

# 中华人民共和国招标投标法（中英文对照）

## Invitation And Submission of Bids Law of The People's Republic of China

(Adopted by the 11th Meeting of the Standing Committee of the Ninth National People's Congress on August 30,1999, promulgated by order No.21 of the President of People's Republic of China on August 30,1999, and effective as of January 1, 2000)

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Chapter 1 General Provisions

第一章 总 则

Article 1 This Law is enacted in order to standardize bid invitation and bid submission activities, to protect the interests of the State, the public interests and the lawful rights and interests of the parties involved in the bid invitation and bid submission activities, to

第一条 为了规范招标投标活动，保护国家利益、社会公共利益和招标投标活动当事人的合法权益，提高经济效益，保证项目质量，制定本法。

increase economic benefits and to guarantee project quality.

Article 2 This Law applies to bid invitation and bid submission activities conducted in the People's Republic of China.

Article 3 Bids must be invited for the following construction projects undertaken in the People's Republic of China, including surveying for, and design, construction and supervision of, the projects as well as the procurement of import equipment, materials, etc. for the construction:

(1) projects with a bearing upon the public interest and public safety such as large-scale infrastructure projects, public utility projects, etc.;

(2) projects that are totally or partially funded by the investment of State-owned funds or financed by the State;

(3) projects using loans from international organizations or foreign governments, or aid funds.

The specific range and scale standards for the projects enumerated in the preceding paragraph shall be formulated by the State Council's development planning department in conjunction with the other relevant departments of the State Council, and then

第二条 在中华人民共和国境内进行招标投标活动，适用本法。

第三条 在中华人民共和国境内进行下列建设工程项目包括项目的勘察、设计、施工、监理以及与工程建设有关的重要设备、材料等的采购，必须进行招标：

(一) 大型基础设施、公用事业等关系社会公共利益、公众安全的项目；

(二) 全部或者部分使用国有资金投资或者国家融资的项目；

(三) 使用国际组织或者外国政府贷款、援助资金的项目。

前款所列项目的具体范围和规模标准，由国务院发展计划部门会同国务院有关部门制订，报国务院批准。

submitted to the State Council for approval.

If any law or the State Council has provisions on the range of other projects that are subject to the invitation of bids, those provisions shall prevail.

Article 4 No unit or individual may divide a project which legally requires the invitation of bids into several small parts or otherwise avoid the invitation of bids.

Article 5 Bid invitation and bid submission activities shall follow the principle of openness, fairness, impartiality and good faith.

Article 6 The bid invitation and bid submission activities for a project which legally requires the invitation of bids shall not be subject to territorial or departmental restrictions. No unit or individual may illegally restrict or preclude the participation in bid submission by legal persons or other organizations from outside his or its own region or network and may not in any manner illegally interfere in the bid invitation and bid submission activities.

Article 7 Bid invitation and bid submission activities and the parties involved shall subject to lawfully implemented supervisions.

The relevant administrative supervision departments

法律或者国务院对必须进行招标的其他项目的范围有规定的，依照其规定。

第四条 任何单位和个人不得将依法必须进行招标的项目化整为零或者以其他任何方式规避招标。

第五条 招标投标活动应当遵循公开、公平、公正和诚实信用的原则。

第六条 依法必须进行招标的项目，其招标投标活动不受地区或者部门的限制。任何单位和个人不得违法限制或者排斥本地区、本系统以外的法人或者其他组织参加投标，不得以任何方式非法干涉招标投标活动。

第七条 招标投标活动及其当事人应当接受依法实施的监督。

有关行政监督部门依法对招标投标活动实施

shall supervise bid invitation and bid submission activities according to law, and shall investigate and handle illegal acts committed during bid invitation and bid submission activities.

监督，依法查处招标投标活动中的违法行为。

The administrative supervision of bid invitation and bid submission activities and the specific division of functions and powers among the relevant departments shall be formulated by the State Council.

对招标投标活动的行政监督及有关部门的具体职权划分，由国务院规定。

## Chapter 2 Invitation of Bids

## 第二章 招 标

Article 8 A bid inviting party is a legal person or other organization that puts forward a project and invites bids therefor according to this Law.

