not biased, and treat all parties involved in the project construction fairly and reasonably. The so-called "honesty and credit" means that the participants in the project cost must abide by professional ethics, fulfill the agreement between the two parties, and do not cheat. The so-called "social public interest" refers to the benefits that can be enjoyed by the majority of citizens, that is, it emphasizes that the bearer of the benefits is the society rather than the individual, such as bringing losses to state-owned economic construction projects and public welfare construction projects invested by the government, and disrupting the order of the construction market is to damage the social public interest. "The lawful rights and interests of others" in these Measures refers to the legitimate rights and interests of the participants in the construction of the project, including construction units, survey and design enterprises, construction enterprises and intermediary service agencies.

**Article 4 The competent administrative departments for construction of local people's governments at or above the county level shall be responsible for the supervision and management of construction project cost activities within their respective administrative regions, and the specific work shall be entrusted by them to the construction project cost management institutions.**

**The departments of development and reform, finance, auditing, and pricing of local people's governments at or above the county level shall, in accordance with their respective duties, be responsible for the supervision and management of the cost of construction projects.**

【Interpretation】This article is about the provisions of the construction project cost management system.

The competent departments for project costs in the first paragraph of this article contain two meanings: First, the competent construction administrative departments of local people's governments at or above the county level are responsible for the supervision and management of construction project cost activities within their respective administrative areas. It is based on Article 6 of the Construction Law, which stipulates that "the competent administrative department for construction under the State Council shall exercise unified supervision and management over construction activities throughout the country"; Article 3 of the Regulations on the Administration of Engineering Construction of Jiangsu Province, "The competent administrative department for construction of the Provincial People's Government shall be the comprehensive management department for engineering construction activities within its administrative region"; article 4 of the Regulations on the Administration of the Construction Market of Jiangsu Province, "The competent administrative department for construction of local people's governments at or above the county level shall be the unified supervision and management department of the construction market within its administrative region". Paragraph 4 of Article 2 of the Notice of the General Office of the State Council on Printing and Distributing the Provisions on the Establishment of Institutions and Staffing within the Main Responsibilities of the Ministry of Housing and Urban-Rural Development (Guo Ban Fa [2008] No. 74) stipulates that the Ministry of Housing and Urban-Rural Development "undertakes the responsibility of establishing a scientific and standardized standard system for engineering construction." Organize the formulation of national standards for the implementation stage of project construction, formulate and publish national unified quotas and industry standards for project construction, formulate methods for the feasibility study and evaluation of construction projects, economic parameters, construction standards and management systems for project costs, formulate standards for the construction of public service facilities (excluding communication facilities) and supervise their implementation, guide and supervise the implementation of quotas for various types of engineering construction standards and the valuation of project costs, and organize the release of project cost information." The Notice of the General Office of the CPC Central Committee and the General Office of the State Council on Printing and Distributing the Reform Plan for the People's Government Agencies of Jiangsu Province (Hall Character [2009] No. 21) and the Notice of the Jiangsu Provincial People's Government of the CPC Jiangsu Provincial Committee on Printing and Distributing the Opinions on the Implementation of the Reform of the People's Government Agencies of Jiangsu Province (Soviet Committee [2009] No. 252) stipulate that the Provincial Department of Housing and Urban-Rural Development shall be established as a constituent department of the provincial government and specifically undertake the responsibility of establishing a scientific and standardized system of engineering construction standards. Formulate and publish unified quotas, pricing basis and project cost management rules and regulations for the whole province of engineering construction, formulate and issue local standards for engineering construction and supervise their implementation, supervise and guide the implementation of various types of engineering construction standard quotas and project cost valuation, and organize the release of project cost information. This shows that the administrative departments in charge of project cost management from the State Council to local people's governments at all levels are the competent administrative departments for construction at all levels. Why the measures do not use the expression "the competent administrative departments for housing and urban-rural construction of local people's governments at or above the county level are responsible for the supervision and management of construction project cost activities in their respective administrative areas", mainly because it is considered that some cities and counties in our province are urban and rural construction bureaus and housing security real estate management bureaus that are two separate departments, while "housing and urban-rural construction administrative departments" refer to one department. Moreover, the housing security and real estate departments are not part of the construction administrative departments, so the use of the expression "construction administrative departments" can avoid confusion in the functions of the competent departments.

The second level of the first paragraph of this article means the supervision and management of construction project cost activities within the administrative region, and the specific work is entrusted by the competent construction administrative department of the local people's government at or above the county level to the construction cost management agency. The project cost management institutions referred to in these Measures refer to those subordinate to the competent administrative departments for construction at all levels, internal institutions specializing in the administrative management of project costs, or public institutions entrusted with administrative management functions. At present, the provincial and 13 provincial and municipal construction administrative departments have set up special engineering cost management agencies, and most county (city) and district construction administrative departments also have special or joint engineering cost management agencies. From the perspective of the functions of the engineering cost management agency, it is a management institution that integrates policy, technology, economy, management and service responsibilities into a professional, obvious role and indispensable management agency. Among the 15 provinces, autonomous regions, and municipalities directly under the Central Government that have enacted legislation on engineering cost management nationwide, 14 have entrusted the specific work of project cost management to the engineering cost management agency of the competent administrative department for construction. Article 4 of the Measures for the Administration of Construction Project Construction Contracting and Contract Pricing (Order No. 107) of the Ministry of Construction clearly stipulates: "The competent administrative departments for construction of local people's governments at or above the county level shall be responsible for the management of the work of contracting and pricing of projects within their respective administrative regions." Its specific work can be entrusted to the project cost management agency." In 2009, the Ministry of Housing and Urban-Rural Development of the People's Republic of China Jianbiao [2009] No. 14 "Opinions on Further Strengthening the Management of Project Cost (Quota)" further clarified: First, it is necessary to further strengthen the management of project cost (quota). Engineering cost management is an important part of project construction management, and it is a policy-oriented, technical and economic work. The project quota is the core of the project cost management, and is the main basis for reasonably determining and effectively controlling the investment in the project. It provides a basis for the evaluation and decision-making of construction projects, the scale of government macro-control investment, and the pricing of regulatory markets. The competent administrative departments for construction in all localities should, in accordance with the requirements of the leading comrades of the State Council on "further strengthening the work of standard quotas, strengthening cost management, and giving full play to the guiding and restraining role of standard quotas," earnestly strengthen leadership and further strengthen the management of project costs (quotas). Second, it is necessary to further clarify the responsibilities of the project cost (quota) management agency. Project cost management has always been an important responsibility of the construction administrative department of the State Council. For a long time, the local engineering cost (quota) management agencies have been entrusted by the local construction administrative departments, undertaken the administrative management responsibilities of the project cost (quota), and done a lot of basic work in order to give full play to the maximum benefits of capital investment and safeguard the legitimate rights and interests of all parties involved in the construction of the project, which has played an important role in promoting the healthy development of China's engineering construction. In the reform of public institutions, the competent administrative departments for construction in all localities should strengthen market supervision and public services in accordance with the requirements of transforming government functions, clearly position the responsibilities of project cost (quota) institutions, and better play the role of project cost management in guiding and restricting project construction activities. Third, it is necessary to actively coordinate with relevant departments and implement work funds. After the administrative fee collection projects involving the project cost (quota) are cancelled, the construction administrative departments in all localities shall take the initiative to coordinate with the financial departments at the same level and obtain their support in accordance with the provisions of the Notice of the National Development and Reform Commission of the Ministry of Finance on Announcing the Cancellation and Suspension of the Collection of 100 Administrative Fees and Charges (Cai Zong [2008] No. 78) that "the funds required by relevant departments and units to perform administrative management functions or issue licenses in accordance with the law shall be guaranteed by the financial budgets at the same level". Earnestly do a good job in guaranteeing the funds for the corresponding work of the project cost (quota) after the cancellation of the fee, and ensure the normal operation of the management work.

The second paragraph of this article stipulates the functions of the comprehensive government administrative department related to the management of project costs. This paragraph stipulates that "the development and reform, finance, auditing, pricing and other departments of local people's governments at or above the county level shall be responsible for the supervision and management of the construction cost of construction projects in accordance with their respective duties". Development and reform, finance, auditing, price, etc. are the comprehensive administrative departments of the government, and some of their functions are related to the valuation of project costs and the determination and control of costs, such as the development and reform departments have the responsibility of managing the investment estimates in the feasibility study stage of the project, the financial departments have the management responsibilities for state-owned investment and the cost of government investment and construction projects, and the auditing departments have the responsibility of auditing state-owned investment and construction projects according to law. The responsibilities of the comprehensive department for engineering cost management and the responsibilities of the competent administrative departments for construction are not contradictory, but are a relationship of primary and secondary division of labor, different contents, each performing its own duties, and cooperating and coordinating.

**Article 5 The construction project cost industry association shall establish and improve the self-discipline mechanism and give play to the role of industry guidance, service and coordination.**

【Interpretation】This article is about giving play to the role of industry associations in the management of project costs.

Industry association refers to the social non-governmental organization between the government, enterprises (or practitioners in the industry), and for its service, consultation, communication, supervision, self-discipline, coordination, rights protection, it does not belong to the government's management agency series, it is the government and enterprise bridge and link. Industry associations belong to the legal persons of associations stipulated in China's Civil Law, and are internationally referred to as non-governmental organizations and are non-profit institutions. The Provincial Engineering Cost Management Association was established in the early 1990s, and subsequently the Cost Management Association was established in various provinces and municipalities. For more than ten years, the association has played a good role in carrying out theoretical seminars on engineering costs and exchanges of work experience, and organizing technical training and continuing education for practitioners. However, further in-depth and meticulous work is needed to promote the establishment of a self-discipline mechanism in the industry, correct the industry's business style, guide the industry to improve service quality, coordinate the relationship between enterprises and the government, reflect the demands of enterprises and safeguard the legitimate rights and interests of enterprises. Therefore, as a non-governmental organization and a force in project cost management, this paragraph emphasizes the establishment and improvement of self-discipline mechanisms and the role of industry guidance, service and coordination.

Chapter II Valuation Management of Construction Projects

This chapter consists of 11 articles, which mainly stipulate the content of project cost valuation activities, the principle of pricing basis, the determination of costs at each stage of project construction, the formation mechanism and valuation method of project costs, the cost management of state-owned investment and construction projects, the cost agreement of project construction contracts, and the change and settlement of projects.

**Article 6 Valuation of construction projects refers to the activities of determining and controlling the cost of construction projects, mainly including:**

**(1) Preparing and reviewing investment estimates, preliminary design estimates, construction drawing budgets, bills of quantities, bidding bases, bidding control prices, and bidding quotations;**

**(2) agreeing on and adjusting the contract price;**

**(3) Implementing project measurement and payment of project prices;**

**(4) Handling project claims and change visas, project settlement and final accounts;**

**(5) Handling construction project cost disputes and conducting construction project cost appraisals;**

**(6) Other activities related to the determination and control of construction project costs.**

【Interpretation】This article clarifies the main contents of the construction project valuation activities.

Article 2 of the Measures for the Administration of Contracting and Contract Pricing of Construction Projects (Ministerial Order No. 107 of the Ministry of Construction) stipulates: "The contract pricing of projects includes activities such as the preparation of construction drawing budgets, bidding bases, bidding quotations, project settlement and signing of contract prices. Article 1 of the Code for the Valuation of Bills of Quantities for Construction Projects (GB50500-2008) explains that "valuation activities for bills of quantities for construction projects" refers to activities such as the preparation of bills of quantities, the preparation of bidding control prices for bills of quantities, the preparation of bidding quotations for bills of quantities, the agreement on the price of project contracts, the handling of settlement upon completion, and the payment of engineering measurement and project prices, claims and on-site visas, adjustment of project prices, and handling of disputes over project valuation. This article contains two meanings: First, the project cost valuation activity is carried out around the control and determination of the project cost, that is, the activities carried out by the parties to the project around the control of the cost formation process and the confirmation of the formation results of the construction cost at each stage of the project. The second is to specifically clarify six pricing activities:1.0.2

In item (1), the engineering construction procedure is divided into four major stages: the pre-decision-making stage, the construction preparation stage, the construction stage, and the completion acceptance stage, and can be divided into several sub-stages in each stage. In each sub-stage, the project cost is expressed in different forms, such as the cost form of the feasibility study stage is expressed as investment estimation, the cost form of the preliminary design stage is expressed as the design estimate, the cost form of the project bidding stage is expressed as the bidding base (bidding control price), the bidding quotation, and the completion stage cost form is expressed as the completion settlement and final accounting, etc., which reflects the dynamic and phased (multiple) characteristics of the project valuation, and the preparation and review of the project cost at each construction stage are the content of the project valuation activities. Although the "bill of quantities" is not the project cost, it is a detailed list of the quantity of the project and the number of related costs for bidding and bidding, and it is the basic document for valuation, so the preparation of the bill of quantities in this article is also listed as a valuation activity.

In item (2), according to the relevant laws and regulations of our country, the construction of the project must conclude a contract, and the agreement on the project cost in the contract and the adjustment of the project cost in the performance of the contract are valuation activities.

In subparagraph (iii), "engineering metrology" is an activity that calculates the quantity or value of works for each sub-project or structural component in natural units of measurement or physical units of measurement. Paragraph 2 of Article 13 of the Interim Measures for the Settlement of Construction Project Prices (Caijian [2004] No. 369) issued by the Ministry of Finance and the Ministry of Construction stipulates that: (1) The contractor shall submit a report on the completed project quantity to the contractor in accordance with the method and time agreed in the contract. The contractor verifies the completed quantity within 14 days after receiving the report, and notifies the contractor 1 day before the verification, the contractor shall provide conditions and send someone to participate in the verification, the contractor will not participate in the verification after receiving the notice, and the quantity of the project verified by the contractor shall be used as the basis for payment of the project price. The contractor did not notify the contractor according to the agreed time, resulting in the contractor failing to participate in the verification, and the verification result was invalid. (2) If the contractor does not verify the quantity of the project within 14 days after receiving the contractor's report, from the 15th day onwards, the quantity of the project reported by the contractor shall be deemed to be confirmed, and as the basis for the payment of the project price, if otherwise agreed in the contract between the two parties, it shall be implemented in accordance with the contract. (3) The contractor shall not measure the amount of work that the contractor exceeds the scope of the design drawings (including design changes) and the rework caused by the contractor.00 "Payment of the project price" refers to the activity of the construction unit to pay the price of the completed project or the completed project to the contractor in accordance with the provisions of the contract and the project settlement measures. However, the project price is not paid at one time, but is generally divided into the form of project advance payment, progress payment, claim payment and settlement payment.

Subparagraph (4), "construction claim" usually refers to the act of one of the parties to the contract in the course of performance of the construction contract, because one of the parties to the contract has suffered economic losses or damage to its rights due to the other party's non-performance or failure to perform the contract correctly or due to other non-its own factors, and has made a claim for economic or temporal compensation to the other party through the procedures agreed in the contract. The "change visa" consists of two contents, one is the change of the contract price caused by the change of engineering design, and the other is that during the construction of the project, the contractor's on-site representative (or its client) requires the contractor to complete the work outside the contract content and the costs incurred, and carries out written visa activities with the contractor's on-site representative. "Project settlement" refers to the activities in which the contractor completes all the work content agreed in the contract and receives qualified experience, and the contracting parties determine the project cost in accordance with the contract, and the project settlement reflects the construction and installation costs of a single, or unit, or sub-project. "Project final account" refers to the activity of the construction unit to prepare the project final account report after the construction project is completed and put into operation or used, and the project final account reflects the total investment cost of the project and its investment effect.

Item (5) contains two activities: First, to deal with disputes over project costs. If a dispute arises between the two parties to the project construction contract due to the inability to reach an agreement on the determination of the project cost, before submitting for arbitration or filing a lawsuit, they may jointly apply to a third party for mediation or the project cost management agency shall carry out a policy, normative and authoritative interpretation of the disputed issues in order to obtain an agreement between the two parties. The second is to conduct project cost appraisal. If the two parties to the project construction contract cannot reach an agreement on the determination of the project cost, they shall apply for arbitration or file a lawsuit in accordance with the law, and the arbitration organ and the people's court shall entrust the project cost management agency or the project cost consulting enterprise to conduct an appraisal of the disputed cost in accordance with the law, and put forward a fair and reasonable appraisal opinion for the reference of the arbitration organ or the people's court.

Item (6) refers to valuation activities other than the above five activities, such as the engineering cost consulting enterprise entrusted to carry out the whole process of engineering cost control service activities for the construction project cost.

**Article 7 The basis for the valuation of construction projects refers to all kinds of norms, standards, quotas, cost information and project cost management systems used in construction project cost activities.**

【Interpretation】This article clarifies the content of the basis for calculating the cost of construction projects.

The valuation basis of construction project cost is the general term for the basic data used to calculate the construction project cost, which includes relevant national policies, regulations, systems, standards, norms, project quotas, construction drawings and completion drawings, bidding documents, construction contracts and supplementary agreements, design changes and on-site visa documents, material and equipment shopping vouchers, cost information and guidance documents issued by the project cost management agency.

A "specification" is an information provision that characterizes a certain engineering operation or behavior. It can be formally prescribed by the organization or informally formed. "Norms" as used in this Article refers to the norms promulgated by the competent national and provincial construction administrative departments to regulate the valuation of projects. For example, the national standard "Specification for the Valuation of the List of Quantities for Construction Projects" (GB50500-2003) promulgated by Order No. 119 of the Ministry of Construction in 2003( GB50500-2003) was revised by the Ministry of Housing and Urban-Rural Development with Announcement No. 63, which re-issued the new version of the "Specification for the Valuation of the List of Quantities for Construction Projects" (GB50500-2008), which is the first national specification for project pricing in China. In China, compared with the traditional fixed amount pricing model, the bill of quantities is a new pricing model. The basic principle of bill of quantities is to separate "quantity" and "price". The basic principle is to take the bill of quantities provided by the bidder as the basis, the bidder according to its own technology, finance, management ability and market price, formulate the construction plan, compile the comprehensive unit price and related cost of the bill of quantities, and form the project quotation for bidding. The bidder shall select the project contractor on the basis of the bid evaluation rules and determine the project contract price. In the bill of quantities valuation model, the risk of quantity (accuracy and completeness of the bill of quantities) is borne by the bidder, and the risk of the price (comprehensive unit price) is borne by the successful bidder. The implementation of bill of quantities valuation is a major change to adapt to the development of the socialist market economy, a major measure to integrate with the international construction market after joining the WTO, and a solid step forward in China's project cost calculation work to gradually achieve the goal of "government macro-control, enterprise independent quotation, and market competition to form prices." The bill of quantities valuation specification has the characteristics of mandatory, practical, competitive and universal. Mandatory performance is that some of the provisions are enforced in the specification; practicality is manifested in the clear description of the name, characteristics and work content of the list items, which is easy to quote and settle; competitive performance is that the bidder can determine the consumption and price of the person, material, machine, management fee, measure fee and profit level of the list of items to complete the list according to its own comprehensive strength; the versatility is reflected in the implementation of the project code, project name, project characteristics, measurement unit and project quantity "five unifications" in the bill of quantities, which is in line with the standardization of the engineering quantity calculation method 3. The rules for calculating the bill of quantities are unified, and the requirements for determining the marketization of the project cost are determined.2008年7月9日

The "Standards" are based on the combined results of scientific, technical and practical experience, are agreed upon by the parties concerned, approved by the competent authorities and issued in a specific form as guidelines and basis for common compliance. "Standard" as used in this article refers to engineering construction standards, that is, the unified technical requirements for construction engineering design, construction methods and safety protection, and the general principles of technical terms, symbols, codes and drawing methods related to engineering construction. In the construction of the project, engineering design standards, construction methods and technical standards, engineering quality standards, safety production standards, construction period control standards are all important factors affecting the cost of the project, therefore, the construction engineering standards are part of the basis for project pricing.

