Jiangsu Provincial Construction Market Management Regulations

On April 22, 2000, the 15th meeting of the Standing Committee of the Ninth People's Congress of Jiangsu Province adopted the first amendment in accordance with the Decision on Amending the Regulations on the Administration of the Construction Market of Jiangsu Province at the Second Meeting of the Standing Committee of the Tenth People's Congress of Jiangsu Province on April 21, 2003, and the Decision on Amending the Regulations on the Administration of the Construction Market in Jiangsu Province at the Eleventh Meeting of the Standing Committee of the Tenth People's Congress of Jiangsu Province on August 20, 2004

Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with the Construction Law of the People's Republic of China, the Law of the People's Republic of China on Tendering and Bidding, the Contract Law of the People's Republic of China and other laws and relevant laws and regulations, combined with the actual conditions of this Province, in order to strengthen the management of the construction market, standardize the behavior of the construction market, protect the legitimate rights and interests of the parties concerned, and ensure the quality and safety of construction projects.

Article 2 "Construction market" as used in these Regulations refers to the transaction behavior and place where all parties involved in civil engineering, construction projects, line pipeline and equipment installation projects and decoration projects carry out surveys, designs, construction, supervision, procurement of important materials and related equipment, and intermediary services after the establishment of a construction project.

Engaging in construction market activities within the administrative region of this province and implementing supervision and management of the construction market shall comply with these Regulations.

Article 3 Local people's governments at or above the county level shall take measures to actively cultivate the construction market, maintain market order, and ensure the healthy development of the construction market.

Article 4 The competent administrative departments for construction of local people's governments at or above the county level shall be the unified supervision and management departments for the construction market within their respective administrative regions.

Where the people's governments of districted cities and counties (cities) have construction management departments, and determine that some of the duties provided for in these Regulations regarding the supervision and management of the construction market are to be exercised by that department, they shall be determined from that.

Article 5 The departments of water conservancy, transportation, electric power, postal services, telecommunications and other departments at or above the county level shall, in accordance with their respective duties, be responsible for the supervision and management of relevant professional construction projects. Where a state construction project is approved in accordance with the authority and procedures prescribed by the State Council, and the State has other provisions on the management of the construction project, those provisions shall prevail.

The departments of industry and commerce, planning, economy and trade, finance, prices, auditing, labor, taxation and other departments at or above the county level shall, in accordance with their respective duties, do a good job in the supervision and management of the construction market.

Article 6 Engaging in construction market activities and implementing supervision and management of the construction market shall follow the principles of unified openness, orderly competition and openness, fairness and equal competition. No unit or individual may illegally restrict or exclude legal persons or other organizations outside the region or system from participating in competition, and must not disrupt the order of the construction market in any way.

Article 7 To engage in construction market activities and carry out supervision and management of the construction market, the engineering construction procedures and the national and provincial engineering construction standards, norms and procedures shall be strictly implemented, and the lifelong responsibility system of the relevant administrative leadership responsible persons and the legal representatives of each participating unit shall be implemented for the quality of the project, so as to ensure the quality and safety of the project.

Chapter II Contracting of Projects

Article 8 Where there are provisions in laws or administrative regulations for projects for which bidding and contracting shall be carried out in accordance with law, they shall be implemented in accordance with their provisions; if there are no provisions or the provisions are unclear, they shall be implemented in accordance with the laws and regulations and rules of this province on bidding and bidding for construction projects.

Where direct contract issuance may be carried out in accordance with law, the contract issuer shall have technical and economic management personnel appropriate to the contracting project, and shall award the project to a contractor with corresponding qualifications and conditions;

Article 9 When a project is awarded, the contractor shall have the corresponding funds or the source of funds has been implemented. When the contract issuer issues the contract, it shall provide the proof of funds in place issued by the bank opening the account, the payment guarantee letter or other guarantee certificate issued by a third party.

Article 10 The awarding of contracts for engineering projects shall be carried out in accordance with the authority of project management at the construction project trading centers of provinces, districted cities and counties (cities).

The bidding and bidding activities of mechanical and electrical equipment shall be carried out in accordance with the relevant provisions of the national and provincial people's governments.

Article 11 Where the contracting of survey, design, construction, supervision, procurement of important materials and related equipment of a project needs to be divided into several parts or sections, it shall be reasonably divided; where it should be completed by one contractor, the contract issuer shall not dismember it into several parts and issue the contract to several contractors.