第八条 招标人是依照本法规定提出招标项目、进行招标的法人或者其他组织。

Article 9 If the relevant provisions of the State require that project examination and approval procedures be carried out for a certain project for which bids are to be invited, the examination and approval procedures shall be carried out and approval shall be obtained first.

第九条 招标项目按照国家有关规定需要履行项目审批手续的，应当先履行审批手续，取得批准。

The bid inviting party shall have the appropriate amount of funds, or have secured the source of funds for conducting an invitation of bids, and the same shall be truthfully specified in the bid invitation documents.

招标人应当有进行招标项目的相应资金或者资金来源已经落实，并应当在招标文件中如实载明。

Article 10 Invitation of bids are divided into public

第十条 招标分为公开招标和邀请招标。

invitation of bids and private invitation of bids.

The term "public invitation of bids" refers to the method whereby the bid inviting party, through a bid invitation announcement, invites unspecified legal persons or other organizations to submit bids.

公开招标,是指招标人以招标公告的方式邀请不特定的法人或者其他组织投标。

The term "private invitation of bids" refers to the method whereby the bid inviting party, through a bid invitation letter, invites specified legal persons or other organizations to submit bids.

邀请招标,是指招标人以投标邀请书的方式邀请特定的法人或者其他组织投标。

Article 11 If public invitation of bids is not appropriated for a certain project which the development planning department of the State council has determined to be a key State project or which the people's government of the province, autonomous region or municipality directly under the Central Government has determined to be a key local project, a private invitation of bids may be conducted, subject to the approval of the development planning department of the State Council or the people's government of province, autonomous region or municipality directly under the Central Government.

第十一条 国务院发展计划部门确定的国家重点项目和省、自治区、直辖市人民政府确定的地方重点项目不适宜公开招标的,经国务院发展计划部门或者省、自治区、直辖市人民政府批准,可以进行邀请招标。

Article 12 A bid inviting party has the right to appoint a bid invitation agency of its own choice to carry out bid invitation matters. No unit or individual

第十二条 招标人有权自行选择招标代理机构,委托其办理招标事宜。任何单位和个人不得以任何方式为招标人指定招标代理机构。

may in any way designate a bid invitation agency for the bid inviting party.

A bid inviting party which has the capability to prepare the bid invitation documents and organize the bid evaluation may carry out the bid invitation matters itself. No unit or individual agency may coerce it into appointing a bid invitation agency to carry out the bid invitation matters.

招标人具有编制招标文件和组织评标能力的，可以自行办理招标事宜。任何单位和个人不得强制其委托招标代理机构办理招标事宜。

A bid invitation party which carries out bid invitation matters itself for a project for which the invitation of bids is legally required shall report the same to the relevant administrative supervision departments for the record.

依法必须进行招标的项目，招标人自行办理招标事宜的，应当向有关行政监督部门备案。

Article 13 A bid invitation agency is a social intermediary organization which is established according to law and engages in the bid invitation agency business and provides related services.

第十三条 招标代理机构是依法设立、从事招标代理业务并提供相关服务的社会中介组织。招标代理机构应当具备下列条件：

A bid invitation agency shall meet the following requirements:

(一) 有从事招标代理业务的营业场所和相应资金；

(1) possess business premises and the appropriate amount of funds to engage in the bid invitation agency business;

(二) 有能够编制招标文件和组织评标的相应专业力量；

(2) possess the specialized capability necessary to prepare bid invitation documents and organize bid

(三) 有符合本法第三十七条第三款规定条件、可以作为评标委员会成员人选的技术、经济等方面

evaluations;

的专家库。

Article 14 The qualifications of bid invitation agencies engaging in the bid invitation agency business for construction projects must be subject to recognition by the competent department of construction administration of the State Council or of the people's government of the relevant province, autonomous region or municipality directly under the Central Government. The specific measures are to be formulated by the competent department of construction administration of the State Council together with the relevant departments of the State Council. The competent department for recognizing the qualifications of bid invitation agencies engaging in other bid invitation agency business shall be specified by the State Council.

第十四条 从事工程建设项目招标代理业务的招标代理机构，其资格由国务院或者省、自治区、直辖市人民政府的建设行政主管部门认定。

No superior-subordinate relationship or other relationship of shared interest may exist between a bid invitation agency and administrative agencies or other State organs.

