**Provincial People's Government Decree**

Number 120

The Administrative Measures for the Bidding and Bidding of State-owned Capital Investment Project Construction Projects in Jiangsu Province were discussed and approved by the First Executive Meeting of the Provincial People's Government on February 11, 2018, and are hereby promulgated and shall come into force on April 1, 2018.

Governor: Wu Zhenglong

February 24, 2018

**State-owned funds in Jiangsu Province invested in engineering construction projects**

**Measures for the Administration of Tendering and Bidding**

Chapter I General Provisions

Article 1 These Measures are formulated on the basis of the "Law of the People's Republic of China on Bidding and Bidding", the "Regulations on the Implementation of the Law of the People's Republic of China on Bidding and Bidding", and other laws and regulations, combined with the actual conditions of this Province, in order to regulate the bidding and bidding activities of state-owned capital-invested project construction projects and protect the interests of the State, the societal public interest and the lawful rights and interests of the parties to the bidding and bidding activities.

Article 2 Where engineering construction projects in which state-owned funds hold a controlling or dominant position within the administrative region of this Province meet the standards for the scope and scale of bidding that must be tendered in accordance with law, these Measures shall apply to their bidding and bidding activities.

Article 3 The development and reform departments of local people's governments at the county level or above shall guide and coordinate the bidding and bidding work within their respective administrative regions, and the departments of housing and urban-rural construction, transportation, water conservancy, economy and informatization, and commerce shall supervise the bidding and bidding activities in accordance with the division of duties and labor.

Local people's governments at or above the county level may designate an administrative department to perform unified supervision and management duties over bidding and bidding activities.

The government service agencies of local people's governments at the county level or above shall, on the basis of the principle of optimizing services, strengthen guidance for the bidding and bidding services for state-owned capital investment project construction projects within their respective administrative regions, strengthen on-site supervision, and improve service quality.

Article 4 The people's governments of provinces and districted cities shall establish and improve unified and standardized public resource trading centers to provide services for bidding and bidding activities for state-owned capital investment project construction projects. The public resource trading center must not have an affiliation with the administrative supervision department for bidding and bidding.

Article 5: Bidding and bidding activities shall be conducted through the public resource trading platform, advancing the electronicization of the whole process of bidding and bidding, bringing about the disclosure of information on bidding and bidding activities, and accepting public supervision.

Chapter II Tendering and Bidding

Article 6 The bidder responsibility system shall be implemented in the bidding and bidding activities. Bidders shall, on the basis of scientific and democratic decision-making and other principles, establish and improve internal procedural control and decision-making constraint mechanisms, so as to achieve standardization and transparency in the bidding process and the lawfulness and fairness of the results.

Article 7 Government investment projects shall be centrally constructed and tendered in accordance with law, so as to realize the separation of investment, construction and supervision from each other, and continuously improve the level of specialization of project supervision and the investment efficiency of financial funds.

Specific measures for centralized construction shall be formulated separately by the provincial people's government.

Article 8 The tenderer may, at its own discretion, start the bidding activities and bear the risks and responsibilities of the failure of the bidding due to changes in the various conditions of the project.

Article 9 Where a state-owned enterprise uses non-financial funds to construct a business project, and the enterprise controlled or controlled by the construction unit has the corresponding qualifications and is able to provide design, construction, materials and equipment consulting services, the construction unit may directly issue contracts to the enterprises in which it holds or is controlled.

Article 10 The tenderer shall use the standard bidding documents issued by the State, or the standard bidding documents formulated by the relevant provincial administrative supervision departments for bidding and bidding in accordance with the standard bidding documents issued by the State in conjunction with the actual conditions of the province.

The tenderer shall, in accordance with the characteristics of the tendering project, fully consider the reasonable time for the bidder to prepare the bidding documents. If it is clear in the bidding documents that the bidder does not need to prepare the technical bid evaluation content such as the construction organization design, service outline or equipment installation and commissioning plan, it shall be not less than 10 days from the date of issuance of the bidding documents to the deadline for submission of the bidding documents; The tenderer shall postpone the deadline for submitting the tender documents.