In addition to the special engineering design, the single project of the engineering project is the minimum allowable contracting unit. If the contract issuer awards the design business to several design contractors separately, it must select a design contractor as the main contractor and be responsible for the overall coordination of the design of the entire project.

For the contracting of construction or supervision business, the unit project or the bidding section of the project shall be the minimum contracting unit allowed to be divided.

Article 12: The contract issuer shall not carry out the following acts:

(1) Forcing contractors or intermediary service establishments to engage in activities that harm public safety or the public interest, or that violate engineering construction procedures, standards, norms, or procedures;

(2) Contracting the project to a contractor who does not have a qualification certificate or does not have the corresponding qualification level;

(3) requiring the contractor to contract the project at a price lower than the cost of the project to be contracted, or requiring the contractor to contract the project with capital advances, disguised capital advances, or other unreasonable conditions;

(4) Directly awarding contracts for projects that should be tendered and contracted, or colluding with contractors to conduct false bidding;

(5) Leaking the bid base or providing the bidder's bidding documents and other relevant materials to other bidders;

(6) forcing the general contractor to carry out subcontracting, or restricting the general contractor from awarding the project to the designated subcontractor;

(7) The construction drawing design is not examined and qualified for construction bidding;

(8) Starting construction without going through the construction permit formalities in accordance with law;

(9) Modifying survey and design documents and drawings without authorization;

(10) forcibly requiring the contractor to purchase products from production plants or suppliers designated by the contractor;

(11) Arrears in the payment of project funds;

(12) Other conduct prohibited by laws or regulations.

Chapter III: Project Contracting

Contractors engaged in the survey, design, construction, and supervision of engineering projects must independently contract or jointly contract with other contractors in their own name and within the scope of the business permitted by their qualification certificates obtained in accordance with law.

In any of the following circumstances, one party may not use the name or qualification certificate of the other party to contract the project business:

(1) There is no property rights relationship between each other, that is, assets are not transferred by means of shares or other means;

(2) Where there is no unified financial management, and independent accounting is carried out separately or in disguise;

(3) Where there are no formalities for the appointment, removal, transfer, or employment of personnel that meet the requirements of the provisions;

(4) Other circumstances provided for by laws and regulations.

Article 14 Prohibits any form of project subcontracting and illegal subcontracting.

Subcontracting refers to the act of a contractor, after contracting a construction project, transferring all the construction projects contracted by the contractor to others, or dismembering all the construction projects contracted by the contractor and then transferring them to others in the name of subcontracting.

In any of the following circumstances, it is an illegal subcontracting:

(1) the general contractor subcontracts the construction project to a contractor who does not have the corresponding qualifications and conditions;

(2) there is no agreement in the general contracting contract for construction projects, and without the approval of the contract issuer, the contractor entrusts part of the construction project contracted by the contractor to another person to complete;

(3) the general contractor of construction subcontracts the construction of the main structure of the construction project to another person;

(4) The subcontractor subcontracts the construction project it has contracted.

The survey and design contractor shall prepare the survey and design documents in accordance with the relevant provisions of the State, and shall be signed and sealed by the legal representative of the unit, the technical person in charge and the relevant technical personnel. The design drawings must use the special drawings of the unit and affix a special stamp for the drawings. Majors that implement the individual professional qualification system must also have the signature of the registered practitioners of the unit with corresponding qualifications and affix a special seal for practice.

The design documents provided by the design contractor shall indicate the technical indicators such as the procedures, models, and performance of the selected building materials, structural accessories, and equipment.

The design contractor shall not designate a production plant or supplier, except in any of the following circumstances:

(1) There are no similar alternative products on the market;

(2) It is a confidential product;

(3) Where it is necessary to purchase original products during reconstruction or repair projects.

When contracting a project, the construction contractor must form a project management department suitable for the project. A project management department and its project manager and main technical personnel shall not undertake the construction business of two or more large and medium-sized project main parts at the same time. Where the State stipulates that the project manager is replaced by a registered construction engineer, it shall be implemented in accordance with its regulations.