具体办法由国务院建设行政主管部门会同国务院有关部门制定。从事其他招标代理业务的招标代理机构，其资格认定的主管部门由国务院规定。招标代理机构与行政机关和其他国家机关不得存在隶属关系或者其他利益关系。

Article 15 A bid invitation agency shall undertake bid invitation matters within the scope of commission of the bid inviting party, and shall observe the provision of this Law on bid inviting party.

第十五条 招标代理机构应当在招标人委托的范围内办理招标事宜，并遵守本法关于招标人的规定。

Article 16 If the bid inviting party employs the public invitation of bids method, it shall issue a bid invitation announcement. The bid invitation announcement for a project for which the invitation of bids is legally required shall be issued in a State-designated newspaper or periodical, on a State-designated information network or in other State-designated media.

The bid invitation announcement shall specify such matters as the name and address of the bid inviting party, the nature, quantities, location and time of the project, the method of obtaining the bid invitation documents, etc.

Article 17 If the bid inviting party employs the private invitation of bids method, it shall send a bid invitation letter to at least three specific legal persons or other organizations which have the ability to handle the project and which have a good credit standing.

The bid invitation letter shall specify the matters stipulated in Paragraph 2 of Article 16 of this Law.

Article 18 Depending on the requirements of the project, the bid inviting party may require, in the bid invitation announcement or the bid invitation letter, that potential bidders provide the relevant documents

第十六条 招标人采用公开招标方式的，应当发布招标公告。依法必须进行招标的项目的招标公告，应当通过国家指定的报刊、信息网络或者其他媒介发布。

招标公告应当载明招标人的名称和地址、招标项目的性质、数量、实施地点和时间以及获取招标文件的办法等事项。

第十七条 招标人采用邀请招标方式的，应当向三个以上具备承担招标项目的能力、资信良好的特定的法人或者其他组织发出投标邀请书。

投标邀请书应当载明本法第十六条第二款规定的事项。

第十八条 招标人可以根据招标项目本身的要求，在招标公告或者投标邀请书中，要求潜在投标人提供有关资质证明文件和业绩情况，并对潜在投标人进行资格审查；国家对投标人的资格条件有规定

certifying their qualifications and details of their business situation and may investigate the qualifications of potential bidders. If there are State regulations on the qualification requirements of bidders, such regulations shall prevail.

的，依照其规定。

A bid inviting party may not restrict or preclude potential bidders by specifying unreasonable conditions and may not discriminate against potential bidders.

招标人不得以不合理的条件限制或者排斥潜在投标人，不得对潜在投标人实行歧视待遇。

Article 19 The bid inviting party shall prepare bid invitation documents according to the special characteristics and requirements of the project. The bid invitation documents shall specify all substantive requirements and conditions, including the technical requirements for the project, the standards for the examination of the bidders' qualifications, bid price requirements, the bid evaluation standards, etc. and the principal terms of the contract to be executed.

第十九条 招标人应当根据招标项目的特点和需要编制招标文件。

If the State has regulations concerning the technology and standards for the project for which bids are invited, the bid inviting party shall include the corresponding requirements in the bid invitation documents according to those regulations.

招标文件应当包括招标项目的技术要求、对投标人资格审查的标准、投标报价要求和评标标准等所有实质性要求和条件以及拟签订合同的主要条款。

If the project for which bids are invited needs to be split up into phases and the construction period needs

国家对招标项目的技术、标准有规定的，招标人应当按照其规定在招标文件中提出相应要求。招

to be specified, the bid inviting party shall split up the project into reasonable phases and specify a reasonable construction period and specify the same in the bid invitation documents.

Article 20 The bid invitation documents may not require or specify a specific procedure or supplier or contain other particulars which favor or preclude potential bidders.

Article 21 In accordance with the specific circumstances of the project for which bids are invited, the bid inviting party may organize an on-the-spot survey of the project for the potential bidders.

Article 22 The bid inviting party may not disclose to a third party the names or number of potential bidders which have received bid invitation documents or other bid invitation and bid submission details which could affect fair competition.

If the bid inviting party has set a reserve price, the confidentiality of the reserve price shall be maintained.