Article 11 The tenderer shall publish a prequalification announcement or a bidding announcement in the legally prescribed media, and at the same time publish the prequalification documents or the bidding documents other than the engineering design documents.

The prequalification announcement or the bidding announcement shall specify all the qualification review conditions, standards and methods of the bidding project and the standards and methods of bid evaluation. Where the tenderer modifies the announcement already issued, it shall reissue the announcement.

Article 12 The qualification qualification conditions and veto conditions set in the prequalification documents or bidding documents shall be clear and unambiguous, indicated in a conspicuous manner, and listed separately in a centralized manner. Veto conditions should be clearly articulate and easy to judge. If the bidder needs to revise the qualification conditions and veto conditions, it shall re-issue the announcement.

Unspecified veto conditions shall not be used as a basis for rejecting a bid or for determining invalidity.

Article 13 The tenderer shall not regard the following unreasonable restrictions or exclusion of potential bidders as qualification conditions:

(1) Raising the qualification level, simultaneously setting up general contracting qualifications and professional contracting qualification requirements within the scope of general contracting qualifications, and other qualification requirements that are not set in accordance with qualification management provisions;

(2) Where the qualification requirements require 2 or more qualifications but the consortium is not allowed to bid;

(3) Except for projects whose main structure is connected and cannot be divided into construction, the construction general contracting projects of different general contracting qualification categories are bundled into bidding and two construction general contracting qualifications are set up in the qualification conditions.

Article 14 Where 2 or more legal persons bid in the form of a consortium, each member unit of the consortium shall have the qualifications and capabilities appropriate to the division of labor agreed upon in the consortium agreement.

Article 15 The bidder may include the following circumstances in the qualification review conditions and refuse the bidders to participate in the bidding:

(1) Where administrative punishment has been imposed for violating the provisions on bidding and bidding within the past 2 years;

(2) Where the effective judgment of the people's court determines that there is a situation of breach of contract within the past 2 years;

(3) There is a serious breach of contract in the performance of the bidder's previous project contract.

Where the tenderer makes item 3 of the preceding paragraph a condition for qualification review, it shall publish the list of defaulting units and their breaching acts in the bidding announcement.

Article 16 Where a bidder or a bidding agency entrusted by him has any of the following circumstances in the bidding process, it shall be in collusion with the bidder in bidding:

(1) directly or indirectly disclosing to bidders the names and number of bidders who have obtained or passed the prequalification documents, or potential bidders who have already obtained the bidding documents;

(2) directly or indirectly disclosing the qualification review or bid evaluation to the bidding interested parties;

(3) Deliberately destroying or tampering with the content of specific bidding documents, or destroying or tampering with prequalification application documents submitted by applicants for specific prequalification in prequalification activities;

(4) Other acts of collusion in bidding provided for by laws, regulations, or rules.

Article 17 Where a bidder has any of the following circumstances in the bidding process, it shall be deemed that the bidders collude with each other to bid:

(1) Mutually agreeing not to submit qualification application documents in accordance with the requirements of the prequalification documents;

(2) where there is no substantive response to the solicitation documents in accordance with mutual agreement;

(3) Formulating bidding plans in accordance with mutual agreements;

(4) Mutually agreeing to compensate the bidders who have not won the bid for their expenses;

(5) Other acts of collusion in bidding provided for by laws, regulations, or rules.