The "quota" is to stipulate the amount of resources consumed by the unit of qualified products under the conditions of reasonable labor organization and rational use of materials and machinery, which reflects the level of social productivity in a certain period. "Quota" is the product of scientific enterprise management and the foundation of scientific management. The "quota" referred to in this article refers to the project cost quota, that is, under normal construction and production conditions, the quantity standard of labor, materials, construction machinery and capital consumption consumed by the unit of qualified products, which reflects the specific quantitative relationship between the completion of construction products and various production and consumption under the condition of a certain level of development of social productive forces. However, different building products have different quality requirements and personalized characteristics, and we cannot regard the quota as a simple quantitative relationship, but should be regarded as a unity of building product quality and safety, which boils down to the social average necessary quantity standards in order to form a project quota. Project quota is the most important basis for the control and determination of construction project costs, and the preparation, issuance, improvement and management of project quotas are the most important responsibilities of engineering cost management institutions.

"Cost information" refers to the information such as building material prices, unit prices of laborers per day, unit price of construction machinery bench shifts, engineering cost index indicators, and completed project cost examples issued by the project cost management agency or other competent departments, providing investment decision-making, control and determination of project cost reference and use for all entities in the construction market. With the rapid development of China's informatization process and the widespread use of information technology, engineering cost information has become an indispensable basis for project pricing, and the dependence of various entities in the construction market on engineering cost information is also getting higher and higher. Since the project cost information has regional, diverse, professional, systematic, dynamic and seasonal characteristics, coupled with the asymmetry of user information resources, the market needs to have an organization to undertake the collection and release of practical, reliable and authoritative project cost information for project pricing or reference. The State Council and the provincial government clearly stipulate in the "three determinations" plan of the Ministry of Housing and Urban-Rural Development (Department) that it is the responsibility of the competent administrative departments for housing and urban-rural construction to publish project cost information. Article 1 of the Code for The Valuation of bills of quantities stipulates that "project cost information issued by the project cost management agency" is one of the bases for compiling the bidding control price. Over the past ten years, the engineering cost management institutions at all levels in our province have undertaken the specific work of releasing project cost information to the public, and have initially formed a project cost information management system with information content serialization, information format standardization, diversified release platform, and institutionalized management services.4.2.3

In a broad sense, the "project cost management system" includes the project cost management system formulated by the competent departments of the national and local people's governments, as well as the project cost management system formulated by enterprises and institutions. The "project cost management system" in this article refers specifically to the relevant laws, regulations and rules, as well as the competent administrative departments of the national and local people's governments for construction, development and reform, finance, auditing, taxation, prices and other administrative departments, and the system of project cost management formulated in accordance with the law according to their respective responsibilities.

**Article 8: Estimated targets, budget estimates, budget estimate quotas, and cost quotas shall be formulated by the provincial administrative departments for housing and urban-rural construction in conjunction with the provincial administrative departments for development and reform, finance, and so forth.**

**The budget quota (price list), labor quota, construction machinery bench shift quota, and construction period quota shall be formulated by the provincial housing and urban-rural construction administrative department.**

【Interpretation】This article stipulates the main body that formulates the quota for construction projects.

To understand the meaning of this article, we must first understand the concept of various quotas for construction projects and the role of various quotas. The quota of construction projects is divided into budget quotas, estimated budget quotas, estimated budget indicators, estimated indicators, cost quotas, labor quotas, mechanical bench shift quotas, construction period quotas, etc. The "budget quota" is the quantitative standard for calculating and determining the consumption of labor, materials and construction machinery shifts for a sub-project with a specified unit of measurement, and is the basis for calculating the price of construction installation products. The budget quota is expressed in monetary form as the "price table" (or "unit valuation table"), which is based on the consumption of people, materials and machines specified in the budget quota, multiplied by the price of people, materials and machines in a certain period and region to obtain the unit price of the fixed amount of the article. "Estimated budget quota" is based on the budget quota, according to the general map and standard drawings and other information, with the main sub-project as the main comprehensive relevant sub-project or process appropriate expansion of the preparation of the expansion of the sub-project human, material, machine consumption standards. The budget estimates are the basis for the preparation of the unit engineering estimates and budget estimate indicators. "Budget estimate indicator" is the expansion and merger of the estimated budget quota, which is based on the entire building and structure as the object, usually based on the building area (m2 or) or building volume (m3 or), the structure is measured in seats, and the quota indicators for the consumption of labor, materials, mechanical shifts and the amount of funds required for the branch project are specified. "Estimation index" is to determine the production of a certain unit of measurement (such as m2, m3 or building, block, etc.) of the cost and material consumption of the construction and installation project, used to prepare investment estimates in the feasibility of the project proposal and the preparation of design task. The "cost quota" is one of the basic bases for compiling the project cost, and is the basis for delineating the project category, determining the valuation procedure, and stipulating the cost composition and rate standard. A "labor quota" (also known as a labor quota) is a quantitative standard for the consumption of living labor specified for a certain qualified product (engineering entity or labor service). In order to facilitate synthesis and accounting, labor quotas mostly use the consumption of working hours to calculate the amount of labor consumption. "Construction machinery bench class quota" refers to the quantity standard of construction machinery bench shift consumption specified for the completion of a certain qualified product (engineering entity or labor service), the main form of which is the mechanical time quota, but it can also be expressed as a production quota. "Construction period quota" refers to the number of calendar days (including statutory holidays) required for the whole process of the construction project to complete all the project contents according to the design documents and reach the date of the national completion acceptance standards under certain production technology and natural conditions, excluding the time for construction preparation, preparation of completion documents and implementation of acceptance. The construction period quota is divided into two levels: the construction period quota and the construction period quota, and the "construction period quota" in this article refers to the construction period quota.100m2100m3

In accordance with the "three determinations" plan approved by the State Council and the provincial government, the function of formulating and issuing construction project quotas belongs to the competent administrative departments for housing and urban-rural construction. Considering that the functions of the feasibility study report and the approval (approval) of investment estimates for construction projects are in the administrative departments for development and reform, and the functions of investment and cost approval for state-owned investment and construction projects are in the financial departments at all levels, and that the macro-control of the market price level and the determination of the criteria for the listing and fee collection of some policy-oriented fee-taking projects in the cost quota are also related to the functions of the relevant administrative departments, therefore, starting from the purpose of taking into account the functions of the departments and maintaining the coordination of interdepartmental work, the first paragraph of this article stipulates the estimation indicators and estimated budget indicators The estimated budget quota and cost quota shall be formulated by the provincial housing and urban-rural construction administrative department in conjunction with the provincial development and reform, finance and other administrative departments. Paragraph 2 of this Article stipulates that the budget quota (price table), labor quota, construction machinery bench shift quota, and construction period quota shall be formulated by the provincial administrative department for housing and urban-rural construction.

**Article 9 The determination of the construction cost of a construction project shall meet the following requirements:**

**(1) Investment estimates shall be prepared during the feasibility study phase of the construction project. The investment estimate shall be prepared by the preparation unit with corresponding qualifications or the engineering cost consulting enterprise with reference to the relevant valuation basis such as investment estimation indicators and the changes in the exchange rate during the construction period, and shall be submitted to the competent investment department for examination and approval or approval in accordance with the regulations;**

**(2) The design estimate shall be prepared in the preliminary design stage of the construction project. The design estimate shall be prepared by a design unit with corresponding qualifications or a project cost consulting enterprise under the control of the investment estimate, on the basis of the estimated budget indicators, the estimated budget quota and other relevant valuation basis, and shall be submitted to the competent investment department for examination and approval or approval in accordance with the regulations;**

**(3) During the implementation stage of the construction project, a budget for the construction drawings shall be prepared. The construction drawing budget shall be prepared and determined by the construction unit, the construction unit or the project cost consulting enterprise entrusted by it with corresponding qualifications within the scope of the design estimate, and on the basis of the approved construction drawings, the construction organization design plan, the project quota, the valuation specification and other relevant valuation basis;**

**(4) The list of quantities of the construction project, the control price of the bidding or the bid base shall be based on the relevant pricing basis such as the approved construction drawings, bidding documents, project quotas, valuation specifications, and the guidance price issued by the construction project cost management agency, and shall be compiled by the engineering cost consulting and bidding agency with corresponding qualifications and approved by the construction unit, and the construction unit that has the conditions for organizing bidding on its own may also compile and determine it on its own;**

**(5) The bidding quotation shall be based on the construction drawings, bidding documents, construction organization design, enterprise quota or relevant quota, and consider changes in the market environment, the price of production factors, etc., and shall be independently prepared and determined by the bidding enterprise and shall not be lower than the enterprise cost;**

**(6) The settlement of the project shall be based on valid documents approved by the contractor or contractor such as the construction project contract, supplementary agreement, change visa, etc., prepared by the contractor or the engineering cost consulting enterprise entrusted by the contractor with corresponding qualifications, and determined after review by the contract issuer or the engineering cost consulting enterprise with corresponding qualifications entrusted by the contractor;**

**(7) The final accounts of the completion of construction projects shall be prepared in accordance with the provisions of the State and the province on financial final accounts.**

【Interpretation】This article stipulates the principle of compiling and determining the cost of the project at each stage of the construction project.

This article mainly stipulates in principle from the four aspects of the content of the preparation of the project cost at each stage of the construction project, the basis for the preparation, the compiler, and the method of determining the cost.

In item (1), the feasibility study stage of the construction project is an important stage of the project investment decision, and the investment estimate prepared at this stage is one of the main bases for the project decision-making, and the design estimate is controlled accordingly. Due to the relatively long construction period of project construction, this item emphasizes that in addition to the preparation of investment estimates and other relevant valuation bases, investment estimates should also refer to market changes such as prices, interest rates, and exchange rates during the construction period to avoid decision-making errors. "Preparation units or engineering cost consulting enterprises with corresponding qualifications" in this item refers to units that have obtained engineering consulting qualifications in accordance with the Interim Measures for the Administration of Engineering Consulting Industry of the National Development and Reform Commission and enterprises that have obtained engineering cost consulting qualifications in accordance with the Measures for the Administration of Engineering Cost Consulting Enterprises of the Ministry of Construction. The Decision of the State Council on the Reform of the Investment System (Guo Fa [2004] No. 20) stipulates that, except for projects using government investment and construction that are subject to the examination and approval of the competent investment department, the approval system will no longer be implemented for projects that enterprises do not use government investment and construction, and the approval system and filing system will be implemented in different situations. Among them, the government only approves major projects and restricted projects from the perspective of safeguarding the social public interest, and other projects, regardless of their size, are changed to the filing system, and the market prospects, economic benefits, sources of funds and product technology solutions of the projects are all decided by the enterprises independently, bear their own risks, and handle the licensing procedures and tax reduction and reduction confirmation procedures such as environmental protection, land use, resource utilization, safe production, urban planning and so on in accordance with the law. For projects for which enterprises use government subsidies, refinancing, and discounted interest rates to invest in construction, the government only examines and approves the fund application report. In this spirit, the investment estimate in this article is "submitted to the competent investment department for examination and approval or approval in accordance with the regulations".

In item (2), the preliminary design stage of the construction project is the key stage of the investment control of the construction project, and the design estimate prepared at this stage shall be controlled within the investment estimate, and the design estimate approved or approved by the investment department shall be the maximum limit for controlling the project construction investment. The design estimate can be divided into three levels: the unit project estimate, the individual project comprehensive budget estimate and the total construction project budget estimate. The unit project estimate determines the construction cost of each unit, which is the basis for the preparation of the comprehensive budget of the individual project and is an integral part of the comprehensive estimate of the single project. The comprehensive estimate of a single project is a document that determines the construction cost of a single project, which is compiled from the summary of the engineering estimates of each unit in the individual projects, and is an integral part of the total estimated budget of the construction project. The general estimation of the construction project determines the documents requiring all the costs of the entire construction project from the preparation to the completion and acceptance, which is compiled by summarizing the comprehensive budget of each individual project, the estimated other costs of the construction project, the reserve fee, the estimated investment direction adjustment tax, the estimated loan interest budget during the construction period, and the working capital of the operating project.

In item (3), the construction drawing budget is a project cost document prepared on the basis of the approved construction drawing design, budget quota or unit valuation table, construction organization design documents and cost quotas, and the construction drawing budget shall be controlled within the scope of the estimated budget. Before the implementation of the bill of quantities valuation method, most of the construction drawing budgets were used to control the project cost. After the implementation of the bill of quantities valuation, it is generally the construction drawing budget method for construction projects and private investment and construction projects that do not carry out bidding according to law to control the project cost.

In item (4), the list of quantities of the construction project, the bidding control price or the bid base are the cost documents prepared during the implementation stage of the construction project. "Bidding control price" means the maximum limit price of the bidder for the preparation of the bidding project according to the construction drawing design, the relevant valuation basis and bargaining procedures issued by the national or provincial industry authorities, and the methods, procedures and contents of the preparation are similar to the previous bidding base. Our province and most provinces and municipalities in the country stipulate that the bidder must publish the bidding control price in the bidding documents, and if the bidder's quotation exceeds the published bidding control price, its bidding quotation shall be treated as a scrap bid. The tendering control price shall be issued to the bidder 10 days before the deadline for submission of the bidding documents; when the bidder has objections to the bidding control price announced by the bidder, it shall submit it in writing to the bidder 7 days before the opening of the bid, and the bidder shall verify it in a timely manner. After verification, if there is indeed an error, the bidder shall adjust the bidding control price and notify all bidders 5 days before the opening of the bid.

In item (5), in addition to the documents listed in this item and the market factors to be considered, the bidder shall also adopt a suitable bidding strategy to bid and bid according to the enterprise's own technical level and equipment capabilities, management level and labor organization efficiency and other factors affecting the cost of the project. "Enterprise quota" is the construction enterprise according to the construction technology and management level of the enterprise to compile their own, to complete a specified measurement unit of qualified engineering project required labor, materials, construction machinery bench class consumption standards, etc., it is the construction enterprise for the construction of the internal management standards, is one of the basis for the construction enterprise to bid and quotation. This article emphasizes two points: First, the bidding quotation is prepared and determined by the enterprise independently, the quotation should be competitive to take advantage of the strengths and avoid the weaknesses, and it must have the ability to bear the risks itself; second, the quotation shall not be lower than the cost of the enterprise, and the bidding shall not be maliciously bid. Article 27 of China's Law on Bidding and Bidding stipulates that bidders shall prepare bidding documents in accordance with the requirements of the bidding documents. The tender documents shall respond to the substantive requirements and conditions set forth in the solicitation documents. Article 33 stipulates that bidders shall not bid at an offer below the cost. Article 10 of the Measures for the Administration of Contracting and Contract Pricing for Construction Projects (Order No. 107 of the Ministry of Construction) stipulates that the bid evaluation committee may review the valuation basis and relevant provisions issued by the competent administrative department of construction with reference to the objections to whether they are lower than the cost quotation.

In item (6), project settlement is an important part of the determination of project cost, and the project settlement document is the main basis for the settlement of the price between the contractor and the construction unit. There are two ways to settle the project: intermediate settlement (settlement according to the time period or project image progress) and completion settlement. Project completion settlement is divided into unit project completion settlement, single project completion settlement and construction project completion total settlement. Article 16 of the Measures for the Administration of Contracting and Contract Valuation for Construction Projects (Order No. 107 of the Ministry of Construction) stipulates that "the contracting party shall submit the completion settlement documents within the agreed period after the completion and acceptance of the project". Article 1 of the Specification for the Valuation of the Bill of Quantities for Construction Projects stipulates that the settlement of the completion of the project shall be prepared by the contractor or the engineering cost consulting enterprise entrusted by it with corresponding qualifications, and shall be checked by the contractor or the engineering cost consulting enterprise entrusted by it with corresponding qualifications. Paragraph 2 of Article 14 of the Interim Measures for the Settlement of Construction Project Prices (Caijian [2004] No. 369) stipulates that the settlement of the completion of the unit project shall be prepared by the contractor, and the settlement of the completion of a single project and the total settlement of the completion of the construction project shall be prepared by the general (contractor). The settlement of the completion of a single project and the total settlement of the completion of the construction project shall be effective after it has been issued and signed and sealed by the contractor.4.8.2

In item (7), the final account of the completion of the construction project reflects the summary document of the construction results and financial status of the completed project, which is the basis for handling the value of the property delivered for use, and also the basis for the post-economic assessment of the construction project. The final accounts of the completion of the construction project shall be prepared by the construction unit in accordance with the provisions of the state and the province on financial final accounts.

**Article 10 The contracting and contracting price for construction projects shall be formed under the macro-control of the government and shall be formed by the independent quotation of enterprises and market competition.**

**The contracting and contracting price of construction projects can be denominated in the form of a bill of quantities, or it can be priced by means of a project quota.**

【Interpretation】This article is a provision on the formation mechanism and valuation method of the contracting and contract price of construction projects.

"Contracting and contracting price for construction projects" as used in this article refers to the construction and installation cost of the contracted project determined by the two parties.

The first paragraph of this article stipulates the mechanism for the formation of contracts and contract prices for construction projects. Under the government's macro-control, the contracting and contracting price of construction projects are formed by the independent quotation of enterprises and market competition, which is the result of the reform of the project cost management system and formation mechanism in our province, and is also the ultimate goal of the reform of China's engineering cost management system, that is, to gradually establish a price mechanism based on market formation prices. In the past thirty years of reform and opening up, the formation mechanism of contract issuance and contracting prices in our province has gone through about three stages, one is the government pricing mechanism under the planned economy; the other is the pricing mechanism of "unified quantity, guidance price, and competition fee" implemented in the early stage of reform and opening up, that is, the price of people, materials, and machines is uniformly calculated according to the consumption of people, materials, and machines stipulated in the quota, and the prices of people, materials, and machines are determined according to the guidance prices issued by the government and its cost management agencies, and the standards for calculating enterprise management fees, profits, and other expenses other than fees and taxes are decided by the contractors and participate in competition The third is the new mechanism of independent quotation and market competition formed by the enterprise at this stage, that is, the contractor independently quotes according to its own conditions and strength, and determines the contract price of the project through bidding or bidding. Article 18 of the Construction Law stipulates that "the cost of a construction project shall be agreed upon in the contract between the contracting unit and the contracting unit in accordance with the relevant provisions of the State". Article 3 of the Measures for the Administration of Contracting and Contract Pricing of Construction Projects stipulates that "the contracting and contracting prices for construction projects shall be formed by market competition under the government's macro-control". Both of these legal provisions embody the spirit of market competition to form costs. However, the independent quotation of enterprises and the pricing of market competition do not mean free quotation and free pricing, and quotation and pricing should be carried out under the government's macro-control. Government macro-control is mainly reflected in: (1) quotation and pricing behavior is subject to laws, regulations, rules, and systems; (2) quotation and pricing must follow the technical and economic standards formulated by the government, such as cost composition, project quota, project quantity calculation rules, etc.; (3) intervention in pricing behavior related to people's livelihood, infringement of legitimate rights and interests, and impact on safety and quality. For example, the government stipulates that social security fees and safe and civilized construction fees shall not compete in order to protect the rights and interests of construction workers; and the guiding standards for the unit price of budgeted labor wages shall be issued regularly.