Article 23 If the bid inviting party makes necessary clarification or amendments to the bid invitation documents, it shall notify in writing all the parties

标项目需要划分标段、确定工期的，招标人应当合理划分标段、确定工期，并在招标文件中载明。

第二十条 招标文件不得要求或者标明特定的生产供应者以及含有倾向或者排斥潜在投标人的其他内容。

第二十一条 招标人根据招标项目的具体情况，可以组织潜在投标人踏勘项目现场。

第二十二条 招标人不得向他人透露已获取招标文件的潜在投标人的名称、数量以及可能影响公平竞争的有关招标投标的其他情况。

招标人设有标底的，标底必须保密。

第二十三条 招标人对已发出的招标文件进行必要的澄清或者修改的，应当在招标文件要求提交投标文件截止时间至少十五日前，以书面形式通知所有

that have received the bid invitation documents at least 15 days before the deadline for the submission of bidding documents specified in the bid invitation documents. The contents of the clarifications or amendments shall become an integral part of the bid invitation documents.

招标文件收受人。该澄清或者修改的内容为招标文件的组成部分。

Article 24 The bid inviting party shall set a reasonable time necessary for the bidders to prepare their bid documents. However, for projects which legally require the invitation of bids, the time between the date on which the issue of the bid invitation documents commences and the deadline for the submission of bid documents by the bidders may not be less than 20 days.

第二十四条 招标人应当确定投标人编制投标文件所需要的合理时间；但是，依法必须进行招标的项目，自招标文件开始发出之日起至投标人提交投标文件截止之日止，最短不得少于二十日。

### Chapter 3 Submission of Bids

### 第三章 投 标

Article 25 A bidder is a legal person or other organization which responds to an invitation of bids and participates in the bidding competition.

第二十五条 投标人是响应招标、参加投标竞争的法人或者其他组织。

If a scientific research project for which bids are invited according to law permits individuals to participate in the bidding, the provisions of this Law concerning bidders shall apply to those individuals submitting bids.

依法招标的科研项目允许个人参加投标的，投标的个人适用本法有关投标人的规定。

Article 26 A bidder shall have the capability to

第二十六条 投标人应当具备承担招标项目的能

undertake the project for which bids are invited. If the relevant provisions of the State or the bid invitation documents specify requirements as to bidder qualifications, the bidders shall possess the required qualifications.

Article 27 A bidder shall prepare its bid documents according to the requirements of the bid invitation documents. The bid documents shall respond to the substantive requirements and conditions put forward in the bid invitation documents.

If the project for which bids are invited is for construction work, the particulars of the bid documents shall include the resumes and business achievements of the person in charge of the project and the principal technical personnel intended to appoint, and the machinery and equipment intends to use in completing the project, etc.

Article 28 The bidders shall deliver the bid documents to the bid submission address before the deadline for the submission of bid documents specified in the bid invitation documents. After receiving the bid documents, the bid inviting party shall sign for receipt and preserve the same, and may not open them. If there are fewer than three bidders, the bid inviting party shall invite bids anew according

力; 国家有关规定对投标人资格条件或者招标文件对投标人资格条件有规定的, 投标人应当具备规定的资格条件。

第二十七条 投标人应当按照招标文件的要求编制投标文件。投标文件应当对招标文件提出的实质性要求和条件作出响应。

招标项目属于建设施工的, 投标文件的内容应当包括拟派出的项目负责人与主要技术人员的简历、业绩和拟用于完成招标项目的机械设备等。

第二十八条 投标人应当在招标文件要求提交投标文件的截止时间前, 将投标文件送达投标地点。招标人收到投标文件后, 应当签收保存, 不得开启。投标人少于三个的, 招标人应当依照本法重新招标。

to this Law.

The bid inviting party shall refuse to accept bid documents which are delivered after the deadline for the submission of bid documents specified in the bid invitation documents.

在招标文件要求提交投标文件的截止时间后送达的投标文件，招标人应当拒收。

Article 29 Before the deadline for the submission of bid documents specified in the bid invitation documents passes, a bidder may supplement, amend or withdraw the bid documents it has submitted, and it shall notify the bid inviting party thereof in writing.

第二十九条 投标人在招标文件要求提交投标文件的截止时间前，可以补充、修改或者撤回已提交的投标文件，并书面通知招标人。补充、修改的内容为投标文件的组成部分。

The content of the supplementation or amendments shall become an integral part of the bid documents.