The construction contractor must apply for accident insurance and pay the insurance premium for the following personnel engaged in dangerous operations:

(1) Frame workers in high-rise buildings;

(2) Tower crane installers;

(3) Engineering blasting operators;

(4) Manual digging pile workers;

(5) Personnel directly engaged in underwater operations;

(6) Other personnel provided for by laws and regulations.

The materials and equipment used for engineering construction must meet the design requirements and meet the following conditions:

(1) Have the product name, the name of the production plant, the factory site and the place of origin;

(2) Have a certificate of conformity for product quality inspection;

(3) The product packaging and trademark specifications comply with relevant provisions and standard requirements;

(4) The equipment shall have a detailed instruction manual for use;

(5) Products that implement production licenses, quasi-use management or implement quality certification shall have corresponding licenses, permits or certification certificates;

(6) Other conditions stipulated in the contract.

For general contracting and subcontracting projects, the general contractor shall appoint corresponding management personnel at the subcontracting site.

The price of the subcontracted project shall be settled by the general contractor and the subcontractor. After receiving the project payment from the contractor according to the progress, the general contractor shall promptly allocate the corresponding project payment to the subcontractor for the subcontracted project.

Article 21: Contractors must not carry out the following acts:

(1) Undertaking engineering business without a qualification certificate, obtaining a qualification certificate by fraudulent means, or exceeding the scope permitted by the qualification level without authorization;

(2) Undertaking engineering business in the name of another person by means of transfer, borrowing, or embezzling qualification certificates, seals, or drawings;

(3) Allowing others to undertake engineering business in their own name by transferring or lending qualification certificates or providing seals or drawings;

(4) Undertaking engineering business by forging, altering, or copying qualification certificates, seals, or drawings;

(5) colluding in bidding, inflating or lowering bid prices, or using bribery, kickbacks, or other means that affect fair competition to undertake engineering business;

(6) Not following the original design drawings and documents for construction, cutting corners, or using building materials, building components and equipment that do not meet quality standards;

(7) Diverting the project funds for other purposes;

(8) Personnel using untrained or unqualified technical work and special types of work;

(9) Other conduct prohibited by laws or regulations.

Chapter IV: Intermediary Services

Institutions engaged in intermediary service activities such as project cost consultation, bidding agency, construction supervision, and project testing shall be established in accordance with law, and shall not have affiliation or other interest relationships with administrative organs or other state organs.

Engineering construction intermediary service institutions shall undertake business within the scope of business permitted by the qualification (qualification) certificate and complete it on their own, and shall not transfer it.

Professional and technical personnel engaged in intermediary service activities shall have professional qualifications appropriate to the engineering business they undertake, and must not practice in two or more intermediary service establishments at the same time. Intermediary service personnel undertaking business shall be uniformly undertaken by intermediary service agencies.

Article 23: Engineering construction intermediary service institutions must abide by laws, regulations, and national policies, strictly implement engineering construction standards, norms, and procedures; follow the principle of good faith, handle fiduciary affairs in accordance with the contract, be responsible for the authenticity and accuracy of the information, data, conclusions, certificates, reports, or other documents provided, ensure the quality of service activities and work results, and keep technical secrets and other commercial secrets.

The collection of intermediary service fees by engineering construction intermediary service agencies shall be carried out in accordance with the relevant provisions of the national and provincial people's governments.

Article 24: Engineering construction intermediary service institutions shall not carry out the following acts:

(1) Engaging in intermediary service activities in the name of another person or allowing others to engage in intermediary service activities in their own name;

(2) Accepting the entrustment of the contract issuer and the contractor for the relevant business of the same project at the same time;

(3) colluding with the contract issuer or contractor to seek illegal benefits;

(4) Other conduct prohibited by laws or regulations.

Engineering construction intermediary service institutions must not have affiliation or other interests with the client's counterparty.

Project cost consultation shall be based on relevant national and provincial standards, norms, quotas and relevant technical data, and strive to make the project cost consistent with the actual changes in the market.

When the engineering cost consulting unit accepts the entrustment to prepare the bid base, it shall not disclose the bid base and the circumstances and materials related to the bid base to any unit or individual other than the client.

Article 26 The bidding agency shall handle all or part of the following business in the name of the bidder and within the scope entrusted by the bidder:

(1) Drawing up bidding plans and preparing bidding documents;

(2) Organize on-site surveys and Q&A;

(3) Formulating bid evaluation measures and organizing bid opening and evaluation;

(4) drafting project contracts;

(5) Other bidding agency business that may be entrusted by the bidder in accordance with law.