Paragraph 2 of this Article stipulates the method of valuation of projects. For decades, China's project pricing method mainly adopts the method of quota pricing. The so-called fixed amount of pricing is based on the design of construction drawings and the budget quota promulgated by the state and the province to prepare the contract price of the project. With the deepening of the reform, the fixed amount pricing method has gradually quoted some elements of market competition, so this article still regards the fixed amount of pricing as one of the valuation methods that can be used at this stage. According to the provisions of the "Specification for the Valuation of the List of Quantities for Construction Projects", when the fixed amount valuation method is adopted, in addition to the special provisions on the valuation of the bill of quantities, the provisions of the specification, such as the adjustment of the project price, the measurement and payment of the price, the claim and the on-site visa, and the settlement of the completion shall be implemented.1.0.4

The metering method of the bill of quantities is the pricing method that our province has vigorously promoted since the state issued the "Specification for the Valuation of the List of Quantities for Construction Projects" in 2003. The bidder prepares a list of quantities reflecting the characteristics and quantities of each sub-project of the contracting project, and the bidder makes an independent quotation by determining the comprehensive unit price and measure cost of the sub-project according to its own conditions and strength. Compared with the fixed amount pricing, the advantages of the bill of quantities pricing method are: (1) it reflects the risk sharing. The risk of the list amount is borne by Party A, and the risk of the price is borne by the construction enterprise. (2) Reflect the independent quotation. After Party A gives the unified list, each bidder makes its own quotation according to the market situation and its own situation. (3) Avoid duplication of effort. The fixed amount is calculated by Party A and all bidders, while the list is only calculated by Party A once. (4) Conducive to enterprise management. The comprehensive unit price of the sub-project in the bidding quotation of the enterprise is determined in combination with the management level of the enterprise, so the bidding document is also a guiding document for cost management in construction. To this end, the use of bill of quantities for contracting projects, especially for bidding projects.

**Article 11 Engineering construction projects in which all state-owned funds are used for investment or in which state-owned funds are invested in a controlling or dominant position (hereinafter collectively referred to as state-owned capital investment projects) must be valued by means of a bill of quantities.**

**Where state-owned capital investment projects are contracted by means of bidding, a bidding control price shall be prepared.**

**The design estimate of a state-owned capital investment project approved or approved by the competent investment department shall be the maximum limit for investment and cost control of the construction project, and shall not be arbitrarily adjusted or broken without the approval of the original project examination and approval department.**

**In addition to handling the relevant provisions of this Chapter, the budget of the construction drawings, the settlement of the project, and the final account of the completion of the project shall also be examined by the financial department at the same level.**

**State-owned capital investment projects and government financial fund investment and construction projects shall be subject to audit supervision in accordance with law, and the audited unit shall implement the audit decisions made by the auditing organs in accordance with law.**

【Interpretation】This article is about the requirements for the cost management of state-owned capital investment projects.

"Engineering construction projects in which all state-owned funds are used for investment and in which state-owned funds are invested in a controlling or dominant position" as used in this article refers to the "Provisions on the Scope and Scale Standards for Bidding for Engineering Construction Projects" in Order No. 3 of the State Planning Commission: (1) using state-owned funds to invest in construction projects, including projects using financial budget funds at all levels; projects using various government special construction funds included in financial management; and projects using the own funds of state-owned enterprises and institutions, and state-owned asset investors actually have control over projects. (2) State-owned financing construction projects, including projects raised by the use of bonds issued by the State; projects raised by the State borrowing or guaranteeing funds; projects using state policy loans; projects financed by investment entities authorized by the State; and financing projects licensed by the State. "State-owned capital investment holding or dominant position" means that state-owned funds (including state financing funds) account for more than 50% of the total investment, or although less than 50% state-owned investors actually have a controlling interest.

Paragraph 1 of this Article stipulates that state-owned capital investment projects must be priced by means of a bill of quantities. This is a mandatory provision, mainly based on the mandatory provisions of the Code for the Valuation of The Bill of Quantities for Construction Projects (GB50500-2008), which stipulates that "all engineering construction projects that use state-owned capital investment or state-owned capital investment must be denominated by the bill of quantities".1.0.3

Paragraph 2 of this article stipulates: "Where state-owned capital investment projects are awarded by means of bidding, the bidding control price shall be prepared. "The Specification for the Valuation of the List of Quantities for Construction Projects (GB50500-2008) stipulates that projects invested by state-owned funds shall be subject to the bidding of the list of quantities, and the bidding control price shall be prepared. When the tender control price exceeds the approved estimate, the tenderer shall report it to the original budget estimate approval department for review. If the bidder's bid price is higher than the bid control price, his bid shall be rejected. This paragraph actually contains three meanings: First, if a state-owned capital investment project is awarded by way of bidding, the bidding control price shall be prepared. The purpose of compiling bidding control prices is to curb the behavior of price gouging that may occur during the bidding process, prevent the loss of state-owned assets, and create conditions for objective, fair and reasonable bid evaluation. Second, the preparation of the bidding control price will help the bidder to control the project cost within the approved estimate, or when the estimate is exceeded, it will be adjusted in time and reported to the original budget approval department for re-examination. Third, the bidding control price is the highest transaction price that the bidder can accept, and if the bidder's bid is higher than the bidding control price, the bidder shall refuse the bid. Paragraph 3 of Article 36 of the Government Procurement Law stipulates: In the course of bidding and procurement, if the bidders' quotations exceed the procurement budget and the procurer is unable to pay, the bid shall be scrapped.4.2.1

Paragraph 3 of this article stipulates: "The design estimate of a state-owned capital investment project approved or approved by the competent investment department shall not be arbitrarily adjusted or broken without the approval of the original project examination and approval department." According to statistics, in the preliminary design stage of the project, the probability of affecting the project cost is 75% to 95%, while the probability of affecting the project cost at the construction drawing design stage is only 5% to 35%. Obviously, the key to engineering cost control lies in the design stage before construction, so the design stage is the focus of engineering cost control in the whole process of construction. The State stipulates that design estimates must be prepared at the preliminary design stage. The main role of the design estimate can be summarized as follows: (1) the design estimate is the basis for preparing the investment plan of the construction project, determining and controlling the investment of the construction project, and the approved total design estimate of the construction project is the maximum investment limit of the project. (2) The design estimate is the basis for signing the construction project contract and the loan contract, and the general contracting contract shall not exceed the investment amount of the total design estimate; the total amount of all appropriations or loans for the construction project shall not exceed the investment amount of the design estimate. (3) The design estimate is the basis for controlling the construction drawing design and the construction drawing budget, such as the construction drawing budget really needs to break through the total estimate, it should be submitted for approval in accordance with the prescribed procedures. (4) The design estimate measures the technical and economic rationality of the design scheme and the basis for selecting the best design scheme. In practice, because state-owned funds invest in construction projects use state money and people's money, and there is no direct interest relationship with the construction units, it is not uncommon to arbitrarily change the content of construction, expand the scale of construction, and raise construction standards, resulting in problems such as over-estimated budgets for construction projects and over-budget settlements. Therefore, in accordance with the relevant provisions of the State, this paragraph emphasizes that the design estimates of construction projects invested by state-owned funds shall not be arbitrarily adjusted or broken without the approval of the original project examination and approval department.

Paragraph 4 of this article stipulates: "In addition to the relevant provisions of this Chapter, the budget of construction drawings, the settlement of projects, and the final accounts of project completion must also be examined by the financial department at the same level." "The financial department is the investment manager of the government's financial funds to invest in construction projects, and undertakes the responsibility for the cost control and approval of the government's financial funds to invest in construction projects. Paragraph 2 of Article 14 of the Interim Measures for the Settlement of Construction Project Prices (CaiJian [2004] No. 369) of the Ministry of Finance and the Ministry of Construction stipulates that the settlement of projects invested by the government in construction projects shall be "examined by the financial department at the same level". Three points need to be explained here: First, the "construction drawing budget" referred to in this paragraph mainly refers to the construction drawing budget for projects that do not carry out public bidding in accordance with the law, and the bidding control price for bidding projects. Second, the provision that the settlement of government-invested construction projects shall be reviewed by the financial department at the same level does not exclude the project legal person or investor from entrusting a project cost consulting enterprise with corresponding qualifications to review. Third, for construction projects invested by the state finance, and the parties have not agreed in the contract to use the audit and audit results of the state financial department or the state auditing department as the basis for the settlement of the project price, and the contractor requests that the project price be settled in accordance with the contract, the opinion of Article 13 of the Opinions of the Jiangsu Provincial High People's Court on Several Issues Concerning the Trial of Cases Involving Disputes over Construction Project Contracts (discussed and adopted at the 44th meeting of the Adjudication Committee) is: "For construction projects invested by the state finance, If the parties have not agreed in the contract that the audit and audit results of the state financial department or the state auditing department shall be used as the basis for the settlement of the project price, and the contractor requests that the project price be settled in accordance with the contract, the people's court shall support it."2008年12月17日

Paragraph 5 of this article stipulates: "State-owned capital investment projects and government financial fund investment and construction projects shall be subject to audit supervision in accordance with law, and the audited unit shall implement the audit decisions made by the auditing organs in accordance with law." The Auditing Law stipulates: "The auditing institution shall examine and supervise the implementation of the budget and final accounts of the national construction project." This paragraph has three meanings: First, the "audit" referred to in this paragraph is an audit act carried out by the state auditing organ in accordance with the Auditing Law, that is, government audit, excluding social audit and internal audit of enterprises and institutions; second, the audited unit refers to the construction unit, not the construction enterprise. The Supreme People's Court's Telephone Reply Opinions on How to Apply the Law when the Parties Have Confirmed the Project Final Account Price in a Construction Project Contract Case and the Project Final Account Price Audited by the Auditing Department (2001 Min Yi Ta Zi No. 2) held that "auditing is a kind of administrative supervision by the state over the construction unit and does not affect the validity of the contract between the construction unit and the undertaking unit". The third is to stipulate that the audited unit shall implement the audit decision made by the audit organ in accordance with law.2001年4月2日

**Article 12 The construction contract for a construction project shall make specific provisions on the following matters related to the cost of the project:**

**(1) The basis and method of valuation;**

**(2) The type of contract price and the total price of the contract, and the unit price of each item of the fixed unit price contract;**

**(3) The amount of the advance payment, the method of payment of the advance payment, the time of payment and the method of deduction when the project advance payment method is adopted;**

**(4) The method, amount and time of payment of the progress payment of the project;**

**(5) The adjustment factors, adjustment methods, and adjustment procedures for the contract price;**

**(6) Procedures, amount confirmation and payment time for claims and on-site visas;**

**(7) The method of determining and deducting the price of materials and equipment supplied by the contract issuer;**

**(8) The scope, extent and method of bearing the contract risks, as well as the adjustment methods for the contract price when the risks exceed the agreement;**

**(9) The preparation and review time of the settlement of the project, the method of payment and the payment time of the settlement price;**

**(10) Liability for breach of contract for unqualified project quality, project quality incentives and the amount of project quality warranty, the method and time of reservation and return;**

**(11) Liability for breach of contract for delay in construction period and reward measures for early completion of construction period;**

**(12) Methods of mediation and handling of project cost disputes;**

**(13) Other agreed matters of the project cost and liability for breach of contract.**

【Interpretation】This article is a requirement for the construction contract of the construction project to stipulate the cost of the project.

Article 46 of China's Law on Tendering and Bidding stipulates that "the bidder and the successful bidder shall conclude a written contract within 30 days from the date of issuance of the notice of winning the bid in accordance with the bidding documents and the bidding documents of the successful bidder". The agreement on the project price is the main content of the construction project contract, and the "Specification for the Valuation of the List of Quantities for Construction Projects" stipulates: "The contract price of the project for which the bidding is carried out shall be agreed upon in the written contract within 30 days of the issuance of the notice of winning the bid, and the issuing and contracting parties shall agree in the written contract on the basis of the bidding documents and the bidding documents of the successful bidder." The contract price for the project that does not carry out bidding is in circulation. On the basis of the project price recognized by both parties to the contract, the contracting parties shall agree in the contract" In practice, due to the negligence of the contract signatories, or lack of experience and knowledge, or subjective intentions, the contract terms related to the cost are unclear, incomplete, not strict or the content is missing, resulting in a large number of cost disputes, and even social problems such as "triangular debts" and arrears of wages to migrant workers. In order to avoid or reduce the occurrence of such problems, maintain the order of the construction market and the legitimate rights and interests of the participating parties, this article puts forward 13 requirements in the contract regarding the content of the project cost that needs to be clearly agreed:4.4.1

In subparagraph (a), the contract needs to stipulate the basis and method of valuation. The basis for valuation includes bidding documents, bidding documents, construction drawings, pricing quotas and standards adopted by the project, and the basis for setting the prices of major building materials. The pricing method refers to the use of bill of quantities pricing method, or fixed amount pricing method or other pricing method.

In subparagraph (2), the "contract price type" referred to in this subparagraph is generally divided into three types: fixed-price contracts, adjustable price contracts and cost-plus-remuneration contracts. "Fixed-price contract" means a contract in which the contract price is no longer adjusted within the agreed risk range. Fixed-price contracts are divided into fixed total price contracts and fixed unit price contracts, fixed total price contracts in the agreed risk range of the total price unchanged, only when there are factors beyond the scope of the contract risk, the price can be adjusted, such contracts are suitable for the project structure is not complex, the construction process is not difficult, the total contract price is low, the construction period is shorter. Fixed unit price contracts are the types of contracts in which the comprehensive unit price (or fixed unit price) of the partial bill of quantities is no longer adjusted within the agreed risk range, and the comprehensive unit price adjustment method outside the risk range is agreed in the contract, and such contracts are applicable to projects that use the bill of quantities valuation method. "Adjustable price contract" refers to a contract in which the contract price can be adjusted according to the agreement of the two parties, and is generally applicable to the type of contract adopted when neither party to the contract can foresee their respective risks. "Cost plus remuneration contract" refers to the contract for which the contract issuer pays the actual cost of the project to the contractor and pays the remuneration in the agreed manner, which is generally applicable to the rescue and disaster relief projects where the construction drawing design is not in place. This paragraph requires three meanings: first, the signatory party must agree on the type of contract price; second, in addition to the cost plus remuneration contract, other types of contracts must stipulate the total price of the project; third, if the contract adopts a fixed unit price contract, the contract must stipulate the unit price of each project. Construction project construction contract is the main basis for engineering construction quality control, progress control, investment control, under the conditions of market economy, the mutual rights and obligations between construction market entities are mainly established through contracts, and it is of great significance to strengthen the management of construction contracts.

Item (3), the "project advance payment" referred to in this subparagraph refers to the advance payment (also known as the advance materials payment) that the construction unit has advanced to the construction enterprise before the start of the project, which is used for the working capital required by the construction enterprise to purchase and reserve the main materials and structural parts for the project. The construction unit generally adopts the method of deducting the progress payment of the project. Article 14 of the Measures for the Administration of Contracting and ContractIng valuation of Construction Projects of the Ministry of Construction stipulates that the two parties to the contract for construction projects shall stipulate in the contract the specific matters of prepayment of the project payment in accordance with the provisions of the competent administrative department of construction, combined with the project payment, the construction period and the contracting materials. Article 12 of the Interim Measures for the Settlement of Construction Project Prices (Caijian [2004] No. 369) stipulates that the settlement of the project advance payment shall comply with the following provisions: (1) The advance payment for the contracted project shall be allocated according to the contract, and in principle, the prepayment ratio shall not be less than 10% of the contract amount and not higher than 30% of the contract amount, and for major projects, it shall be prepaid year by year according to the annual project plan. For projects that are priced in accordance with the Specification for the Valuation of the List of Quantities for Construction Projects, the physical consumption and non-physical consumption parts shall separately stipulate the proportion of advance payment in the contract. (2) Under the premise that the construction conditions are met, the contractor shall pay the project payment within one month after the signing of the contract between the two parties or no later than 7 days before the agreed start date, the contractor shall not pay the prepayment as agreed, the contractor shall issue a notice to the contractor requesting prepayment within 10 days after the expiration of the prepayment time, the contractor shall not pay the prepayment as required after receiving the notice, the contractor may stop the construction after 14 days of the notice, and the contractor shall pay the interest payable to the contractor from the date of payment agreed to pay (the interest rate is calculated at the bank loan interest rate for the same period) and assume liability for breach of contract. (3) The prepaid project payment must be stipulated in the contract for deduction and deducted in the project progress payment. (4) For projects for which no contract has been signed or construction conditions are not met, the contractor shall not advance the project payment and shall not transfer funds in the name of advance payment.

Item (4), the "project progress payment" referred to in this item refers to the sum of the costs paid by the construction unit to the construction enterprise during the construction process according to the sum of the costs calculated month by month or the number of projects completed by the image progress or the control interface. Paragraph (3) of Article 13 of the Interim Measures for the Settlement of Construction Project Price (Caijian [2004] No. 369) stipulates that the project progress payment shall be paid: (1) According to the determined project measurement results, the contractor shall submit an application to the contractor for payment of the project progress payment, and within 14 days, the contractor shall pay the project progress payment to the contractor at a rate of not less than 60% of the project price and not higher than 90% of the project price. The advance payment that should be deducted by the contractor according to the agreed time shall be settled and deducted at the same time as the progress payment of the project. (2) If the contractor does not pay the progress of the project in excess of the agreed payment time, the contractor shall promptly issue a notice to the contractor requesting payment, and the contractor may not pay according to the requirements after receiving the contractor's notice, and may negotiate with the contractor to sign an extension payment agreement, which may be deferred with the consent of the contractor, and the agreement shall specify the time of deferred payment and the interest payable from the 15th day after the confirmation of the project measurement results (the interest rate is calculated according to the bank loan interest rate for the same period). (3) If the contractor does not pay the progress of the project as agreed in the contract, and the two parties have not reached an agreement on deferred payment, resulting in the construction being impossible, the contractor may stop the construction, and the contractor shall bear the liability for breach of contract.