Article 30 If a bidder, on the basis of the actual circumstances of the project as specified in the bid invitation documents, intends to subcontract out some of the non-principal, non-key parts of the work after its bid is accepted, it shall specify the same in the bid documents.

第三十条 投标人根据招标文件载明的项目实际情况，拟在中标后将中标项目的部分非主体、非关键性工作分包的，应当在投标文件中载明。

Article 31 Two or more legal persons or other organizations may organize as a consortium and jointly submit a bid as a single bidder.

第三十一条 两个以上法人或者其他组织可以组成一个联合体，以一个投标人的身份共同投标。

Each of the members of a consortium shall have the appropriate capability to undertake the project for which bids are invited. If the relevant provisions of

联合体各方均应当具备承担招标项目的相应能力；国家有关规定或者招标文件对投标人资格条件有规定的，联合体各方均应当具备规定的相应资

the State or the bid invitation documents specify requirements as to bidder qualifications, each of the members of the consortium shall possess the corresponding required qualifications. If the consortium is composed of units that specialize in the same field, the qualification grade of the consortium shall be determined according to the qualification grade of the unit with the lowest qualification grade.

格条件。由同一专业的单位组成的联合体，按照资质等级较低的单位确定资质等级。

The members of a consortium shall execute an agreement for joint submission of a bid, clearly specifying the work and responsibilities each member intends to undertake, and shall submit such agreement together with the bid documents to the bid inviting party. If the winning bid was submitted by a consortium, the member of the consortium shall jointly execute a contract with the bid inviting party and bear joint and several liability towards the bid inviting party for the project that they have won.

联合体各方应当签订共同投标协议，明确约定各方拟承担的工作和责任，并将共同投标协议连同投标文件一并提交招标人。联合体中标的，联合体各方应当共同与招标人签订合同，就中标项目向招标人承担连带责任。

A bid inviting party may not coerce bidders into organizing a consortium to jointly submit a bid and may not restrict the competition among the bidders.

招标人不得强制投标人组成联合体共同投标，不得限制投标人之间的竞争。

Article 32 Bidders may not collude on the bid price, may not preclude fair competition form other bidders or prejudice the lawful rights and interests of the bid inviting party or other bidders.

第三十二条 投标人不得相互串通投标报价，不得排挤其他投标人的公平竞争，损害招标人或者其他投标人的合法权益。

Bidders and the bid inviting party may not collude in the submission of bids in order to harm the interests of the State, the public interest or the lawful rights and interests of a third party.

投标人不得与招标人串通投标，损害国家利益、社会公共利益或者他人的合法权益。

Bidders are prohibited from bribing the bid inviting party or members of the bid evaluation committee in order to have their bid accepted.

禁止投标人以向招标人或者评标委员会成员行贿的手段谋取中标。

Article 33 A bidder may not submit a below cost bid price in competing for a project, or submit its bid in the name of a third party or use other fraudulent means to have its bid accepted.

第三十三条 投标人不得以低于成本的报价竞标，也不得以他人名义投标或者以其他方式弄虚作假，骗取中标。

#### Chapter 4 Opening of Bids, Evaluation of Bids and Determination of the Winning Bidder

#### 第四章 开标、评标和中标

Article 34 The bids shall be opened in public at the time of the deadline for submission of the bid documents as determined in the bid invitation documents. The bids shall be opened at the predetermined place specified in the bid invitation documents.

第三十四条 开标应当在招标文件确定的提交投标文件截止时间的同一时间公开进行；开标地点应当为招标文件中预先确定的地点。

Article 35 The opening of the bids shall be presided over by the bid inviting party, and all the bidders shall be invited to attend.

第三十五条 开标由招标人主持，邀请所有投标人参加。

Article 36 When opening the bids, the bid inviting party or the representative chosen by him shall

第三十六条 开标时，由投标人或者其推选的代表检查投标文件的密封情况，也可以由招标人委托的

inspect the status of the seals on the bids; alternatively, the same may be inspected and notarized by a notarial institution appointed by the bid inviting party. After the seals have been confirmed to be intact, the working personnel shall break the seals in public and read out the names and bid prices of the bidders and other major particulars of the bid documents.

公证机构检查并公证；经确认无误后，由工作人员当众拆封，宣读投标人名称、投标价格和投标文件的其他主要内容。

All bid documents received by the bid inviting party by the deadline for submission of bid documents as specified in the bid invitation documents shall have their seals broken and be read out in public at the time the bids are opened.