Article 18 Where a bidder has any of the following circumstances in the bidding process, it shall be deemed that the bidders collude with each other in bidding:

(1) The electronic bidding documents of different bidders are from the same computer;

(2) the bidding documents of different bidders are printed or copied by the auxiliary equipment of the same bidder;

(3) The bidding quotations of different bidders are made with the same budgeting software password lock or from the same electronic file;

(4) Although the bidding deposit of different bidders is transferred out through the bidder's own basic account, the required funds are from the accounts of the same unit or individual;

(5) There are two or more errors in the consistency of the bidding documents prepared by different bidders;

(6) Other conduct provided for by laws, regulations, or rules that are deemed to be collusive bidding.

Article 19 In any of the following circumstances, a bidder shall be guilty of fraudulently obtaining the winning bid:

(1) Where the responsible person of another unit or other unit affixes a seal or signs to the bidding documents prepared by himself;

(2) The project leader or principal technical personnel are not personnel of the unit;

(3) the bidding deposit is not paid from the bidder's account;

(4) There are commitment materials in the prequalification application documents or bidding documents that are inconsistent with the facts;

(5) Concealing the information required by the solicitation documents, or providing other information that is false or misleading;

(6) Other fraudulent conduct provided for by laws, regulations, or rules.

Chapter III Bid Evaluation and Winning Bids

Article 20 The bid evaluation committee shall be composed of representatives of the bidders and experts on relevant technologies and economies. The expert members of the bid evaluation committee shall be randomly selected from the provincial comprehensive bid evaluation expert database in accordance with relevant regulations.

Where there is a lack of corresponding bid evaluation experts in the provincial comprehensive bid evaluation expert pool, or the number of bid evaluation experts does not meet the requirements of random sampling, the bidder may invite bid evaluation experts on his own, but shall give priority to inviting them from the national comprehensive bid evaluation expert pool.

For engineering construction projects with special requirements for important urban lots, important landscape areas, and public construction projects with special requirements for architectural functions, when evaluating the design plan, the bidder may invite the bid evaluation experts to form a bid evaluation committee.

Article 21 The members of the bid evaluation committee shall strictly abide by the discipline of bid evaluation work, and shall not contact the outside world without authorization during the bid evaluation process, and shall not bring communication equipment and other items unrelated to bid evaluation activities into the bid evaluation venue of the public resource trading center.

The members of the bid evaluation committee shall take the initiative to accept, assist and cooperate with the supervision and management of the administrative supervision department of bidding and bidding.

Article 22 Before the bid evaluation, the bidder shall organize the following bid evaluation preparations and provide relevant information to the bid evaluation committee; where electronic bidding is used, it shall use the electronic trading system to automatically carry out the bid evaluation preparations:

(1) Prepare the corresponding forms for bid evaluation on the basis of the bidding documents;

(2) Arithmetic checks of bidding and quotations;

(3) On the basis of the evaluation criteria and methods, list all deviations of the bidding documents from the bidding documents, and classify and summarize them;

(4) Verify the qualifications and qualifications, experience and performance, construction in progress and credit status of bidders and project leaders.

The tenderer shall conduct a comprehensive review of all tender documents using the same criteria on the basis of the tender documents, but shall not evaluate the tender documents.

If the tenderer believes that the bidder's bid price may not be able to complete all the project contents specified in the bidding documents, the bidder may request the bid evaluation committee to request the bidder to make a written explanation and provide relevant supporting materials.

The bid evaluation committee shall, in accordance with the provisions of the bidding documents, comprehensively and independently evaluate all bidding documents, and review the above-mentioned relevant information provided by the bidders, and if errors or omissions are found, they shall make corrections.

Article 23 Members of the bid evaluation committee who have different opinions on the same matter shall be handled in accordance with the following procedures:

(1) The members of the bid evaluation committee shall separately state their opinions;

(2) Collective discussion;

(3) Voting by the members of the bid evaluation committee;

(4) Determine the outcome in accordance with the principle of the minority obeying the majority.

The different opinions of the members of the bid evaluation committee and the final processing results shall be truthfully recorded in the bid evaluation report.