In item (5), the "adjustment factor of the contract price" as used in this subparagraph refers to the factor that the contract price may be adjusted as agreed between the two parties to the contract. In the entire project construction cycle, the uncertain factors affecting the project cost, such as changes in engineering design, changes in engineering quantity, changes in the price of various elements, and changes in the construction environment, often occur. In order to avoid cost disputes, it is necessary to clarify the adjustment factors, adjustment methods and adjustment procedures of the contract price in the contract. Article 9 of the Interim Measures for the Settlement of Construction Project Prices (Caijian [2004] No. 369) stipulates that the procedure for adjusting the contract price is as follows: the contractor shall, within 14 days after the occurrence of the adjustment stipulated in the contract, notify the contractor in writing of the reasons and amount of the adjustment, and the contractor shall confirm the adjustment amount as an additional contract price and pay it at the same time as the progress payment of the project. If the contractor does not confirm or propose amendments within 14 days after receiving the contractor's notice, it is deemed to have agreed to the adjustment. When the adjustment of the contract price stipulated in the contract occurs, and the contractor fails to notify the contractor within the prescribed time, or fails to submit an adjustment report within the prescribed time, the contractor may decide whether to adjust and adjust the amount on the basis of the relevant information, and notify the contractor in writing. Article 10 stipulates that the method of adjusting the price of the engineering design change is: If the design change involves the adjustment of the project price within 14 days after the engineering design change is determined, the contractor shall propose it to the contractor and adjust the contract price after the contractor has reviewed and approved it. The contract price of the change shall be carried out in the following ways: (1) the price applicable to the changed project in the contract shall be changed according to the price already in the contract; (2) only the price similar to the price of the changed project in the contract may be changed by reference to the contract price; (3) the price of the contract that is not applicable or similar to the change of the project shall be proposed by the contractor or the contractor or the contractor, and the contract issuer shall propose the appropriate change price, which shall be implemented after confirmation by the other party. If the two parties cannot reach an agreement, the two parties may request the project cost management agency of the project location for consultation or handle it in accordance with the dispute or dispute resolution procedures agreed in the contract. Within 14 days after the engineering design change is determined, if the contractor does not submit a report on the change of the project price, the contractor may decide whether to adjust the contract price and the specific amount of the adjustment based on the information in its possession. The time limit for the reporting and confirmation of major project changes involving changes in the project price shall be determined by the two parties to the contract through consultation. The party receiving the report on the price of the changed project shall confirm or submit a consultation opinion within 14 days from the date of receipt, and within 14 days from the date of service of the report on the price of the changed project, if the other party does not confirm or submit a consultation opinion, it shall be deemed that the report on the change of the project price has been confirmed. The increase (decrease) of the project change price is recognized as the additional (minus) contract price and the project progress payment at the same time.

In item (6), claims are a common way of safeguarding rights in the international project development and contracting market, but they are rare in China's construction market. With the enhancement of the awareness of rights protection of project construction participants and the improvement of management level, especially after overcoming the problem of difficulty in collecting claims and evidence, there will be more and more cases of using engineering claims to protect rights. Doing a good job of on-site visas is the key to a smooth claim. Therefore, this article requires that the construction contract stipulate the procedure, amount confirmation and payment time of the claim and the on-site visa. The Specification for the Valuation of the Bill of Quantities for Construction Works stipulates that the contractor's claim shall be handled in accordance with the following procedures: (1) the contractor submits a notice of intent to claim expenses to the contractor within the time agreed in the contract; (2) the contractor appoints a special person to collect information related to the claim; (3) the contractor submits an application for a claim for expenses to the contractor within the time agreed in the contract; (4) a special person designated by the contractor to preliminarily review the application form for expense claims; (5) a person designated by the contractor to verify the cost claim, and the cost engineer reviews the " Article 4.6.6 of the Code for The Valuation of the Bill of Quantities for Construction Projects stipulates that", when the contractor shall complete sporadic work other than the contract at the request of the contractor or the liability of the non-contractor occurs, the contractor shall promptly submit an on-site visa to the contractor in accordance with the contract". 4.6.7 stipulates that the claim confirmed by both the issuing and contracting parties shall be paid at the same time as the on-site visa fee and the progress of the project.4.6.3

Item (7) requires that the materials supplied by the contractor and the equipment price be determined and deducted in the manner of deduction. In the construction of the project, some engineering building materials and equipment are purchased and supplied by the construction unit (also known as A supplies). In the quotation of the engineering contractor, the price of the material supplied by A is generally determined according to the price specified by the construction unit in the bidding documents. Under normal circumstances, the price of materials supplied by A is settled in accordance with the principle of "entering, exiting (deducting) equally". If the actual price of A supplied materials that actually entered the project cost changes with the originally specified price and other reasons, affecting the project cost and related to the interests of both parties to the contract, it is necessary to agree on this.

In item (8), the risk referred to in this subparagraph is the risk involved in the project valuation in the bidding activities and the contract performance process during the project implementation stage. In the construction of the project, there are many factors and possibilities that produce risks, and under the planned economy, the principle of handling the risks of engineering construction is risk sharing, but most of them are passed on to the construction units. Under the mechanism of today's market competition to form the cost of the project, the basic principle of handling risks is that the risks are borne by each other. Therefore, it is emphasized that construction enterprises must fully consider the possible risks and their ability to bear risks when quoting, and digest the foreseeable risk factors in the quotation. However, China is in a period of rapid economic construction, and there are many uncertain factors in the market for various elements of engineering construction, and unforeseen risks are also increasing. Therefore, in terms of engineering construction risk bearing, all parts of the country have adopted various responsibilities within the risk range agreed in the contract, and when the risk occurs beyond the agreed scope, the two parties to the contract can share the risk through the agreement to reflect the principle of fairness and reasonableness, which is the specific performance of the construction market to maturity. The Specification for the Valuation of bills of quantities for construction projects stipulates: "For projects denominated in bills of quantities, the risk content and its scope (range) shall be specified in the bidding documents or contracts, and the risk content and scope (range) shall not be specified in unlimited risks, all risks or similar statements." "In accordance with international practice and combined with the characteristics of project construction under the conditions of China's socialist market economy, the two parties should adopt the following principle of apportionment of the risks in the construction stage of the project: (1) The scope of risks that are not completely borne by the construction enterprise: For the price risks mainly caused by market price fluctuations, such as the price risks of building materials and fuels in the project cost, the issuing and contracting parties shall clearly stipulate in the bidding documents or in the contract the scope and extent of this similar scope and extent, and make reasonable apportionment. (2) The scope of risks that should not be borne by the construction enterprise at all: For the introduction of laws, regulations, rules or relevant policies that cause changes in the unit price of project taxes, fees and labor wages, and the policy adjustments stipulated by the provincial and industry construction administrative departments or the project cost management institutions authorized by them according to the above changes, they shall be implemented in accordance with the relevant adjustment provisions. (3) The scope of risks that should be borne by the construction enterprise: the risks that the construction enterprise can control independently according to its own technology, management and business conditions, as well as the risk scope agreed to be borne by the construction enterprise in the contract, and this part of the risk is borne by the construction enterprise. In 2008, the Provincial Construction Department issued the Guiding Opinions on Strengthening the Risk Control of Building Materials Prices (Su Jian price (2008) No. 67), which clearly states: In the form of a fixed-price contract, when the price of non-main building materials rises or falls during the construction of the project, the difference in price shall be borne or benefited by the contractor; when the price of the first type of major building materials rises or falls within 10% during the construction period, the difference in price shall be borne or benefited by the contractor, and more than 10% shall be borne or benefited by the contractor When the price of the second type of main building materials rises or falls within 5% during the construction period of the project, the difference in price shall be borne or benefited by the contractor, and the part exceeding 5% shall be borne or benefited by the contractor. If the construction period is delayed due to the contractor's reasons, the difference in the price increase of the materials that occurs during the delay period shall be borne by the contractor; if the delay in the construction period is caused by the contractor's reasons, the difference between the material price increases that occur during the delay period shall be borne by the contractor. The main building materials can be divided according to the percentage of material costs in the bidding documents of the unit project: all kinds of materials with material costs accounting for less than 2% of the unit project costs are non-main building materials; material costs account for more than 2% of the unit project costs, and various materials within 10% are the first type of main building materials; and all kinds of materials with material costs accounting for more than 10% of the unit project costs are the second type of main building materials.4.1.9

Item (9) often occurs in two situations in the settlement activities of the project, one is due to the shortage of funds of the construction unit, deliberately delaying the settlement time, causing losses to the construction enterprise; the other is because the payment of the project payment may exceed the amount of the settlement price, or the supply of materials is over-supplied, and the construction enterprise needs to refund after settlement and deliberately delays the settlement of the project, causing losses to the construction unit. Therefore, in order to avoid the losses caused by the non-time or delayed settlement time to both parties to the contract and the social problems caused by it, it is necessary to require the contract to stipulate the preparation and review time of the settlement of the project, the payment method and payment time of the settlement price. Regarding the payment of the project settlement payment, Article 16 of the Interim Measures for the Settlement of the Construction Project Price stipulates that, according to the confirmed completion settlement report, the contractor shall apply to the contractor for payment of the project completion settlement payment. The contractor shall pay the settlement payment within 15 days after receiving the application, and if it is not paid at maturity, it shall be liable for breach of contract. The contractor may urge the contractor to pay the settlement price, and if an agreement on deferred payment is reached, the contractor shall pay interest on the arrears of the project price at the interest rate of the bank loan for the same period. If no deferred payment agreement is reached, the contractor may negotiate with the contract issuer to discount the project, or apply to the people's court to auction the project in accordance with the law, and the contractor shall receive priority compensation for the discount or auction price of the project.

In item (10), the reason for the unqualified quality of the project is caused by the unqualified construction quality, the unqualified quality of the building materials or equipment used, etc., which is a breach of contract, and the perpetrator may be the construction enterprise or the construction unit. According to the regulations, the project acceptance can not be settled, because the direct and indirect losses of maintenance and rework affect the project price, so the contract must stipulate the liability for breach of contract of unqualified project quality. The project quality reward method referred to in this paragraph refers to the reward method of the industry or construction administrative department that receives the experience of receiving the project quality (such as the "Yangzi Cup Award for Construction Engineering" in our province and the "Luban Award for Construction Engineering" of the state), and the construction unit gives the construction enterprise an incentive fee other than the contract price, and this paragraph stipulates that the payment standard, method and time of this incentive fee must be agreed in the contract. The term "quality warranty" (or quality assurance money) referred to in this paragraph refers to the funds agreed between the construction project contractor and the contractor in the construction project contracting contract to be reserved from the project payment payable to ensure that the contractor repairs the defects in the construction project during the defect liability period. Article 2 of the Interim Measures for the Administration of Quality Assurance Funds for Construction Projects issued by the Ministry of Construction and the Ministry of Finance stipulates that the liability period for defects is generally six months, twelve months or twenty-four months, which can be agreed upon in the contract by both the issuing and contracting parties. Article 3 stipulates that the contract issuer shall specify the contents of the reserve and return of the security deposit in the bidding documents, and agree with the contractor on the following matters involving the security deposit in the terms of the contract: (1) the method of reservation and return of the security deposit; (2) the proportion and duration of the security deposit; (3) whether the security deposit is calculated, such as the calculation of interest, the calculation method of interest; (4) the period and calculation method of the defect liability period; (5) the handling procedures for disputes over the reservation and return of the security deposit and the quality and cost of engineering maintenance ;(6) The method of claiming for defects that occur during the defect liability period. Article 7 stipulates that for construction projects that use government investment in whole or in part, a deposit shall be reserved in the proportion of about 5% of the total settlement amount of the project price. Where social investment projects adopt the method of reserved deposit, the proportion of reserved deposit may be implemented with reference.

In item (11), the delay in the construction period includes two situations: one is that the construction cannot be started according to the contract, and the other is that the construction cannot be completed according to the time agreed in the contract. Both cases may result in direct or indirect losses to the other party, resulting in a claim for duration. Therefore, the liability for delays must be agreed upon in the contract. It should be noted that the delay in the construction period caused by force majeure can be partially or completely exempted from liability. The construction period is divided into three forms: the fixed construction period, the contract period and the actual construction period, and the fixed construction period is the construction period required for the project calculated according to the national construction period quota; the contract duration is the construction period agreed upon by the two parties to the contract on the basis of the fixed construction period, according to the expectations of the construction unit; the actual construction period refers to the calendar number of calendar days experienced from the date of the start of the project to the date of completion of the project. In practice, most construction units expect to shorten the construction period and give full play to the investment benefits of the project as soon as possible. However, the construction enterprise shortening the construction period should increase the investment of people, materials, machines and funds in the construction, and the project cost will increase, and it needs to be compensated by the construction unit. Article 17 of the Interim Measures for the Settlement of Construction Project Prices stipulates that the settlement of the completion of the project shall be subject to the contract duration, and the actual construction period shall be earlier or later than the contract period, and the issuing and contracting parties shall be implemented in accordance with the reward and punishment measures agreed in the contract. According to this provision, if the actual construction period is shorter than the contract period, the construction unit may compensate the construction enterprise in the form of an early completion award for the construction period, but the method of reward must be agreed in the contract. It should be noted that the construction period agreed in the contract should be a reasonable construction period, that is, under normal construction conditions, the scientific and reasonable construction process and management methods are adopted, and the construction period is determined in combination with the specific conditions of the project construction, and the construction parties can obtain satisfactory economic benefits. The contractor does not blindly compress the construction period with a scientific attitude and disregards the objective law, which not only damages the interests of the contractor, but also leaves a safety hazard for the quality of the project, so it is unreasonable.

Items (12) and (13), these two items already have relevant interpretations, and will not be repeated.

**Article 13 The contract issuer and the contractor shall, in accordance with the provisions, include the cost of safe and civilized construction measures at the construction site in the contract price, and the contractor shall specifically use it for safety protection, civilized construction and environmental protection at the construction site.**

【Interpretation】This article is about the provisions on the cost of on-site safe and civilized construction measures.

The on-site safe and civilized construction measures fee is to meet the construction site safety, civilized construction, environmental protection, employee health and life needs of the various expenses. According to the "Jiangsu Provincial Construction Project Cost Quota" (2009) issued by the Department of Housing and Urban-Rural Development of Jiangsu Province, the cost of on-site safe and civilized construction measures includes three parts:

1. The cost of safe construction measures: including the preparation of safety data, the purchase of safety warning signs and the setting of publicity columns; the cost of "three treasures", "four mouths" and "five borders" protection; the cost of safe electricity for construction, including the standardization of electrical boxes, electrical protection devices, external power protection signs; the cost of lifting equipment such as cranes and tower cranes (including derricks and gantries) and safety protection measures (including warning signs) for external elevators, and the cost of edge protection of unloading platforms, inter-layer safety doors, protective sheds and other facilities The cost of inspection and test of lifting machinery at construction sites, the cost of safety protection facilities for construction machinery protective sheds and their fences, the cost of safety protection passages at construction sites, the cost of purchasing protective equipment and utensils for workers, the cost of configuration of fire fighting facilities and fire fighting equipment, the cost of electrical protection and safety lighting facilities, and the cost of other safety protection measures.

2. Cost of civilized construction measures: the cost of the gate, the five cards and one map, the worker's badge, the enterprise logo; the wall beautification of the enclosure (including internal and external painting, whitening, slogans, etc.), the cost of pressing the ceiling decoration 'the cost of whitening the toilet sink, veneer bricks, cement mortar floor or floor tiles, the cost of temporary defecation facilities in the building; the cost of decoration and decoration of other temporary facilities at the construction site, the cost of landscaping measures; the cost of on-site living sanitation facilities; the cost of drinking water equipment, showers, disinfection and other facilities that meet the sanitary requirements; the cost of clean fuel for daily life Costs of measures such as gas poisoning and mosquito bite prevention; hardening costs of the construction site operation site; control of on-site pollution sources, construction waste and domestic garbage cleaning, site drainage and sewage measures; anti-dust sprinkling costs; on-site greening costs, public security comprehensive management costs, on-site electronic monitoring equipment costs; on-site equipped with medical care equipment, goods costs and first aid personnel training costs; heat prevention and cooling fees for on-site workers, electric fans, air conditioning and other equipment and electricity costs; on-site construction machinery and equipment noise prevention, Costs of anti-disturbance measures; costs of other civilized construction measures.

3. Environmental protection: the construction site needs to meet the requirements of the environmental protection department.

The "Specification for The Valuation of the List of Quantities for Construction Projects" stipulates that "the cost of safe and civilized construction measures in the list of measures shall be calculated in accordance with the provisions of the national or provincial or industry construction authorities, and shall not be regarded as competitive expenses". The Notice of the "Regulations on the Administration of Safety Protection, Civilized Construction Measures fees and use of construction projects" issued by the General Office of the Ministry of Construction (Construction Office (2005) No. 89) includes the cost of safe and civilized construction measures in the scope of compulsory national management, stipulating that "the quotation of safety protection and civilized construction measures of the bidder shall not be less than 90% of the cost required for calculating the cost according to the measured rate of the project cost management agency where the project is located." Article 8 of the Interim Measures for the Financial Management of Safety Production Expenses of Enterprises in High-Risk Industries (Cai Qi (2006) No. 478) issued by the Ministry of Finance and the State Administration of Work Safety stipulates: "The safety expenses extracted by construction enterprises are included in the project cost and shall not be deleted when bidding." The Department of Construction of Jiangsu Province issued the "Measures for the Administration of the Valuation of Safe and Civilized Construction Measures at the Construction Site of Jiangsu Province" (Su Jian price (2005) No. 349), which made specific provisions on the calculation, use and management of the cost of safe and civilized construction measures at the construction site in our province.4.1.52006年12月8日2005年10月31日

The chaotic management of construction sites, environmental pollution, and frequent safety accidents are one of the social problems that the people deeply hate, and the call for the government to vigorously control it is also getting higher and higher. For the purpose of protecting the environment, caring for people's livelihood and civilized construction, the management of the cost of strengthening safe and civilized construction measures is included in these Measures as a measure to control the construction site in response to the voice of the people. This paragraph contains three meanings: first, the construction site safe and civilized construction measures fee is a mandatory cost, which must be included in the bidder's bidding control price (or bid bottom) and the bidder's bidding quotation; second, the bidder's bidding control price (or bid bottom) and the bidder's bidding quotation must be calculated in full according to the prescribed standard, and the construction site safe and civilized construction measure fee is an indisputable cost; third, the construction site safe and civilized construction measure fee calculated by the construction enterprise must be earmarked. It may not be diverted for other purposes.

**Article 14 The contract issuer or contractor shall, within 7 days from the date of signing the construction contract, submit a copy of the contract to the competent administrative department for construction at the place where the project is located for the record.**

**In the course of contract performance, if the substantive content of the project price, construction period, project quality and other substantive contents stipulated in the contract is changed, the contract issuer or contractor shall submit the changed content for the record in accordance with the provisions of the preceding paragraph.**

【Interpretation】This article is about the filing of construction contracts for construction projects.