Article 27 Supervision shall be exercised over the following construction projects:

(1) National key construction projects;

(2) large and medium-sized public utility projects;

(3) Residential area projects developed and constructed in pieces;

(4) Projects using loans or aid funds from foreign governments or international organizations;

(5) Other projects for which the State stipulates that supervision must be carried out.

Article 28: The supervision of project construction implements the responsibility system of the chief engineer. The supervision unit shall dispatch a chief supervision engineer and other supervision personnel with corresponding professional qualifications to the scene to engage in supervision business.

If the project supervision personnel find that the design documents do not meet the project quality standards or the quality requirements agreed in the contract in the process of supervision, they shall report to the construction unit and request the design unit to make corrections; if it is found that the construction of the project does not meet the construction technical standards and contract requirements, the supervision personnel have the right to request the construction contractor to make corrections; if it is found that the materials and equipment used in the project do not meet the design requirements and the national quality standards, they have the right to notify the construction contractor to stop using them.

When the project supervision personnel supervise the construction of the project, the supervising engineer shall follow up and supervise the whole process of the supervision project, and supervise the important processes and key parts.

The project supervision personnel must follow the construction process and on the basis of the self-inspection of the construction unit, verify the sub-projects and accept the visa. Without the verification of the visa by the supervisor, the construction unit shall not carry out the construction of the next process, and the construction unit shall not allocate the project progress payment.

Article 30: Engineering testing units shall be equipped with necessary equipment and instruments, adopt scientific testing methods, and carry out engineering testing activities.

The engineering inspection report shall include the following main contents:

(1) The purpose of the test, the content of the test, and the date of the test;

(2) Testing instruments and equipment, testing data, and necessary calculations and analysis;

(3) An explanation of the abnormal phenomena that occur during the testing process;

(4) Assessment conclusions.

Chapter V Engineering Contracts

Article 31 After the construction contract for a construction project is signed, the contract issuer shall send the contract to the competent administrative department for 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 project cost shall be calculated on the basis of the rules and valuation methods prescribed by the State and the province, on the basis of the consumption specified in the quota and the corresponding fee collection standards, and shall be agreed upon in the contract between the contract issuer and the contractor.

The time limit for the project shall be reasonably agreed upon in the contract by the contract issuer and the contractor in accordance with the construction period quota, and the tendering and contracting shall be specified in the bidding documents. The contractor shall not arbitrarily compress the reasonable construction period.

The contract issuer shall allocate the project funds on time in accordance with the contract. If the payment is not made within the time limit, the contractor may stop the survey, design, construction and other activities, and has the right to demand that the contractor compensate for the losses caused by the suspension of work, nest work, etc.

If the contractor fails to complete the contracted business in accordance with the quality standards and construction period agreed in the contract, the contract issuer has the right to pursue its liability for breach of contract in accordance with the contract.

Article 35 The contract issuer shall, in accordance with the provisions of the contract, promptly settle the project and pay the price; if there is no agreement on the settlement period and payment of the price in the contract, the contractor shall prepare and complete the settlement within one month after the acceptance of the unit project, and the contract issuer shall complete the examination and approval work within three months from the date of receipt of the contractor's settlement letter and complete the settlement of the project.

To pay the project price, the special invoice for the construction of the project in Jiangsu Province supervised by the tax department shall be used.

Projects that must be audited according to law shall be audited within the prescribed time limit. The provisions on the audit period shall be formulated by the Provincial People's Government.

Chapter VI: Supervision and Management

The competent administrative departments for construction and other relevant departments shall supervise and manage construction units in accordance with law.

For projects that implement the responsibility system of project legal persons, the competent administrative departments for construction and other relevant departments shall strengthen supervision and management of the quality of personnel and whether the organizational structure of the project legal person units meet the requirements of project management and technology.

Article 38: The competent administrative departments for construction shall strictly determine the qualifications of units such as survey, design, construction, and intermediary services, and implement annual qualification inspections and dynamic management systems.

The competent administrative departments for construction and other relevant departments shall, in accordance with law, strengthen supervision over bidding and bidding activities for construction projects, improve bidding and bidding mechanisms such as bid opening, bid evaluation, and bid determination, and investigate and deal with illegal acts in construction project bidding and bidding activities.