Article 24 Where a bidder has the circumstances of collusion in bidding and fraud provided for in Articles 16, 17, 18 and 19 of these Measures, the bid evaluation committee shall reject his bid and report to the relevant administrative supervision department for bidding and bidding.

Article 25 After the bid evaluation committee completes the bid evaluation, it shall submit a written bid evaluation report to the bid inviter. The tenderer shall review the bid evaluation report, and if it is found that the bid evaluation committee has not evaluated in accordance with the provisions of the bidding documents, it shall report to the relevant bidding and bidding administrative supervision department. After verification, if the bid evaluation report omits the necessary content or there is an error, the original bid evaluation committee shall conduct a review, supplement or correction.

Article 26 Where the members of the bid evaluation committee do not evaluate the bids in accordance with the evaluation standards and methods specified in the bidding documents, and refuse to make corrections in accordance with the requirements of the administrative supervision department for bidding and bidding, the bidders shall be replaced in a timely manner, and the appraisal conclusions made by the members of the bid evaluation committee to be replaced shall be invalid, and the members of the bid evaluation committee after the replacement shall re-evaluate.

Article 27 Within 3 days from the date of receipt of the bid evaluation report, the tenderer shall publicize the following matters on the media of the tender announcement:

(1) The successful candidates recommended by the bid evaluation committee, the total bid price (including the provisional valuation and provisional amount), the similar project performance provided by the bidding documents, the specific circumstances of the awards and their ranking;

(2) Relevant information on the pre-qualification of the winning candidate;

(3) The bidders and the basis for judging the invalid bidding documents;

(4) The reasons, basis and results of the amendment of the bid evaluation committee to the bidding quotation;

(5) The bidders and their proposed project leaders score similar project performance, awards, bidding quotations, reasonableness of bidding quotations, and other scores;

(6) The scoring of the members of the evaluation committee of the technical bid for each bidder (the list of members of the bid evaluation committee is not published);

(7) the final total score of each bidder;

(8) Drafting the winning bidder;

(9) Other content that must be made public as provided for by laws, regulations, or rules.

Article 28 Where bidders or other interested parties have objections to the results of the bid evaluation, they shall raise them during the period of publicity of the successful candidate. The tenderer shall reply within 3 days from the date of receipt of the objection; before making a reply, it shall suspend the bidding and bidding activities. After verification of the objection, the original proposed successful bidder loses the qualification to win the bid. Where the bidder re-determines the proposed successful bidder, it shall be made public.

Article 29 Where the successful candidate announces that there is no objection, the bidder shall, at the same time as issuing the notice of winning the bid, announce the result of the winning bid. The content of the announcement shall include: the name of the successful bidder, the name of the person in charge of the project, the winning bid price, the construction period of the winning bid, the reason and basis for the bidder's bid determination, etc.

Article 30 Where the following circumstances are met, the bidder may use the method of assessment separation to determine the successful bidder:

(1) Bidding for the design plan of the engineering construction project;

(2) Bidding for general contracting of projects;

(3) The relevant provincial administrative supervision departments for bidding and bidding stipulate that other projects that may be determined by means of assessment and separation may be used to determine the successful bidder.

Article 31 Where the successful bidder is determined by means of assessment and separation, the bid evaluation committee shall, on the basis of the evaluation methods and standards specified in the bidding documents, evaluate the price, technology, quality, brand, credit status and performance ability of the bidding documents, and recommend to the bidders a certain number of unsuccessful successful candidates, and the bidders shall recommend to the bidders a certain number of unsuccessful successful candidates, and the bidders shall recommend the winning candidates on the basis of the bid evaluation report and the bid evaluation committee, taking into account the project scale, technical difficulties and other factors, In accordance with the prescribed decision-making procedures, the successful bidder shall be determined on the basis of merit.

The bidding documents shall stipulate the method and quantity of the successful candidates recommended by the bid evaluation committee.