The construction contract filing system for construction projects is a way for the government to supervise the signing of construction project contracts in accordance with the law. Article 31 of the Regulations on the Administration of the Construction Market of Jiangsu Province stipulates: "After the construction contract of a construction project is signed, the contract issuer shall send the contract to the competent administrative department of construction or the relevant competent department or the administrative department for industry and commerce for the record." Contracts may use model texts issued by the state and provinces. ”

The first paragraph of this article has three meanings: First, it is clear that the subject of the construction contract for filing is the contractor. However, the expression in this paragraph is "contract issuer or contractor", mainly taking into account that in practice, there are indeed cases where the contractor sends the construction contract for filing, so this expression is made. Second, it is clarified that the time for sending a copy of the construction contract for filing is within 7 days from the date of signing the contract; third, the unit that accepts the filing is the "competent administrative department for construction in the place where the project is located".

The second paragraph of this article has two meanings: first, in the course of contract performance, if the substantive content of the contract stipulates such as the price, duration, and quality of the project is changed, the two parties shall sign a supplementary agreement; second, if there is a change in the substantive content, the contract issuer or the contractor shall submit it to the competent administrative department for construction of the project location for the record within 7 days from the date of signing the supplementary agreement on the change of the substantive content. The "substantive content change" referred to in this paragraph refers to "a change in the subject matter, quantity, quality, price or remuneration, performance period, place and method of performance, liability for breach of contract and dispute resolution method, etc., as referred to in Article 30 of the Contract Law, and is a substantive change to the content of the contract".

**Article 15 Where a contract is awarded by way of bidding for a construction project, the stipulations on the project cost in the construction project contract shall be consistent with the substantive content of the bidding documents and the bidding documents of the successful bidder;**

**Where the changes in the contract signed by the parties or other agreements signed separately are inconsistent with the material content of the construction contract that has been filed, the recorded contract shall be used as the basis for project settlement and review.**

**No unit or individual may violate the provisions of the contract to conduct project settlement review.**

【Interpretation】This article is about the principle of handling when the agreed terms of the contract cost are inconsistent with the bidding documents and the bidding documents of the successful bidder, and the basis for project settlement is inconsistent with the terms of the contract.

The first paragraph of this article mainly formulates provisions for the collusion between bidders and successful bidders to engage in false bidding and crowd out competitors, and to maintain a fair competition order in the bidding and bidding market for construction projects. Since the implementation of the bidding and bidding system for engineering construction, the most typical violation is that the bidders collude with the bidders to engage in false bidding, that is, after the bidders win the bid at a low price, when signing the project contract to stipulate the relevant cost clauses, they obtain undue benefits by changing the amount, or unit price, or total price in the bidding documents, or changing the substantive conditions (such as construction period requirements, risk range requirements, etc.) requiring the bidders to respond in the bidding documents, so as to achieve the purpose of crowding out competitors. Article 46 of the Law of the People's Republic of China on Tendering and Bidding stipulates: "The tenderer and the successful bidder shall conclude a written contract in accordance with the bidding documents and the bidding documents of the successful bidder within 30 days from the date of issuance of the notice of winning the bid." The tenderer and the successful bidder shall not enter into other agreements that deviate from the substance of the contract". Article 59 stipulates: "If the tenderer and the successful bidder do not conclude a contract in accordance with the bidding documents and the bidding documents of the successful bidder, or if the bidder or the successful bidder enters into an agreement that deviates from the substantive content of the contract, it shall be ordered to make corrections; it may be fined not less than 5/1000 of the amount of the winning project". The Specification for the Valuation of bills of quantities for construction projects stipulates: "For projects subject to bidding, the contract agreement shall not violate the substantive content of the bidding and bidding documents on the construction period, cost, quality and other aspects." Where there is any inconsistency between the solicitation documents and the successful bidder's bidding documents, the bidding documents shall prevail". The first paragraph of this article has two layers of meaning: First, if the construction project is awarded by means of bidding, the agreement on the project cost in the construction project contract shall be consistent with the substantive content of the bidding documents and the bidding documents of the successful bidder. Second, when the agreement on the cost of the project in the construction project contract is inconsistent with the substantive content of the bidding documents and the bidding documents of the successful bidder, the inconsistent content shall not be used as the basis for the settlement and review of the project, but should be settled according to the requirements of the bidding documents and the content of the response of the bidding documents of the successful bidder.4.4.2

The meaning of the second paragraph of this article is that: during the construction of a project, the contract modification agreement or other agreement separately signed by the two parties to the project contract is inconsistent with the substantive content of the construction contract that has been filed (for example, the filing contract stipulates that the comprehensive unit price of a single project is unchanged when the quantity of a single project is changed, but the other agreement stipulates that it shall be settled according to the comprehensive unit price of the new group). For example, the filing contract stipulates that the market price increase of the main materials of the project shall bear the risk within 10% of the quotation of the winning bidder, while the other signed agreement stipulates that the bidder shall only bear the risk of price increase within 5%, etc.), and take the recorded contract as the basis for project settlement and review, so as to maintain the seriousness of the contract and the fairness of market competition. Article 21 of the Interpretation of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Cases Involving Disputes over Construction Project Contracts [2004] No. 14 stipulates that if the construction project construction contract separately concluded by the parties in respect of the same construction project is inconsistent with the substantive content of the winning contract that has been filed, the winning contract on the record shall be used as the basis for settling the project price.

Paragraph 3 of this Article is mainly aimed at a small number of construction units, or the competent departments for investment in engineering projects, or the engineering cost consulting enterprises entrusted by the construction units, as well as personnel engaged in the engineering cost review of the construction project, who violate the provisions of the project contract to review the settlement of the project. In China, the contract signed by the parties is protected by law as long as it is a valid contract and its valid terms. In the construction contract for construction projects signed in accordance with the law, and does not violate the substantive content of the bidding documents and bidding documents, the interpretation status in the settlement of the project takes precedence over other settlement documents, that is, the principle of "contract priority". In practice, a small number of construction units, or the competent departments for project investment, or the engineering cost consulting enterprises entrusted by the construction units, as well as the personnel engaged in the engineering cost review of the construction project, are considered out of different interests, and the settlement review is carried out in violation of the contract, infringing on the legitimate interests of the construction enterprise. Proceeding from the principles of legality, objectivity and fairness, this paragraph stipulates that no unit or individual may violate the provisions of the contract to conduct project settlement review.

**Article 16 The contract issuer and the contractor shall complete the preparation of the project settlement and the review of the project settlement respectively within the time limit stipulated in the contract. Where the contract does not stipulate a time limit, it shall be resolved by the contract issuer or contractor through consultation or in accordance with the relevant provisions of the administrative department.**

**After the contract stipulates that the contractor receives the project settlement documents, it does not reply within the agreed period of time, and it is deemed to be an approval of the project settlement documents and is handled in accordance with the agreement.**

【Interpretation】This article is a principle provision on the review period for project settlement.

The first paragraph of this article contains two meanings: First, the contract issuer and the contractor shall complete the preparation of project settlement and the review of project settlement respectively within the time limit stipulated in the contract. That is to say, the project contract should stipulate the preparation period for the contractor to complete the project settlement and the time for sending it for review after the completion of the project, and at the same time, it should stipulate the time limit for the construction unit to review the project settlement. The mandatory provisions of the Code for The Valuation of bills of quantities for construction projects stipulate that "after the completion of the project, the issuing and contracting parties shall handle the settlement of the completion of the project within the time agreed in the contract". The purpose is to restrain both parties to complete the settlement of the project in a timely manner and clarify the responsibility for delaying the settlement period. Second, if the contract does not stipulate the time limit for the preparation and review of the settlement of the project, it shall be resolved by the contract issuer or contractor through consultation or handled in accordance with the relevant provisions of the administrative department. Paragraph (3) of the Interim Measures for the Settlement of Construction Project Prices stipulates that after the completion of a single project, the contractor shall submit the completion settlement report and complete settlement information to the contractor at the same time as submitting the completion acceptance report, and the contractor shall check (review) and submit review opinions according to the amount of the project completion settlement report and the following prescribed time limit: (1) less than 5 million yuan, 20 days from the date of receiving the completion settlement report and complete completion settlement data; (2) 5 million yuan - 20 million yuan, 30 days from the date of receipt of the completion settlement report and complete completion settlement data; (3) 20 million yuan - 50 million yuan, 45 days from the date of receipt of the completion settlement report and complete completion settlement data; (4) more than 50 million yuan, from the date of receipt of the completion settlement report and complete completion settlement data 60 days. The total settlement of the completion of the construction project is summarized within 15 days after the completion and settlement of the last single project is reviewed and confirmed, and the review is completed within 30 days after sending it to the contractor.4.8.1

Paragraph 2 of this article stipulates that after the contract issuer receives the project settlement documents, it does not reply within the agreed period of time, and it is deemed to have approved the project settlement documents and will be handled in accordance with the agreement. The reference to "if the contractor does not reply within the agreed period after receiving the completion settlement document, it shall be deemed to have approved the completion settlement document" comes from paragraph 3 of article 33 of the original General Clauses for Construction Contracts (Model Texts). In practice, the people's court held that it is not possible to simply infer that the general clause in the standard text of the construction contract is an expression of the unanimous intention of the two parties, because it lacks the important precondition of "contractual agreement". Article 20 of the Interpretation of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Cases Involving Disputes over Construction Project Contracts stipulates that: "If the parties agree that after receiving the completion settlement documents, the contract issuer does not reply within the agreed period of time, and shall be deemed to have approved the completion settlement documents, and shall be handled in accordance with the agreement." If the contractor requests the settlement of the project price in accordance with the completion settlement documents, it shall be supported".

Chapter III: Engineering Cost Consulting Enterprises and Practitioners

This chapter consists of eight articles, which is a special chapter for the management of engineering cost consulting enterprises and practitioners. It mainly makes provisions on the market access of engineering cost consulting enterprises and their branches, the improvement of business and risk liability mechanisms, the management of the qualifications of registered cost engineers and construction project cost engineers, the standardization of the professional behavior of engineering cost consulting enterprises and engineering cost practitioners, and the obligation to submit credit file information.

**Article 17 Enterprises engaged in construction project cost consulting services shall obtain corresponding qualifications in accordance with law and practice within the scope permitted by the qualification level.**

**Engineering cost consulting enterprises shall not have an affiliation or other interest relationship with administrative organs.**

**Establish a scientific engineering cost consulting mechanism, and the calculation of engineering cost consulting fees shall follow the principle of fairness and reasonableness, and the project cost shall not be used as the only calculation standard.**

【Interpretation】This article is about the market access of engineering cost consulting enterprises.

"Engineering cost consulting enterprises" as used in this article refers to intermediary enterprises entrusted to provide professional consulting services for the investment of construction projects and the determination and control of project costs. With the deepening of the reform of China's engineering construction management system, engineering cost consulting has become a service industry that provides cost consulting for the whole process of economic construction and engineering project decision-making and implementation, and plays a great role in the scientific and democratic decision-making and engineering cost control. Our province's engineering cost consulting services began in the mid-1980s, in 1996 began to enter the stage of large-scale development, by July 2010 there are 518 engineering cost consulting enterprises in the province (excluding enterprises holding qualification copies), including 136 Grade A qualified enterprises and 382 Grade B qualified enterprises. In 2009, there were 43,090 projects of engineering cost consulting enterprises, with the amount of consulting objects of 591.1 billion yuan, and the amount of audit and reduction was 23.74 billion yuan, with a reduction rate of 12.1%. Our province implements strict market access and dynamic management of market clearance for engineering cost consulting enterprises, and in the past two years, more than 50 enterprises that do not meet the market access conditions have been revoked in accordance with the law, but there is still a phenomenon of illegal practice of enterprises in the market.

The first paragraph of this article stipulates that engineering cost consulting enterprises shall obtain the corresponding qualifications and practice within the scope permitted by the qualification level. The first layer contained in the first paragraph means that the engineering cost consulting enterprise should obtain the corresponding qualifications. The so-called enterprise qualification refers to the quality and ability conditions that the state must have to ensure the quality of products and services, safeguard the national and social public interests, and maintain the order of market production and operation, in accordance with the Administrative Licensing Law, which stipulates that enterprises must have to engage in a specific business activity or product production and processing. China's engineering cost consulting institutions implement the qualification licensing system, in addition to having an enterprise legal person business license, engineering cost consulting enterprises must also obtain the "Engineering Cost Consulting Unit Qualification Certificate" in accordance with the "Management Measures for Engineering Cost Consulting Enterprises" (Decree No. 149 of the Ministry of Construction), otherwise they are not allowed to undertake engineering cost consulting business. The second layer means that the enterprise must practice within the scope permitted by the qualification level. The Measures for the Administration of Engineering Cost Consulting Enterprises (Decree No. 149 of the Ministry of Construction) stipulate that engineering cost consulting enterprises shall engage in engineering cost consulting activities in accordance with the law and shall not be restricted by administrative regions. Grade A engineering cost consulting enterprises may engage in engineering cost consulting business for various types of construction projects; Grade B engineering cost consulting enterprises may engage in engineering cost consulting business for various construction projects with an engineering cost of less than 50 million yuan, and shall not undertake engineering cost consulting business beyond the limited scope. The scope of engineering cost consulting business includes: (1) construction project proposal and feasibility study investment estimation, project economic evaluation report preparation and review; (2) construction project budget preparation and review, and with the design plan selection, optimization design, quota design and other work for project cost analysis and control; (3) construction project contract price determination (including bidding project quantity list and bid base, bidding quotation preparation and review); contract price signing and adjustment (including project changes, Engineering negotiation and claim cost calculation) and project payment, project settlement and completion (final) account report preparation and review, etc.; (4) appraisal and arbitration consultation of project cost economic disputes; (5) provision of project cost information services, etc. Engineering cost consulting enterprises may carry out the whole process or several stages of management and service for the organization and implementation of construction projects.

The second paragraph of this article stipulates that a project cost consulting enterprise shall not have an affiliation or other interest relationship with the administrative organ. Engineering cost consulting enterprises are engaged in third-party intermediary services, which is the essential attribute of enterprises. It therefore follows the principles of independence, objectivity, impartiality and good faith. The so-called "independence" means that the enterprise operates services according to law without interference or manipulation by external organizations, groups or individuals, and the consulting process and results are the embodiment of the independent will of the enterprise. The so-called "objective" means that the consultation process and results must be realistic, and false consultation reports must not be issued contrary to the facts. The so-called "justice" means that the consultation results should reflect fairness in the interests of all parties, be responsible for both the client and the stakeholders, and must not harm the social public interest and the legitimate rights and interests of others. The so-called "good faith" mainly refers to the commitment of enterprises to customers, ensure the quality of consulting results, and must not have fraud and unfair competition. Before 2000, the number of engineering cost consulting enterprises subordinate to the administrative departments of finance, auditing, development and reform commissions, construction and other administrative departments at all levels and industry group companies with administrative management functions accounted for a relatively large proportion of all consulting enterprises. The Ministry of Construction is based on the Opinions of the General Office of the State Council on the Decoupling and Restructuring of Economic Social Intermediaries and Government Agencies. (Guo Ban Fa [2000] No. 51), the Ministry of Construction issued the "Notice on the Decoupling and Restructuring of Engineering Cost Consulting Institutions and Government Departments" [Jianbiao (2000) No. 208], which clearly states that all engineering cost consulting institutions affiliated with government departments and their subordinate units (hereinafter referred to as "affiliated units") must completely decouple from the affiliated units in terms of personnel, finance, business and name. After the engineering cost consulting institution is decoupled, it no longer has an administrative subordinate relationship with the original competent department, and must not use the name and influence of the original competent department to practice or solicit business. After a year of successfully completing the decoupling and restructuring work, there are still a very small number of regions and industries that have adopted disguised methods to intervene in the competition of the engineering cost consulting market, and implemented departmental, regional, and industry blockades or monopolies on the project cost consulting business. Therefore, this paragraph emphasizes here that the project cost consulting enterprise shall not have an affiliation or other interest relationship with the administrative organ. The "other interest relationships" mentioned here include investment in shares, profit sharing, cost engineers of administrative departments, cost engineers registered in consulting enterprises, commercial bribery, etc.2000年9月19日

Paragraph 3 of this article requires that the calculation of project cost consulting service fees shall follow the principle of fairness and reasonableness, and the project cost shall not be used as the only calculation standard. In accordance with the provisions of the Price Law of the People's Republic of China and the Notice of the former State Development Planning Commission and six other departments on printing and distributing the Measures for the Administration of Intermediary Services (Pricing [1999] No. 2225), and combined with the actual situation of the implementation of the project quantity list valuation in our province, the Jiangsu Provincial Price Bureau and the Jiangsu Provincial Construction Department jointly formulated the "Jiangsu Provincial Construction Project Cost Consulting Service Fee Management Measures" [Su Price Service (2004)) No. 483], article 4 of the measures stipulates: "Construction project cost consulting services shall follow a fair, equitable, Reasonable, honest and voluntary entrustment, service remuneration principle, the client has the right to independently choose the cost consulting enterprise, the consulting enterprise independently decide whether to accept the entrustment." The calculation base of the 11 service content charging standards listed is different forms of project cost. However, with the continuous extension of the content of engineering cost consulting services and the continuous improvement of service levels, as well as the request of the client to provide specific consulting services according to the needs of the project, only the project cost is used as the calculation base to calculate the engineering cost consulting fee, which can no longer fully reflect the principle of fairness and reasonableness. For example, in the service project of "cost control in the whole process of the construction stage", the client will have specific requirements for the content of the consulting enterprise's services according to the characteristics of the project and the division of responsibilities of the participating parties, and the workload and responsibility of the consulting enterprise will be different, such as unfair and reasonable factors in charging according to fixed standards; for example, the entrusting party requires the engineering cost consulting enterprise to provide multiple service contents for the same project, such as all the charges are superimposed according to the charging standards. Therefore, this paragraph requires the establishment of a scientific engineering cost consultation mechanism, the fee should be fair and reasonable, and the fee should be determined according to the requirements and service content, depth of work, quality standards, consulting effect, project cost and other comprehensive factors of the entrusting party, and the project cost should not be used as the only calculation standard.2005年1月20日

**Article 18 Engineering cost consulting enterprises shall establish and improve rules and regulations such as quality control, technical file management and financial management.**

**The engineering cost consulting enterprise is responsible for the results of the construction project cost consulting issued. Where the client suffers economic losses due to his own fault, he shall be compensated in accordance with the contract.**

【Interpretation】This article is about the business management requirements of engineering cost consulting enterprises.

With the promulgation and implementation of the Measures for the Administration of Engineering Cost Consulting Units (Decree No. 149 of the Ministry of Construction) and the Measures for the Registration and Administration of Cost Engineers of the Ministry of Construction, China's engineering cost consulting institutions have played an increasingly important role in China's construction project cost management and even the entire capital construction investment market as a social intermediary service agency after completing the decoupling and restructuring. However, with China's accession to the WTO, many international engineering cost consulting institutions have entered the Chinese market, which has brought a great impact on the domestic market cost consulting industry, and China's engineering cost consulting industry started late, and the standardization and marketization of the entire industry still need to be improved. In this case, the standardization of the management of China's engineering cost consulting institutions and the proceduralization of business management are particularly important, and it is imperative to establish a modern enterprise system that is in line with China's national conditions and follows international practices.