招标人在招标文件要求提交投标文件的截止时间前收到的所有投标文件，开标时都应当当众予以拆封、宣读。

Minutes shall be kept of the bid opening procedures and be filed for future reference.

开标过程应当记录，并存档备查。

Article 37 Bid evaluation shall be the responsibility of a bid evaluation committee organized according to law by the bid inviting party.

第三十七条 评标由招标人依法组建的评标委员会负责。

If a project legally requires the invitation of bids, the bid evaluation committee shall be composed of the representative of the bid inviting party and the relevant experts in technology, economics, etc. The number of members shall be an odd number of five or more, and the number of experts in technology and economics, etc. shall account for at least two-thirds

依法必须进行招标的项目，其评标委员会由招标人的代表和有关技术、经济等方面的专家组成，成员人数为五人以上单数，其中技术、经济等方面的专家不得少于成员总数的三分之二。

of the total.

The experts referred to in the preceding paragraph shall have worked in their relevant fields for at least eight years and have a senior title or attained an equivalent professional level. They shall be selected by the bid inviting party from the list of experts provided by the relevant departments of the State Council or the relevant departments of the people's government of the province, autonomous region or municipality directly under the Central Government or from the list of experts in the relevant fields forming part of the bid invitation agency's pool of experts. For ordinary projects, the experts may be selected at random. For special projects, they may be determined directly by the bid inviting party directly.

Persons with a material interest in the bid inviting party may not sit on the bid evaluation committee for the relevant project. Those already sitting on the committee shall be replaced.

The list of members of the bid evaluation committee shall be kept confidential until the winning bidder has been determined.

Article 38 The bid inviting party shall take the steps necessary to ensure that strict confidentiality is maintained during the evaluation of the bids.

前款专家应当从事相关领域工作满八年并具有高级职称或者具有同等专业水平,由招标人从国务院有关部门或者省、自治区、直辖市人民政府有关部门提供的专家名册或者招标代理机构的专家库内的相关专业的专家名单中确定;一般招标项目可以采取随机抽取方式,特殊招标项目可以由招标人直接确定。

与投标人有利害关系的人不得进入相关项目的评标委员会;已经进入的应当更换。

评标委员会成员的名单在中标结果确定前应当保密。

第三十八条 招标人应当采取必要的措施,保证评标在严格保密的情况下进行。

No unit or individual may illegally intervene in or influence the course and result of the bid evaluation.

任何单位和个人不得非法干预、影响评标的过程和结果。

Article 39 The bid evaluation committee may require bidders to give the necessary clarification or explanation of those contents of the bid documents whose meaning is not clear. However, such clarification or explanation may not exceed the scope of the bid documents or change the substantive contents of the bid documents.

第三十九条 评标委员会可以要求投标人对投标文件中含义不明确的内容作必要的澄清或者说明,但是澄清或者说明不得超出投标文件的范围或者改变投标文件的实质性内容。

Article 40 The bid evaluation committee shall evaluate and compare the bid documents according to the evaluation standards and methods determined in the bid invitation documents. If a reserve price has been set, reference shall be made thereto. After the bid evaluation committee has completed the evaluation, it shall submit a written bid evaluation report to the bid inviting party and recommend qualified candidates for the status of winning bidder.

第四十条 评标委员会应当按照招标文件确定的评标标准和方法,对投标文件进行评审和比较;设有标底的,应当参考标底。评标委员会完成评标后,应当向招标人提出书面评标报告,并推荐合格的中标候选人。

The winning bidder shall be determined by the bid inviting party on the basis of the written bid evaluation report submitted, and the candidates for the status of winning bidder recommended, by the bid evaluation committee. Alternatively, the bid inviting party may authorize the bid evaluation committee to directly determine the winning bidder.