Article 32 In any of the following circumstances, after analyzing the reasons for the failure of the bidding and adopting corresponding measures, the bidder shall re-bid in accordance with law:

(1) Where there are less than 3 potential bidders who have obtained prequalification documents or solicitation documents;

(2) Where there are less than 3 applicants who have passed the pre-qualification examination;

(3) Where there are less than 3 bidders;

(4) In the process of bidding and bidding, due to changes in the project, the existing bidding qualification conditions cannot meet the scale of the project;

(5) the bid evaluation committee rejects all bids;

(6) The bid evaluation committee finds that it is impossible to determine the successful candidate or the successful bidder in accordance with the bid evaluation method.

If the bidders re-bid for the reasons mentioned in items 1, 2 and 3 of the preceding paragraph and the qualification requirements put forward by the bidders for the bidders are not higher than the statutory minimum standards and requirements, and the applicants are still less than 3, the bidders shall give priority to inviting the applicants who have submitted the prequalification application documents or the bidders who have submitted the bidding documents to negotiate.

If a bidder fails to obtain the bidding documents through pre-qualification, abandons the bidding or wins the bid without a legitimate reason, or other illegal acts that cause the bidder to re-bid, he shall not participate in the bidding of the project again.

Chapter IV: Supervision and Management

Article 33 The administrative supervision department for bidding and bidding shall, in accordance with the provisions of laws and regulations, strengthen administrative supervision over bidding and bidding activities, and if it is discovered that there are illegal acts in bidding and bidding activities, it shall order the suspension of bidding and bidding activities, and only after corrections may they continue.

Article 34 The administrative supervision department for bidding and bidding may handle professional or technical issues in the process of handling complaints in the following manner:

(1) Request the original bid evaluation committee to review the explanation;

(2) Organize senior expert reviews;

(3) Organize the convening of hearings.

The review opinion issued by senior experts can be used as the main basis for handling complaints.

Article 35 The bidder and the successful bidder shall sign the contract in accordance with the bidding documents, bidding documents and the notice of winning the bid, and conscientiously perform the relevant obligations in strict accordance with the contract provisions, and strengthen the management of contract performance.

The relevant competent administrative departments shall employ methods such as hearing reports, consulting account book materials, and on-site verification to supervise and inspect the performance of contracts, and supervise and urge contract subjects to strictly perform contracts.

Article 36: Departments for administrative supervision of bidding and bidding shall strengthen credit management of all parties and individuals participating in bidding and bidding activities, and record, publish, share, and jointly discipline untrustworthy conduct.

Article 37: The trading platforms used in the bidding and bidding process are to be included in the public resources trading platform, and the administrative supervision platform is connected to the government service platform, and shall follow the requirements of the province's government service network to achieve interconnection and data sharing.

Article 38: Public resource trading centers shall adhere to the positioning of public service functions, establish and improve unified systems and rules, shared information systems, standardized and transparent operating mechanisms, and provide comprehensive services for bidding and bidding activities, administrative supervision, and so forth.

Chapter V: Legal Liability

Article 39: Where laws, regulations, or rules already have provisions on punishment in violation of the provisions of these Measures, follow those provisions.

Article 40 Where the tenderer and the tendering agency entrusted by it violate the provisions of these Measures and fail to conduct the tendering through the public resource trading platform, the competent organ shall give sanctions to the directly responsible supervisors and other directly responsible personnel of the tenderer in accordance with law.

Article 41 Where the tenderer and the bidding agency entrusted by it violate the provisions of these Measures and shall make a public announcement but do not make a public announcement or fail to make a public announcement in accordance with the provisions of these Measures, the administrative supervision department for bidding and bidding shall order corrections, and the competent organ shall give sanctions to the directly responsible supervisors and other directly responsible personnel of the tenderer in accordance with law.

Chapter VI Supplementary Provisions

Article 42: Government procurement of engineering construction projects shall implement government procurement policies.

Article 43: These Measures take effect on April 1, 2018.