The first paragraph of this article stipulates that engineering cost consulting enterprises shall establish and improve rules and regulations such as quality control, technical file management and financial management in the process of engaging in cost consultation. "Quality for survival, quality for development" is the basis for the survival and development of enterprises, the implementation of engineering cost consulting quality comprehensive management, strict implementation of quality control responsibility system, in order to ensure the authenticity, integrity and scientific nature of engineering cost consulting results. The engineering cost consulting file is a comprehensive reflection of the performance of enterprise consulting services, quality control and technical management level, information accumulation and utilization ability, and is a basic system of enterprise management. Under the conditions of market economy, financial management is an important part of determining the survival and development of enterprises. Although the survival and development of engineering cost consulting enterprises do not depend on the amount of capital owned by the enterprise, but mainly rely on the efficiency of the intellectual labor of professional and technical personnel, whether the financial management system of the enterprise has fairness, rationality and incentive effect is the premise that determines whether the enterprise can be stable, sustainable and growing bigger and stronger. It can be said that these three systems are the basic systems that must be established and improved by engineering cost consulting enterprises.

The second paragraph of this article emphasizes the responsibility of engineering cost consulting enterprises for the construction project cost consulting results issued. Under the market economy, the interests and risks of any enterprise coexist, and this is true for those engaged in the real economy and intermediary services. The purpose of this paragraph is to promote engineering cost consulting enterprises to establish a risk liability mechanism, strengthen management, and avoid practice risks. Due to the rapid growth of the number of engineering cost consulting enterprises in our province in the past ten years, the quality of the team of engineering cost consulting professionals in some enterprises has been diluted, and some technical personnel who do not meet the requirements have entered the engineering cost consulting industry; secondly, the competition in the engineering cost consulting market has become more and more fierce, and a small number of enterprises have adopted the method of "cutting corners" or "outsourcing" to the social "gunner" method to do consulting in order to reduce the cost of low-cost winning consulting projects; third, a small number of enterprises or consultants have lost their professional ethics. It is unfair to issue a consulting report; fourth, the infringed parties are worried that the cost of rights protection is too large, and often give up pursuing the infringement liability of the engineering cost consulting enterprise. These conditions often lead to a weak sense of risk in enterprises, a decline in the level of management, and the quality of consulting results cannot be guaranteed, causing losses to the client or relevant stakeholders and generating practice risks. With the continuous improvement of China's legal system construction, the enhancement of the awareness of enterprises and citizens to protect their rights, and the intensification of government supervision and management, the concept of low risk in the engineering cost consulting industry has been broken by facts. Article 13 of the "Construction Project Cost Consulting Contract (Model Text)" formulated by the Ministry of Construction and the State Administration for Industry and Commerce clearly states that "if the client's economic losses are caused by their own fault, they shall be compensated in accordance with the contract", and the total accumulated compensation shall not exceed the total amount of the construction project cost consulting remuneration (excluding taxes). The Detailed Rules for the Implementation of the Measures for the Administration of Engineering Cost Consulting Enterprises in Jiangsu Province require that when an engineering cost consulting enterprise undertakes engineering cost consulting business, it shall sign a engineering cost consulting contract with the entrusting unit in accordance with the Construction Project Cost Consulting Contract (model text), and clarify the risks and liabilities for breach of contract.

**Article 19 Where a project cost consulting enterprise establishes a branch office in this province, it shall go to the provincial administrative department for housing and urban-rural construction for the record within 30 days from the date of obtaining the business license of the branch office.**

**Where a project cost consulting enterprise undertakes construction project cost consulting business across provinces, autonomous regions, or municipalities directly under the Central Government, it shall go to the provincial housing and urban-rural construction administrative department for filing within 30 days from the date of signing the entrusted consultation contract.**

【Interpretation】This article is about the management provisions of engineering cost consulting enterprises to set up branches in this province and undertake business across regions.

The establishment of branches of engineering cost consulting enterprises in this province and the implementation of a filing system for cross-regional undertaking of business is an important means to strengthen the government's management of the engineering cost consulting market and maintain the order of the construction market. The branches referred to in Article 23 of the Measures for the Administration of Engineering Cost Consulting Enterprises of the Ministry of Construction shall have four basic conditions: obtain a branch business license in accordance with the law; the parent company shall obtain the qualification for engineering cost consulting in accordance with the law; the full-time professional and technical personnel such as cost engineers registered in the branch office must reach a certain number; and there must be a fixed office space. Branches must engage in engineering cost consulting and business activities in the name of the parent company, and the parent company shall bear legal responsibility. Because the conditions for the establishment of branches are lower than the qualification conditions of engineering cost consulting enterprises, the cost of branch establishment is far lower than the cost of applying for consulting qualifications, driven by interests, some enterprises and individuals take advantage of differences in policies to set up branches affiliated with qualified enterprises, and the management of branches by parent companies is often in a state of "package" regardless of this phenomenon, which must be stopped. In addition, engineering cost consulting enterprises in other provinces undertake engineering cost consulting business in Jiangsu Province, and engineering cost consulting enterprises in this province undertake business outside the administrative region of the industrial and commercial registered place in the province (usually we refer to such business activities as "single business"). The common denominator of the above two activities is that it operates across regions and is prone to the phenomenon of enterprise qualification affiliation or enterprise selling qualification certificates. In accordance with the provisions of the Ministry of Construction's "Measures for the Administration of Engineering Cost Consulting Enterprises", our province has implemented filing management, the purpose of which is to ensure that such business activities can be under the supervision of the management department and prevent the emergence of a management "vacuum" zone.

The first paragraph of this article has three meanings, one is to clarify the region where the engineering cost consulting enterprise shall set up branches, that is, the engineering cost consulting enterprises in other provinces shall set up branches within the administrative region of our province, or the engineering cost consulting enterprises in this province shall set up branches outside the administrative region of the place of industrial and commercial registration in the province. At the same time, our province also stipulates that engineering cost consulting enterprises in this province shall not set up branches within the administrative region of the place of industrial and commercial registration in the province. The second is to clarify the filing time limit after receiving the business license of the branch, that is, to file within 30 days from the date of receiving the business license of the branch, and the third is to clarify that the main body accepting and filing for the project cost consulting enterprise is the provincial administrative department of housing and urban-rural construction. Article 40 of the Measures for the Administration of Engineering Cost Consulting Enterprises (Order No. 149 of the Ministry of Construction) stipulates that if a branch office of a engineering cost consulting enterprise is not recorded in accordance with the regulations, "the competent administrative department for construction of the local people's government at or above the county level or the relevant professional department shall give a warning and order rectification within a time limit, and if it is not changed within the time limit, it may be fined between 5,000 yuan and 20,000 yuan".

The second paragraph of this article has three meanings, one is to clarify the region where the project cost consulting enterprise undertakes the construction project cost consulting business across provinces, autonomous regions and municipalities directly under the Central Government, that is, the administrative region outside the province, autonomous region or municipality directly under the Central Government where the enterprise is registered for industry and commerce. The second is to clarify that the filing time limit after signing the entrusted consulting contract is 30 days, and the third is to clarify that the main body accepting and filing for the project cost consulting enterprise is the provincial housing and urban-rural construction administrative department. At the same time, in order to strengthen the management of cross-regional operations of enterprises in the province, the "Jiangsu Provincial Construction Department issued the "Jiangsu Provincial < Engineering Cost Consulting Enterprises Management Measures > Implementation Rules" stipulates that the province's engineering cost consulting enterprises should also undertake business outside the administrative region of the province's industrial and commercial registration area. In order to facilitate the counterparty and make the management effective and feasible, since 2008, the province has implemented a single business through the Jiangsu Engineering Cost Information Online Filing. Article 40 of the Measures for the Administration of Engineering Cost Consulting Enterprises (Order No. 149 of the Ministry of Construction) stipulates that if a project cost consulting enterprise undertakes business across provinces, autonomous regions or municipalities directly under the Central Government and fails to file for the record in accordance with the regulations, "the competent administrative department for construction of the local people's government at or above the county level or the relevant professional department shall give a warning and order rectification within a time limit, and if it is not changed within the time limit, it may be fined between 5,000 yuan and 20,000 yuan".

**Article 20 Engineering cost consulting enterprises shall not engage in the following acts in the construction project cost practice activities:**

**(1) Altering, reselling, leasing, or lending qualification certificates, or illegally transferring qualification certificates in other forms;**

**(2) Undertaking construction project cost consulting business beyond the qualification level;**

**(3) Accepting cost consulting services for the same project from bidders and bidders or two or more bidders at the same time;**

**(4) Engaging in unfair competition by giving kickbacks, bribes, or other such means;**

**(5) Transferring the construction project cost consulting business undertaken by it;**

**(6) The use of the practice seal or special seal of the non-consultant of the project on the project cost achievement document;**

**(7) Violating the principles of objectivity, impartiality and good faith in issuing construction project cost consultation result documents;**

**(8) Other conduct prohibited by laws, regulations, or rules.**

【Interpretation】This article is about the acts that engineering cost consulting enterprises should prohibit in the construction project cost practice activities.

Due to the imperfect development of China's current market economic system, the imperfect market competition mechanism, the social creditworthiness system yet to be established, and the government supervision and management in some links are not in place, there are still many irregular behaviors in the business activities of engineering cost consulting enterprises. This article lists some prominent problems in the market and makes prohibitive provisions.

Paragraph 1 of this Article prohibits engineering cost consulting enterprises from altering, reselling, leasing, lending qualification certificates or otherwise illegally transferring qualification certificates in the course of construction project cost practice activities. The qualification certificate of the engineering cost consulting enterprise is a legally valid qualification certificate issued by the qualification licensing authority to the qualified applicants, and its use has a specific exclusivity. There are two most prominent forms of resale, leasing and lending qualification certificates: First, allow others (organizations or individuals) to attach themselves to the qualifications of the enterprise, and some unqualified enterprises or "gunmen" in society use the qualifications of the affiliated enterprises to contract business, provide so-called consulting services, issue consulting reports and collect consulting fees in the name of the affiliated enterprises, and the affiliates give a certain proportion of the "management fees" to the affiliated enterprises. Second, Grade A qualified enterprises allow Grade B qualified enterprises to contract projects of more than 50 million yuan in their own name, and after completing the content of consulting services, they will issue a report to Grade A qualified enterprises, and Grade A qualified enterprises will charge a certain proportion of "management fees". Both of the above acts are acts of reselling, leasing, lending qualification certificates or illegally transferring qualification certificates in other forms.

Paragraph 2 of this Article prohibits engineering cost consulting enterprises from undertaking construction project cost consulting business beyond the qualification level in construction project cost practice activities. The business scope of engineering cost consulting enterprises with qualification level license is determined by the relevant management departments according to the basic conditions of the enterprise such as work performance, personnel quality, management level, amount of funds, technical equipment, etc., reflecting the comprehensive ability of engineering cost consulting enterprises to undertake engineering cost consulting business, and enterprises can only undertake corresponding consulting business activities according to their own comprehensive capabilities. Article 19 of the Measures for the Administration of Engineering Cost Consulting Enterprises of the Ministry of Construction stipulates that Grade A engineering cost consulting enterprises may engage in engineering cost consulting business for various construction projects; Grade B engineering cost consulting enterprises may engage in engineering cost consulting business for various construction projects with a project cost of less than 50 million yuan. Grade B engineering cost consulting enterprises are engaged in engineering cost consulting business for various construction projects with a project cost of more than 50 million yuan, and are beyond the qualification level to undertake construction project cost consulting business.

Paragraph 3 of this Article prohibits project cost consulting enterprises from accepting both bidders and bidders or two or more bidders from the cost consulting business of the same project in the construction project cost practice activities. This item has two meanings: First, it prohibits the engineering cost consulting enterprise from accepting the cost consulting business of the bidder and the bidder for the same project at the same time, such as the engineering cost consulting enterprise accepting the bidder's entrustment to prepare the budget of project A (bid floor, bidding control price) at the same time, and accepting the bidder's entrustment to prepare the bidding quotation of project A; and for example, the engineering cost consulting enterprise accepts the bidder's entrustment to prepare the settlement of project A, and at the same time accepts the bidder's entrustment to review the settlement of project A. Second, it is forbidden for project cost consulting enterprises to accept the entrustment of two or more bidders to prepare bidding quotations for the same project at the same time. The main purpose of the provisions is to prohibit collusion in bidding, collective "bid-rigging", overestimation and fraudulent calculation in the settlement of projects, and the resulting hidden corrupt practices in the construction market.

Item 4 of this Article prohibits project cost consulting enterprises from engaging in acts of unfair competition by giving kickbacks, bribes, etc. in the course of construction project cost practice activities. A "rebate" is the price that the seller returns to the buyer in proportion to the goods paid by the buyer. According to whether or not to take the off-the-books secret method, the rebate can be simply divided into two types, namely the "express in the account" rebate and the "off-the-book secret" rebate. "Bribery" is an unlawful benefit based on the granting or acceptance of direct property or other privileges to the person who bribed, or a request that has the consent of another person but is not lawful. It includes bribery, bribery and indirect bribery. Kickbacks are both linked and differentiated from commercial bribery. The connection between the two is manifested in: (1) The purpose of both acts is to win trading opportunities and promote the conclusion of transactions. (2) The essence of both acts is to buy and buy by giving different forms of benefits to the other party. (3) Kickbacks are treated as commercial bribery, which is a form of commercial bribery. The difference between the two is manifested in: (1) "off-the-books secret" is a legal requirement for kickbacks, but it is not a constituent element of other commercial bribery acts. (2) Kickbacks are a certain percentage of the price of the goods, while other commercial bribes are not part of the price of the goods, but are paid to the other party in addition to the price of the goods. (3) Kickbacks generally occur at or after the conclusion of the commodity transaction, while other commercial bribes do not necessarily occur after the transaction is concluded, but can occur before, at or after the transaction is concluded. (4) The kickback is returned by the seller to the buyer's unit or individual, and other commercial bribes can be paid by the seller to the buyer, or by the buyer to the seller, and can also be bought or paid by the seller to the stakeholders in the transaction process of the goods. Kickbacks are only the most typical form of commercial bribery, but it is not the whole of commercial bribery. Looking at the entire engineering consulting service industry, although the phenomenon of kickbacks and bribery is a partial and individual phenomenon, the harm of this unfair competition behavior cannot be ignored. In the engineering cost consulting market, rebates and bribes are tinged with "gray", and the performance is relatively obscure, usually in the form of "information consulting fees", that is, enterprises take the "information consulting fees" to pay the client (the person in charge of the entrusted matters or the influential contact of the entrusting party), crowd out competitors, and improperly obtain engineering cost consulting business.

Item 5 of this Article prohibits the transfer of the construction project cost consulting business undertaken by a engineering cost consulting enterprise in the course of construction project cost practice activities. The "transfer" referred to here is mainly aimed at two kinds of behaviors of enterprises, one is that after the enterprise undertakes the engineering cost consulting business, in order to reduce costs, without the consent of the entrusting party, all or part of the business is transferred to other engineering cost consulting enterprises to complete; second, after the enterprise undertakes the engineering cost consulting business, due to the lack of relevant professional and technical capabilities or lack of consulting strength, without the consent of the entrusting party, all or part of the consulting content is transferred to other engineering cost consulting enterprises to complete. Although the final consultation report was issued by the enterprise that signed the entrustment contract, in essence, the act violated the original intention of the entrustment contract and was a business transfer. Only if the consulting contract is agreed or the entrusting party agrees, the enterprise may seek technical support and cooperate with other engineering cost consulting enterprises to complete the consulting project, but the obligations of the engineering cost consulting contract and the performance responsibility shall still be borne by the signing party.

Item 6 of this Article prohibits the use of the practice seal or special seal of the project cost consulting enterprise that is not the project consultant on the project cost result document. The "consultants" in this paragraph are the cost engineers and cost engineers registered in the enterprise in accordance with the provisions of the Measures for the Administration of Engineering Cost Consulting Enterprises of the Ministry of Construction, that is, the full-time professionals of the enterprise. Article 22 also stipulates that the project cost achievement documents shall be stamped by the project cost consulting enterprise with the practice seal of the enterprise name, qualification level and certificate number, and shall be signed and stamped with the registered cost engineer who performs the consulting business. Usually, the practice seal of a full-time professional is centrally managed by the enterprise. In the practice of supervision, the management agency has found that a small number of enterprises employ unqualified personnel or cost engineers and cost engineers who are not registered in the unit to engage in consulting business, or "outsource" the business to other personnel in society to complete. In the case that the owner of the practice seal does not know or acquiesces, the enterprise affixes its practice seal to the consultation report issued by the enterprise, and the project is not a project consulted by the person, but it is responsible for the practice. Such behaviour must be prohibited. Article 19 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) of the Ministry of Construction also stipulates: "The amendment of the project cost result document signed and sealed by the registered cost engineer shall be carried out by the registered cost engineer himself; if the registered cost engineer himself cannot modify it due to special circumstances, it shall be revised by other registered cost engineers and signed and sealed; the registered cost engineer who modifies the project cost result document shall bear the corresponding legal responsibility for the revised part." ”

Item 7 of this Article prohibits project cost consulting enterprises from issuing construction project cost consulting results documents in violation of the principles of objectivity, fairness and good faith in their construction project cost practice activities. Objectivity, fairness and honesty are the practice principles that the intermediary service industry must follow, and they are also the purposes on which enterprises rely for survival, and they are the core content of industry self-discipline. The results of their consultations should be objective and fair, safeguarding the interests of the state and the public, as well as safeguarding the legitimate rights and interests of stakeholders. However, a small number of engineering cost consulting enterprises, driven by interests, in order to meet the needs of the client, violate the principle of impartiality, issue consultation reports that show fairness; or collude with other stakeholders to issue consulting reports that harm the interests of the client in violation of objective facts. These acts of relying on the sale of the principle of good faith for profit must be prohibited.

Item 8 of this Article refers to the prohibited acts listed in this Article, and the project cost consulting enterprises shall not have other prohibited acts stipulated by other laws, regulations and rules. For example, Article 36 of the Measures for the Administration of Engineering Cost Consulting Enterprises (Order No. 149 of the Ministry of Construction) states that "if the applicant conceals relevant information or provides false materials to apply for the qualification of the engineering cost consulting enterprise, it shall not accept or refuse the qualification permit, and give a warning, and the applicant shall not apply for the qualification of the engineering cost consulting enterprise again within one year". Article 37:Where a person obtains the qualification of a project cost consulting enterprise by fraud, bribery or other improper means, the competent department of construction of the local people's government at or above the county level or the relevant professional department shall give a warning and impose a fine of between 10,000 and 30,000 yuan, and the applicant shall not apply for the qualification of the project cost consulting enterprise again within 3 years." Article 38:"Where the project cost consulting enterprise has not obtained the qualification to engage in project cost consulting activities or undertakes project cost consulting business beyond the qualification level, the project cost result documents issued are invalid, and the competent department of construction of the local people's government at or above the county level or the relevant professional department shall give a warning, order correction within a time limit, and impose a fine of between 10,000 and 30,000 yuan."