Article 40:The competent administrative departments for construction shall strengthen the regulation and management of construction project trading centers, and supervise the construction project trading centers in providing fair, efficient and high-quality services for construction project trading activities.

Article 41 The construction project trading center must formulate articles of association and rules, timely and accurately release project information, must not take discriminatory measures to restrict or exclude qualified units from participating in competition, must not replace the supervision functions of management institutions such as bidding and bidding, must not replace the right of bidders to organize bidding according to law, and must not exercise the functions of project bidding agencies.

Article 42:The competent administrative departments for construction shall strengthen the training, assessment and management of construction market employees, and implement the system of holding certificates to work in accordance with law.

The administrative department for industry and commerce shall strictly register units engaged in construction market activities, and investigate and deal with violations of laws and regulations on industrial and commercial administration in the construction market.

Article 44:Staff members of the government and its relevant departments must not use their powers or positions to facilitate interference in project contracting or contracting activities. Relevant government departments, public utilities or other business operators with exclusive status in accordance with law shall not designate a contract issuer or contractor to purchase the products they have designated.

Article 45:The competent administrative department for construction shall establish a complaint center for the construction market, improve the complaint system, and truly safeguard the lawful rights and interests of complainants.

Chapter VII: Legal Liability

Article 46:Where the legal liability for violations of the provisions of these Regulations and the organs implementing them already have provisions in the "Construction Law of the People's Republic of China", the "Law of the People's Republic of China on Bidding and Bidding", the "Regulations on the Quality Management of Construction Projects" and other laws and regulations, follow those provisions;

Article 47:Where the contract issuer commits any of the acts provided for in subparagraphs (6) and (10) of Article 12 of these Regulations, the competent administrative department for construction shall order corrections and impose a warning;

Article 48:Where a contractor commits any of the acts provided for in item (4) of Article 21 of these Regulations, the competent administrative department for construction shall order corrections, confiscate the illegal gains, and impose a fine of between 50,000 and 100,000 yuan.

Article 49:Where, in violation of the provisions of Article 17 and paragraph 3 of Article 22 of these Regulations, a project management department and its project manager simultaneously undertake construction business for two or more large and medium-sized project main parts, or practitioners engaged in engineering construction intermediary service business practice at two or more intermediary service institutions at the same time, the competent administrative department for construction shall order corrections and impose a warning; if they refuse to make corrections, they shall lower the qualification level or cancel their professional qualifications.

Article 50:Where a project cost consulting unit, a bidding agency, or a engineering testing unit violates the provisions of subparagraph (2) of the first paragraph of Article 24 of these Regulations, the competent administrative department for construction shall order corrections, confiscate the illegal gains, and impose a fine of between 10,000 and 50,000 yuan.

Article 51:Where the contract issuer violates the provisions of these Regulations and fails to pay the project price in a timely manner as agreed in the contract, the contractor may urge the contractor to pay the price within a reasonable period of time. If the contract issuer fails to pay within the time limit, the contractor may, except where the discount or auction is not suitable for the project according to the nature of the project, the contractor may agree with the contract issuer to discount the project, or may apply to the people's court to auction the project according to law. The price of a project shall be reimbursed in priority in the case of the discounted price of the project or the price of the auction.

Article 52:Where a construction project trading center violates the provisions of Article 41 of these Regulations, the competent administrative department for construction shall order corrections and give a warning; if it refuses to make corrections, it shall impose a fine of between 1,000 and 5,000 yuan on its principal responsible persons and directly responsible personnel.

Article 53:Where the competent administrative departments for construction and other relevant departments, as well as contract issuers, contractors and intermediary service agencies, violate these Regulations, the directly responsible supervisors and other responsible personnel shall be given sanctions in accordance with the provisions of the provincial people's government on administrative sanctions for illegal acts of project construction.

Where the provisions of these Regulations are violated, civil liability shall be borne in accordance with law; where a crime is constituted, the judicial organs shall pursue criminal liability in accordance with law.

Article 54:Where citizens, legal persons or other organizations are dissatisfied with specific administrative acts made by the competent administrative departments for construction and other relevant departments, they may apply for an administrative reconsideration or raise an administrative lawsuit in accordance with law.

Chapter VIII Supplementary Provisions

Article 55:These Regulations shall enter into force on July 1, 2000.