Where an engineering cost consulting enterprise commits any of the acts in items (1), (2), (3), (4) and (5) of this Article, Article 41 of the Measures for the Administration of Engineering Cost Consulting Enterprises (Order No. 149 of the Ministry of Construction) stipulates: "The competent administrative department for construction of the local people's government at or above the county level or a professional department shall give a warning, order rectification within a specified period of time, and impose a fine of between 10,000 and 30,000 yuan."

**Article 21 A person with a professional qualification for cost engineers engaged in engineering cost business shall be registered in accordance with law. Personnel who do not have the qualification of cost engineer shall pass the training and assessment and obtain the certificate of construction project cost engineer.**

**Registered cost engineers and construction project cost engineers shall consciously accept continuing education and business skills assessment.**

【Interpretation】This article is about the requirements for the qualification management, continuing education and business skills assessment of registered cost engineers and construction project cost engineers.

The first paragraph of this article contains the meaning that to work in a project cost post, you must obtain a cost engineer qualification certificate and register it according to law, or obtain a cost engineer certificate. "Registered cost engineer" as used in the first paragraph refers to professionals who have obtained the qualification of cost engineers of the People's Republic of China through the national unified examination for the qualification of cost engineers or the recognition of qualifications and mutual recognition of qualifications, and have registered in accordance with the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction), obtained the registered practice certificate and practice seal of the People's Republic of China for cost engineers, and engaged in engineering cost activities. China implements a registered practice management system for registered cost engineers, and those who have obtained professional qualifications can practice in the name of registered cost engineers after registration. Article 9 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) stipulates: "A person who has obtained a qualification certificate may apply for initial registration within one year from the date of issuance of the qualification certificate. Those who do not apply after the deadline must meet the requirements for continuing education before applying for initial registration. Registration is valid for 4 years. "As of September 2010, there were 9395 registered cost engineers in our province, of which 49.8% were registered in engineering cost consulting enterprises and 18.7% were registered in construction, survey and design enterprises. "Construction project cost engineers" as used in the first paragraph of this article refers to professionals engaged in project cost activities who have passed the unified examination for the qualifications of cost engineers organized by provincial and national professional departments and obtained the national cost engineer qualification certificate. Its predecessor was the "Construction Project Budget Estimator". In 2005, the Ministry of Construction 's Notice on the Unified Renewal of the Qualification Certificate of The Estimated Budget Personnel' Qualification Certificate ( Construction Office Bidding Letter [2005] No. 558) changed the name of "Construction Project Estimator" to "Construction Project Estimator". In the same year, the Ministry of Construction's "Notice on the Self-Discipline Work of the Construction Project Estimated Budget Personnel by the China Construction Project Cost Management Association" (Jianbiao [2005] No. 69) clearly stated that the construction project cost personnel should be centralized by the China Construction Project Cost Association to implement industry self-discipline management. In 2006, the China Price Association formulated the "Interim Measures for the Management of National Construction Project Cost Engineers" (China Price Association [2006] No. 013), which implements unified, hierarchical (regional) management of national cost engineers, implements unified qualification certificates and special seals, and unifies the way to obtain certificates, so that they can be mutually recognized and flowed throughout the country. In 2006, our province formulated the notice of "Jiangsu Province < the Interim Measures for the Management of Construction Project Cost Engineers > Implementation Rules" (Su Jian price station (2006), and in the same year, the estimator certificate was reissued as a cost engineer certificate. In accordance with the national unified practice, our province conducts training and assessment every two years, and those who pass the test are issued the "National Construction Project Cost Engineer Qualification Certificate". By September 2010, there were 45,129 construction project cost engineers in our province, of which 13.2% were registered in engineering cost consulting enterprises, and 48.8% were registered in construction, survey and design enterprises.

The second paragraph of this article stipulates that registered cost engineers and construction project cost engineers shall consciously accept continuing education and professional skills assessment. With the development of China's engineering construction technology level, new materials, new processes, new technologies and new knowledge continue to emerge, and the knowledge and skills of practitioners need to be updated synchronously. It is the responsibility of the competent departments of the industry to strengthen the construction of the engineering cost practitioner team and improve the professional quality and professional ethics of the practitioner team. It is therefore necessary to regulate the continuing education and skills assessment of practitioners. Article 22 of the Measures for the Administration of Registered Cost Engineers of the Ministry of Construction stipulates: "Registered cost engineers shall meet the continuing education requirements stipulated by the registration authority during each registration period. Continuing education for registered cost engineers is divided into compulsory courses and elective courses, and each registration is valid for 60 hours. Where the qualification standard is met through continuing education, a certificate of passing the continuing education shall be issued". Article 23 stipulates: "The competent departments for construction of people's governments at or above the county level and other relevant departments shall, in accordance with the relevant laws, regulations and the provisions of these Measures, supervise and inspect the registration, practice and continuing education of registered cost engineers." Article 18 of the Interim Measures for the Administration of National Construction Project Cost Personnel stipulates that "the time for cost personnel to participate in continuing education every three years shall not be less than 30 hours in principle".

**Article 22 The construction project cost achievement documents shall be affixed with the official seal of the compiling unit, and shall be affixed with the practice seal of the registered cost engineer of the compilation unit or the special seal of the construction project cost engineer.**

**The construction project cost consulting result documents issued by the engineering cost consulting enterprise shall be stamped with the practice seal of the registered cost engineer engaged in the consulting business of the project and the practice seal of the enterprise.**

【Interpretation】This article is about the requirements for signing the cost result document.

Project cost result documents refer to the construction project investment estimate and project economic evaluation documents, project estimates, project budgets, bidding base (bidding control price), project quantity list, bidding quotation, project settlement, completion final account preparation and review documents; project changes and contract price claim cost documents; construction project cost control results documents at each stage of the construction project; project cost mediation, appraisal documents, etc. According to the requirements of the guiding regulations of the engineering cost consulting business in our province, the engineering cost consulting results documents issued by the engineering cost consulting enterprises usually contain the engineering cost consulting report and related technical and economic documents.

The first paragraph of this article is a common requirement for the signing of project cost results documents. Regardless of the construction unit (bidder), design unit, construction enterprise (bidder), or engineering cost consulting enterprise or bidding agency, the official seal of the preparation unit shall be affixed to the construction project cost achievement document, and the professional seal of the registered cost engineer of the preparation unit or the special seal of the construction project cost engineer shall be affixed.

The second paragraph of this article is a special requirement for the signing of the engineering cost result documents prepared by the engineering cost consulting enterprise, that is, the engineering cost result documents issued by the engineering cost consulting enterprise must be stamped with the enterprise practice seal, and the registered cost engineer engaged in the preparation or review of the project must be stamped with the practice seal. Article 22 of the Measures for the Administration of Engineering Cost Consulting Enterprises (Decree No. 149 of the Ministry of Construction) stipulates: "Engineering cost consulting enterprises engaged in engineering cost consulting business shall issue project cost result documents in accordance with the requirements of relevant regulations. The project cost achievement document shall be stamped by the engineering cost consulting enterprise with the practice seal of the enterprise name, qualification level and certificate number, and signed and stamped by the registered cost engineer who performs the consulting business." Because the cost engineer does not have the statutory rights and obligations, he shall not sign and seal the consultation report issued by the engineering cost consulting enterprise, and can only sign and seal the technical and economic documents in which he or she participates.

**Article 23 Personnel engaged in project cost shall not engage in the following acts:**

**(1) Signing documents on construction project cost results with false records or misleading statements;**

**(2) Soliciting, accepting, or commercially accepting bribes in the course of practicing, or seeking other improper benefits;**

**(3) Undertaking construction project cost business in the name of an individual, allowing others to engage in construction project cost business in their own name, or fraudulently using the name of others to sign construction project cost results documents;**

**(4) Practicing in two or more units at the same time;**

**(5) Registering with a unit that is not actually engaged in the business;**

**(6) Altering, reselling, leasing, lending, or otherwise illegally transferring registration certificates, practice seals, or special seals;**

**(7) Other conduct prohibited by laws, regulations, and rules.**

【Interpretation】This article stipulates the prohibited acts of engineering cost practitioners in the construction project cost practice activities.

The term "engineering cost practitioner" in this article refers specifically to a registered cost engineer and a cost engineer who has obtained the National Construction Project Cost Engineer Qualification Certificate.

Paragraph 1 of this Article is a prohibition on the signing of construction cost achievement documents with false records or misleading statements by project cost practitioners. In the project valuation activities, "false records" generally refer to the design changes, on-site visas, engineering measurements, building material price determination, project settlement and other links in the implementation of the project construction, and the practitioners provide false change approval forms, on-site visa forms, purchase vouchers, and various measurement records for project settlement. "Misleading statement" generally refers to the fact that in the consultation report issued by the engineering cost consulting enterprise, the situation analysis and consultation conclusion are wrongly judged, or the statement is unclear, resulting in the client making an erroneous decision. Both of these actions have the potential to cause undue loss or obtain an improper benefit to the stakeholder. Especially in the case of subjective intent, it is illegal for a project cost practitioner to sign a construction project cost outcome document with false records or misleading statements. Item 4 of Article 20 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) stipulates that registered cost engineers shall not sign project cost results documents with false records or misleading statements.

Paragraph 2 of this Article is a prohibitive provision on the conduct of engineering cost practitioners in the course of their practice of soliciting, accepting, accepting commercial bribes or seeking other improper benefits. Article 2 of the Notice on Seriously Investigating and Punishing Serious Bribery Offenders While Handling Major and Important Cases of Bribery Crimes jointly issued by the Supreme People's Court and the Supreme People's Procuratorate in March 1999 defines "improper interests" as two aspects: substantive violations and procedural violations. The so-called entity violation means that the benefits that the briber attempts to seek are themselves in violation of the law, that is, the interests that violate the laws, regulations, state policies and rules of various departments of the State Council, that is, "illegal interests", which can also be called "illegal purpose interests". The so-called procedural violation refers to the assistance and facilitation provided by state functionaries or relevant units to bribe-givers as stipulated in laws, regulations, state policies and rules of various departments of the State Council, that is, "illegal process benefits", which is to proceed from the process of obtaining benefits and regard illegal help and convenience as "improper benefits". In the cases that have occurred in our province, individual practitioners have violated objective facts in project cost valuation activities, especially in the project cost review, deliberately fabricated or accepted false information and evidence to obtain undue benefits for stakeholders, so as to achieve the purpose of demanding and accepting bribes. In order to prevent engineering cost practitioners from soliciting bribes, accepting bribes, commercial bribes or seeking other improper benefits in the course of practicing their profession. Article 20 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) stipulates that registered cost engineers shall not "solicit or accept bribes or seek other benefits other than the contracted fees in the course of their practice".

Paragraph 3 of this Article prohibits the conduct of engineering cost practitioners in the course of their construction project cost practice activities in their own name to undertake construction project cost business, allow others to engage in construction project cost business in their own name, or fraudulently use the name of others to sign construction project cost results documents. Paragraphs 5 and 6 of Article 20 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) respectively clearly stipulate that registered cost engineers shall not undertake engineering cost business in their own name and allow others to engage in engineering cost business in their own name in the course of their practice. According to China's existing regulations, project cost practitioners must be registered in an enterprise or public institution, and can only engage in project cost business in the name of the registered unit, and the project cost result documents issued in the name of individuals are invalid. If an employee allows others to use his or her own professional qualifications and practice seals, or if an unqualified person fraudulently uses other qualified persons and practice seals, the project cost result documents signed by him or her are invalid.

Paragraph 4 of this Article prohibits the conduct of engineering cost practitioners in two or more units at the same time in construction project cost practice activities. Paragraph 7 of Article 20 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) stipulates that registered cost engineers may not practice in two or more units at the same time. Article 15 of the Interim Measures for the Administration of National Construction Project Cost Personnel stipulates: "Cost personnel shall not be employed in two or more units at the same time. The essential meaning of this article is that engineering cost practitioners can only be registered in one unit, and can only engage in engineering cost activities in registered units, and cannot engage in engineering cost activities in other units part-time, that is, "interbank prohibition". This provision is formulated with reference to international practice and accountants' standards, the purpose is to ensure the objectivity and fairness of the results of project cost activities, and to prevent collusion and fraud. In our province, there are also some people who have both registered cost engineer and cost engineer qualifications, if the cost engineer is registered in unit A and the cost engineer is registered in unit B, this also belongs to "working in two or more units at the same time", which is a prohibited behavior.

Item 5 of this Article prohibits the registration of engineering cost practitioners in non-actual units. The so-called "registration in a non-actual unit" means that the engineering cost practitioner is actually employed in unit A, but his or her qualification as a cost engineer or a cost engineer is registered in unit B. The main reason for this phenomenon is that there are quantitative requirements for the number of engineering cost professionals and their qualifications registered in the enterprise in the qualification conditions of construction enterprises, engineering cost consulting, bidding agencies and other enterprises. In the case that the enterprise cannot meet the qualification conditions, there is a phenomenon of personal qualification affiliation in the society, that is, the cost engineer or the cost engineer actually works in unit A, but uses false information to register the cost engineer or cost officer in unit B, which serves as the number specified in the qualification conditions of the enterprise, but I do not work in unit B. In this way, enterprises have illegally defrauded qualifications, and most individuals have received "affiliation fees" paid by enterprises. The phenomenon of cost engineers and cost engineers registering in non-actual work units has seriously disrupted the order of the construction market and is an impact on the construction of a social creditworthiness system, and this phenomenon is relatively common and must be prohibited.

Item 6 of this Article prohibits the conduct of engineering cost practitioners in altering, reselling, leasing, lending or otherwise illegally transferring registration certificates, practice seals, and special seals in the course of construction project cost practice activities. The management of the qualification certificate and practice seal of cost practitioners in China is an important part of the registration and practice management of cost engineers and cost engineers. Article 7 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) and the relevant provisions of the Interim Measures for the Administration of National Construction Project Cost Engineers respectively make specific provisions on the use of the certificates and practice seals of registered cost engineers and cost engineers. The certificate and practice seal of the registered cost engineer and the cost engineer are the certificates of their practice and shall be kept and used by themselves. Article 20 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) stipulates that registered cost engineers shall not alter, resell, lease, lend or otherwise illegally transfer the registration certificate or practice seal.

Item 7 of this article refers to the prohibited conduct provided for by other laws, regulations, or rules in addition to the six prohibited acts listed in this article.

If a registered cost engineer commits any of the acts (1), (2), (3), (4) and (6) of this Article, Article 36 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) stipulates: "The competent department of construction of the local people's government at or above the county level or other relevant departments shall give a warning and order correction, and if there is no illegal income, a fine of not more than 10,000 yuan shall be imposed, and if there is illegal income, a fine of not more than 3 times the illegal income and not more than 30,000 yuan shall be imposed." Where a construction project coster commits any of the acts (1), (2), (3), (4) and (6) of this Article, Article 16 of the "Jiangsu Provincial < National Interim Measures for the Administration of Construction Project Cost Personnel > Implementation Rules" stipulates: "Record it in one's credit file as a bad record." Where the circumstances or consequences are serious, the provincial-level management agency shall cancel the qualification of the cost engineer."

**Article 24: Project cost consulting enterprises and cost practitioners shall provide true, accurate, and complete enterprise and personal credit file information and business information on practice activities to the qualification (qualification) licensing organs and the competent administrative departments for construction where construction project cost activities are engaged.**

【Interpretation】This article stipulates the obligation of engineering cost consulting enterprises and cost practitioners to provide credit files and practice information.

"Credit archive information" as used in this article mainly includes credit information of engineering cost consulting enterprises and individuals engaged in engineering cost practice, records of good and bad behavior in engineering cost practice activities, social reputation evaluation information, and so forth. The "business information on practice activities" referred to in this article mainly includes the consulting project information (including technical and economic data, parameters, and indicators), consulting project files, business volume and operating income statistical information of the engineering cost consulting enterprises, and the engineering cost work performance (including project information, technical and economic data, parameters, and indicators) of the engineering cost practitioners themselves. Article 35 of the Measures for the Administration of Engineering Cost Consulting Enterprises (Decree No. 149 of the Ministry of Construction) stipulates: "Engineering cost consulting enterprises shall, in accordance with relevant provisions, provide true, accurate and complete credit file information of engineering cost consulting enterprises to the qualification licensing authorities." Article 30 of the Measures for the Administration of Registered Cost Engineers (Decree No. 150 of the Ministry of Construction) stipulates: "Registered cost engineers and their employing units shall provide true, accurate and complete credit file information for registered cost engineers to the registration authorities in accordance with relevant provisions." The credit file of a registered cost engineer shall include the basic information, performance, good conduct, bad behavior, and other such content of the cost engineer. Violations of laws and regulations, handling of complaints and reports, administrative penalties, etc. shall be recorded in the credit file of the cost engineer as bad behavior. The credit file information of registered cost engineers shall be announced to the public in accordance with relevant provisions." Article 37 stipulates that "where a registered cost engineer or his employing unit fails to provide the credit file information of the cost engineer as required, the competent department of construction of the local people's government at or above the county level or other relevant departments shall order correction within a time limit; if the correction is not made within the time limit, a fine of between 1,000 and 10,000 yuan may be imposed." Article 12 of the Interim Measures for the Management of National Construction Project Cost Personnel stipulates: "All management bodies and special committees shall establish an information management system and credit evaluation system for cost engineers, and open information such as the qualifications and credit records of estimators to the public." ”

Chapter IV: Supervision and Inspection

There are three articles in this chapter that mainly stipulate the content of supervision and inspection of the construction administrative departments of local people's governments at or above the county level on the activities of project cost valuation.

**Article 25: The competent administrative departments for construction of local people's governments at the county level or above shall establish and complete credit management systems for cost consulting enterprises and cost practitioners. Enterprises or individuals who have received administrative penalties for illegal acts in the construction project cost shall be recorded in their credit archives and announced to the public.**

**Any unit or individual has the right to consult the credit archives of engineering cost consulting enterprises and cost practitioners.**

【Interpretation】This article is aimed at the provisions on the credit management of engineering cost consulting enterprises and cost practitioners.

Honesty is the foundation of a harmonious society, without the integrity of the whole society based on the integrity of the government, the integrity of enterprises and undertakings, and the integrity of individuals, the society will not be stable, and the economy will not develop healthily. Therefore, strengthening the construction of the creditworthiness system is an inevitable requirement for the development of the market economy. The third point of the "Several Opinions on the Establishment of the Social Credit System" of the General Office of the State Council requires "improving industry credit records and advancing the establishment of industry credit." Relevant departments are required to pay close attention to studying the establishment of credit records for market entities on the basis of the division of duties and the needs of actual work, implement internal credit classification management, improve the negative information disclosure system and the trustworthiness incentive system, and raise the level of public service and market supervision." Article 5 of the Measures for the Administration of Creditworthy Conduct in the Construction Market of the Ministry of Construction states that "the competent administrative departments for construction at all levels shall clarify the leaders in charge and the personnel of the undertaking institutions, implement the responsibility system, strengthen the supervision and inspection of the bad behavior of all parties and the verification of the authenticity of the bad behavior records, be responsible for collecting, sorting out, and archiving, and preserving the evidence and data of the facts of the bad behavior, and the report of the bad behavior record should be true, complete, and timely reports." In order to standardize the behavior of engineering cost consulting enterprises, advocate the honest management of engineering cost consulting enterprises, and promote the healthy and orderly development of the engineering cost consulting industry, the Construction Department of Jiangsu Province formulated and issued the "Measures for the Credit Management of Engineering Cost Consulting Enterprises in Jiangsu Province" in January 2008, recording the credit status of enterprises and disclosing enterprise credit information through a special platform in accordance with the law. The Provincial Engineering Cost Industry Association has also carried out credit evaluation activities for engineering cost consulting enterprises throughout the province, which have effectively promoted the construction of the integrity system of the engineering cost consulting market in our province.

This article stipulates from three aspects: First, the competent administrative departments for construction of people's governments at or above the county level shall establish and improve the credit management system for project cost consulting enterprises and cost practitioners. The credit management system includes credit status investigations, collection of credit information, collation and analysis of credit information, credit evaluation and publicity, punishment for untrustworthiness and incentive mechanisms for trustworthiness, and archiving of credit records. The second is to require that enterprises or individuals who have received administrative penalties for illegal acts in project valuation activities shall be recorded in their credit archives and announced to the public. It is emphasized here that the bad behavior recorded in the credit file of the enterprise and the individual must have two elements at the same time: the person concerned has violated the law and is subject to administrative punishment. It should be noted, however, that this paragraph does not preclude the fact that good behaviour towards businesses and practitioners should also be recorded. Third, from the level of laws and regulations, it is stipulated that any unit or individual has the right to consult the credit archives of engineering cost consulting enterprises and cost practitioners, and must not conceal them, so as to ensure the credibility and practicality of the credit archives.

**Article 26 Where the competent administrative departments for construction of local people's governments at or above the county level and other relevant departments may inspect and investigate the cost activities related to construction projects in the course of implementing contracts for state-owned fund projects, and discover that they exceed the quotas and standards prescribed by the State and the province, and increase the construction content, expand the scale, or raise the construction standards without authorization, they shall promptly notify the relevant situation to the original project examination and approval department.**

【Interpretation】This article is a provision on the supervision and inspection of the cost activities of state-owned funds investing in construction projects.

Reasonable determination and effective control of the cost of state-owned capital investment and construction projects is an important responsibility of the competent administrative departments for construction at all levels, in view of the fact that the formation of the cost is process-oriented and single, it is particularly important to strengthen the supervision and inspection of cost activities. To this end, the first article stipulates that the main body for the inspection and supervision of the cost activities of state-owned investment fund construction projects is the competent administrative department for construction of local people's governments at or above the county level and other relevant departments, and the other relevant departments refer to the competent departments at the higher level for development and reform, finance, auditing, and project construction at the same level. The second is to stipulate that the supervision and inspection department has the responsibility to deal with the violations found in the project cost activities. This article is aimed at the frequent unauthorized increase in construction content, expansion of scale, and improvement of construction standards in state-owned investment projects, and shall promptly notify the original project examination and approval department, and the original project approval or approval department shall handle it.

**Article 27 Where the two parties to a contract have a dispute over the construction cost and are unable to reach an agreement after consultation, they may submit mediation in accordance with the methods agreed in the terms of the contract, and may also apply for arbitration or file a lawsuit with the people's court in accordance with law.**

【Interpretation】This article stipulates the cost of construction projects or the method of resolving disputes over price.

A construction project cost dispute means that the construction unit and the construction enterprise disagree on the determination of the project cost or price in the process of contract performance or in the process of handling the settlement of completion and settlement, and cannot reach an agreement. There are many reasons for this, common reasons such as the lack of strict stipulations in the construction contract on the cost of the project; the understanding and implementation of the basis for the valuation of the project; the irregularity or incomplete procedures for changes in the construction of the project; the incomplete settlement information or lack of evidence, so the phenomenon of project cost disputes is more common. Article 16 of Order No. 107 of the Ministry of Construction "Measures for the Administration of Contracting and Contract Valuation of Construction Projects" stipulates that "if the contracting parties still have objections to the completion settlement review opinion issued by the project cost consulting unit, they may apply for mediation to the competent administrative department of construction of the local people's government at or above the county level within one month after receiving the review opinion, and if mediation fails, they may apply for arbitration or file a lawsuit with the people's court in accordance with the law". In management practice, most of the disputes are resolved through consensus reached under the mediation of the engineering cost management agencies of the competent construction administrative departments at all levels. This article has three meanings: one is to encourage the parties to resolve the cost dispute through consultation; the second is that a third party may be agreed or jointly designated in the contract to conduct dispute mediation, and the third party may be a professional engineering cost management agency or an organization and individual permitted by law; third, if the parties find it difficult to reach an agreement through mediation, they may directly apply for arbitration or file a lawsuit with the people's court without mediation.

Chapter V: Legal Liability

This chapter has four articles, which are special chapters set up for illegal acts of project cost valuation activities, and mainly stipulate the legal responsibilities of construction units (bidders, contract issuers), construction enterprises, engineering cost consulting enterprises, registered cost engineers, construction project cost personnel, state employees, etc.

Legal liability refers to the legal consequences that the subject of a legal relationship should bear as a result of illegal acts, breaches of contract or non-performance of statutory obligations. It mainly has the following characteristics: First, it is associated with illegal acts. Without illegal acts, there can be no legal responsibility. Due to the different nature and degree of harm of the violation, the legal liability for the violation is also different. Second, its content is clearly and specifically stipulated by legal norms. Legal liability is a compulsory legal measure, which must be clearly stipulated by the relevant laws, administrative regulations, local regulations, departmental rules or local government rules formulated by the organs with legislative power in accordance with their powers and powers in accordance with legal procedures, otherwise it does not constitute legal liability. Third, it is mandatory by the state. Legal liability is backed by the coercive power of the State. The so-called coercive power of the state mainly refers to the adoption of compulsory measures by the state judicial organ or the administrative organ authorized by the state to force the offender to bear legal responsibility. Like moral responsibility in social responsibility, it can only be guaranteed through public opinion supervision and other means, but cannot be guaranteed through the coercive power of the state. Fourth, it is implemented by the organs authorized by the State in accordance with law. Pursuing legal responsibility for illegal acts and imposing legal sanctions is an important part of state power, which must be carried out by organs with state power, mainly referring to state judicial organs and relevant state administrative organs. No other organization or individual has the right to do so. Because legal liability has the above characteristics, it is decided that illegal acts should be punished by corresponding laws.

According to the nature of the law violated by the violation, legal liability can be divided into civil liability, criminal liability, administrative liability and unconstitutional liability and State compensation liability. Civil liability refers to a legal liability that should be borne due to violation of civil law, breach of contract or due to the provisions of civil law. Criminal liability refers to the negative legal consequences determined by the judicial authorities on behalf of the State as to the perpetrators of their criminal acts that the perpetrators must bear. Administrative liability refers to the legal liability that should be borne due to violations of or due to administrative regulations. Unconstitutional liability refers to the legal liability arising from certain laws, regulations and rules formulated by the relevant state organs, or the relevant state organs, social organizations or citizens engaged in activities that are contrary to the provisions of the Constitution. State liability refers to the liability of the State as the bearer arising from the illegal exercise of authority by the State organ and its staff when exercising public power.

These measures are a local government rule formulated in accordance with national laws and regulations, which have a binding effect on the behavior of project cost activities, so illegal acts will be investigated for legal responsibility.

**Article 28: Where conduct, laws, or regulations violate the provisions of these Measures have other provisions, follow those provisions.**

【Interpretation】This article is a provision for the convergence with relevant laws, regulations and rules of the state.

Where this article clearly provides otherwise by laws or regulations, it shall be implemented in accordance with the provisions of relevant laws and regulations. At present, in addition to these Measures, the laws, regulations and rules related to project cost valuation activities include the Construction Law, the Contract Law, the Bidding and Bidding Law, the Regulations on the Administration of Engineering Construction in Jiangsu Province, the Regulations on the Administration of the Construction Market in Jiangsu Province, the Measures for the Administration of Contracting and Contract Pricing for Construction Projects (Order No. 107 of the Ministry of Construction), the Measures for the Administration of Engineering Cost Consulting Enterprises (Order No. 149 of the Ministry of Construction), and the Measures for the Administration of Registered Cost Engineers. (Order No. 150 of the Ministry of Construction) and relevant judicial interpretations of the Supreme People's Court. For acts that violate these Measures and should be subject to administrative punishment, and the relevant laws, regulations, and rules have clearly defined legal liability and punishment provisions for this behavior, in order to avoid conflicts between laws and regulations, these Measures do not duplicate the legal liability clauses, but this interpretation will not have duplicate legal liability, which is expressed in the interpretation of the relevant provisions.

Where illegal acts are not listed in these Measures, but there are provisions in relevant laws, regulations and rules, legal responsibility shall be borne in accordance with the relevant laws, regulations and rules. For example, in the Administrative Measures for the Issuance and Contract Valuation of Construction Projects (Order No. 107 of the Ministry of Construction), Article 19 states that "if a cost engineer intentionally raises or lowers the price in the bidding base or the preparation of bidding quotations, the review of project settlement and the appraisal of engineering costs, and the circumstances are serious, the cost engineer registration management agency shall cancel his professional qualifications". Article 20:"Where a project cost consulting unit deliberately raises or lowers the price or provides false reports in the course of construction project pricing activities, the competent administrative department for construction of the local people's government at or above the county level shall order corrections and may impose a fine of between 10,000 and 30,000 yuan; Article 33 of the Measures for the Administration of Registered Cost Engineers (Order No. 150 of the Ministry of Construction) states that "where a cost engineer is registered by fraud, bribery or other improper means, the registration authority shall revoke his registration, and shall not apply for registration again within 3 years, and shall be fined by the competent department of construction of the local people's government at or above the county level." Among them, those who have no illegal gains shall be fined not more than 10,000 yuan; if there are illegal gains, they shall be fined not more than 3 times the illegal gains and not more than 30,000 yuan." Article 34:"In violation of the provisions of these Measures, if the project cost activities are engaged in in the name of a registered cost engineer without registration, the signed project cost result documents are invalid, and the competent department of construction of the local people's government at or above the county level or other relevant departments shall give a warning, order the illegal activities to be stopped, and may be fined between 10,000 and 30,000 yuan." Wait a minute.

**Article 29: Where the provisions of these Measures are violated and any of the following conduct is committed, the competent administrative department for construction of local people's governments at the county level or above shall give a warning, order corrections, and, depending on the seriousness of the circumstances, impose a fine of between 5,000 and 30,000 yuan:**

**(1) State-owned capital investment projects have not used the method of pricing the bill of quantities or violated the mandatory provisions of the valuation standards;**

**(2) the bidder entrusts an intermediary service enterprise that does not have the corresponding qualifications to compile the bill of quantities and the bidding control price on its behalf;**

**(3) The contract issuer or contractor fails to submit a copy of the contract and the substantive content of the changes for the record;**

**(4) the contract issuer entrusts a project cost consulting enterprise that does not have corresponding qualifications to review the settlement of the project;**

**(5) The use of the practice seal or special seal of the project consultant personnel on the project cost achievement document;**

**(6) Violating the principles of objectivity, impartiality and good faith in issuing project cost consulting result documents.**

**Where a unit is given a penalty in accordance with the provisions of the preceding paragraph, a warning may be given to both the directly responsible personnel and the directly responsible supervisor of the unit, and a fine of between 300 and 1,000 yuan may be imposed.**

【Interpretation】This article stipulates the illegal liability of construction units, engineering cost consulting enterprises, registered cost engineers and construction project cost engineers in project cost activities.

According to the laws of our country, administrative penalties cannot be arbitrarily set and implemented, and must have a statutory basis. Article 3 of the Administrative Punishment Law stipulates: "Where citizens, legal persons or other organizations violate the order of administrative management, and administrative punishments shall be given, they shall be provided for by laws, regulations or rules in accordance with this Law, and shall be implemented by administrative organs in accordance with the procedures provided for in this Law." Article 8 stipulates the types of administrative penalties: warnings, fines, confiscation of illegal gains, confiscation of illegal property, orders to stop production and business, temporary suspension or revocation of permits, suspension or revocation of licenses, administrative detention, etc. At the same time, Article 15 also stipulates that "administrative punishment shall be carried out by the administrative organ with administrative punishment power within the scope of statutory authority.". This article stipulates that the power to implement administrative penalties set forth in these Measures as a rule belongs to the competent administrative departments for construction of people's governments at or above the county level.

According to the provisions of this article, the competent administrative department of construction shall, in the course of law enforcement, impose penalties according to the actual circumstances such as the seriousness of the illegal acts and the size of the consequences, and the main types of penalties are: (1) warnings. The so-called warning is a form of vigilance sanctions in which groups and organizations warn individuals who have committed mistakes or violations of the law to make them aware of their responsibilities. (2) Correction. The so-called correction means changing the error to the correct, which refers to the punishment measures of the competent administrative department to order the counterparty who committed the illegal act to correct the illegal act within a certain period of time in accordance with the law. (3) Fines. A fine is a form of penalty in which a counterparty who commits an offence is forced to pay a certain amount of money within a specified period of time.

In other relevant laws, regulations and rules for the illegal acts listed in paragraphs (1), (2), (3), (4), (5) and (6) listed in this article, there is currently no provision for bearing corresponding legal liability, or although there are provisions, the object of punishment is different from these Measures. For example, in the second paragraph of this article, "the tenderer entrusts an intermediary service enterprise that does not have the corresponding qualifications to prepare the bill of quantities and the bidding control price" and the fourth paragraph "the contractor entrusts the project cost consulting enterprise without the corresponding qualifications to review the settlement of the project", Article 38 of the Measures for the Administration of Engineering Cost Consulting Enterprises (Order No. 149 of the Ministry of Construction) only stipulates the legal liability of the entrusted person, but does not stipulate the legal responsibility of the client. These Measures make it clear that both the client and the client are illegal in these two situations, so this article stipulates the legal liability that the client needs to bear.

This article provides that while punishing the unit for illegal conduct, corresponding administrative penalties may be given to the person directly responsible for the illegal act and the supervisor who is directly responsible for the unit. This is mainly based on the practice of project cost valuation activities, although some illegal acts are manifested in enterprise behavior, in fact, some are illegal acts carried out by individuals behind the enterprise without the knowledge of the enterprise; some are illegal acts carried out under the direction of the person in charge of the unit or directly involved. Therefore, this article stipulates that while punishing the unit for illegal acts, corresponding administrative penalties may be given to the person directly responsible for the illegal act and the supervisor who is directly responsible for the unit.

**Article 30 Where registered cost engineers and construction project cost engineers are registered in non-actual work units, the competent administrative department for construction of local people's governments at or above the county level shall order them to make corrections, and may give them warnings and impose a fine of not less than 500 yuan but not more than 3,000 yuan on individuals.**

【Interpretation】This article stipulates the administrative punishment for the illegal registration of engineering cost practitioners.

This article is a special punishment clause for the prohibited acts in article 23 (5) of these "Measures", mainly taking into account the universality and harmfulness of this behavior, and the national laws and regulations have no legal responsibility, so the perpetrator should be ordered to make corrections, and depending on the seriousness of the circumstances, a warning punishment and a fine of between 500 and 3,000 yuan may be imposed at the same time.

**Article 31 Where the staff of the competent administrative departments for construction of local people's governments at the county level or above and other relevant departments derelict their duties, engage in malpractices for personal gain, or abuse their powers in the management of construction project costs, they shall be given administrative sanctions by the unit to which they belong, or by the organ at the level above or the Supervision Organ in accordance with law;**

【Interpretation】This article stipulates the legal liability of state functionaries who should bear illegal acts in the construction project cost management work.

The illegal acts provided for in this article are the acts of dereliction of duty, favoritism, abuse of power by the staff of the competent administrative departments for construction and other relevant departments in the management of construction project costs. Dereliction of duty refers to the conduct of state functionaries who seriously irresponsible, fail to perform or incorrectly perform their duties, causing damage to or loss of public property, public interests, and social order; favoritism refers to the behavior of state functionaries who disregard the state public interest, engage in deception, and use deceptive methods to do illegal things for personal interests or take care of personal relations; abuse of power refers to the behavior of state functionaries violating the authority and procedures stipulated by laws and regulations, resulting in major losses to the state's public property and the people's interests. According to the provisions of this article, the offending entity is the staff of the competent administrative department of construction and other relevant departments, and the illegal subject shall bear two kinds of legal responsibility for the above-mentioned illegal acts: one is administrative responsibility. Administrative liability, also known as administrative legal liability, is an administrative legal consequence that the offending entity should bear due to its violation of the provisions of administrative regulations. Where the illegal acts provided for in this article do not constitute a crime, sanctions shall be given in accordance with the relevant provisions of the Civil Servants Law in accordance with law. Sanctions are divided into: warning, demerit, major demerit, demotion, removal and expulsion. Civil servants may not be promoted to posts and ranks during the period of punishment, and those who have been punished with demerits, major demerits, demotions, or dismissals may not be promoted to the salary scale. The period of punishment is: 6 months for warning, 12 months for demerit, 18 months for demerit, demotion and dismissal for 24 months. Those who have received the punishment of dismissal shall be demoted in accordance with provisions. The other is criminal liability. Criminal liability is the legal responsibility for giving criminal sanctions that the violating entity should bear in violation of the norms of national criminal law, and it is the most severe legal responsibility, and can only be investigated by the state judicial organs and procuratorial organs in accordance with law. According to the relevant provisions of China's Criminal Law, any functionary of a state organ who abuses his or her powers, engages in malpractices for personal gain, or neglects his duties constitutes a crime, shall be sentenced to fixed-term imprisonment or criminal detention.

Chapter VI Supplementary Provisions

This chapter stipulates the time and date of implementation of the Measures.

**Article 32: These Measures shall come into force.2010年11月1日起**

【Interpretation】These Measures were adopted by the 51st executive meeting of the Provincial People's Government, promulgated, and implemented from time to time. According to the relevant laws and regulations of our country, the implementation time of the regulations is the effective time of the law. There are two ways to put the law into force: one is to leave a certain amount of time from promulgation to implementation, and to prepare for implementation. The other is that it can be implemented from the date of promulgation. The provisions of these Measures on the implementation time adopt the first method, mainly considering the time for law enforcement agencies and project cost management counterparts to learn to master and adapt, better ensure the implementation of these Measures, and ensure the smooth development of project cost management. 2010年8月6日2010年8月26日2010年11月1日起