招标人根据评标委员会提出的书面评标报告和推荐的中标候选人确定中标人。招标人也可以授权评标委员会直接确定中标人。

If the State Council has special provisions concerning the evaluation of bids for special projects, such provisions shall prevail. 国务院对特定招标项目的评标有特别规定的，从其规定。

Article 41 The bid of the winning bidder shall meet the following conditions: 第四十一条 中标人的投标应当符合下列条件之一：

(1)it conforms to the greatest possible extent with all of the overall evaluation standards specified in the bid invitation documents; (一)能够最大限度地满足招标文件中规定的各项综合评价标准；

(2) it satisfies the substantive requirements of the bid invitation documents and its bid price is the lowest among those evaluated, except for bid prices below cost. (二)能够满足招标文件的实质性要求，并且经评审的投标价格最低；但是投标价格低于成本的除外。

Article 42 If, upon evaluation, the bid evaluation committee consider that none of the bids to meet the requirements of the bid invitation documents, it may reject all of the bids. If all the bids for a project which legally requires the invitation of bids are rejected, the bid inviting party shall invite bids anew according to this Law. 第四十二条 评标委员会经评审，认为所有投标都不符合招标文件要求的，可以否决所有投标。依法必须进行招标的项目的所有投标被否决的，招标人应当依照本法重新招标。

Article 43 Until the winning bidder has been determined, the bid inviting party may not hold negotiations with bidders on substantive contents such as bid price, bid plans, etc. 第四十三条 在确定中标人前，招标人不得与投标人就投标价格、投标方案等实质性内容进行谈判。

Article 44 The members of the bid evaluation 第四十四条 评标委员会成员应当客观、公正地履

committee shall perform their duties in an objective and impartial manner, observe their professional ethics and bear personal liability for the evaluation opinions put forward by them.

行职务，遵守职业道德，对所提出的评审意见承担个人责任。

The member of the bid evaluation committee may not have private contacts with bidders or accept property or other benefits from bidders. The members of the bid evaluation committee and the relevant working personnel participating in the evaluation may not disclose details of the evaluation and comparison of the bid documents, details of the recommendation of candidates for the status of winning bidder and other relevant details of the bid evaluation.

评标委员会成员不得私下接触投标人，不得收受投标人的财物或者其他好处。评标委员会成员和参与评标的有关工作人员不得透露对投标文件的评审和比较、中标候选人推荐情况以及与评标有关的其他情况。

Article 45 After the winning bidder has been determined, the bid inviting party shall issue a letter of acceptance to the winning bidder and simultaneously inform all the losing bidders of the result of the determination of the winning bidder.

第四十五条 中标人确定后，招标人应当向中标人发出中标通知书，并同时向所有未中标的投标人。

The letter of acceptance shall be legally binding on the bid inviting party and the winning bidder. If the bid inviting party changes the result of the determination of the winning bidder, or the winning bidder renounces the project which it has won, after the letter of acceptance has been issued, it shall assume legal liability therefor according to law.

中标通知书对招标人和中标人具有法律效力。中标通知书发出后，招标人改变中标结果的，或者中标人放弃中标项目的，应当依法承担法律责任。

Article 46 The bid inviting party and the winning bidder shall conclude a written contract according to the bid invitation documents and the winning bidder's bid documents within 30 days of the date of issuance of the letter of acceptance. The bid inviting party and the winning bidder may not subsequently conclude other agreement which contravene the substantive terms of the contract.

第四十六条 招标人和中标人应当自中标通知书发出之日起三十日内,按照招标文件和中标人的投标文件订立书面合同。招标人和中标人不得再行订立背离合同实质性内容的其他协议。

The winning bidder shall pay a performance bond if the bid invitation documents require the winning bidder to do so.

招标文件要求中标人提交履约保证金的,中标人应当提交。

Article 47 For projects which legally requires the invitation of bids, the bid inviting party shall submit a written report on the invitation and submission of bids to the relevant administrative supervision department within 15 days of the date of determination of the winning bidder.

第四十七条 依法必须进行招标的项目,招标人应当自确定中标人之日起十五日内,向有关行政监督部门提交招标投标情况的书面报告。

Article 48 The winning bidder shall perform its obligations, and complete the project which it has won, according to the contract. The winning bidder may not assign the project which it has won to a third party, or break up the project which it has won and subsequently assign the parts to third parties.

第四十八条 中标人应当按照合同约定履行义务,完成中标项目。

Subject to the provisions of the contract or the consent of the bid inviting party, the winning bidder

中标人不得向他人转让中标项目,也不得将中标项目肢解后分别向他人转让。

may subcontract out the completion of some of the non-principal, non-key parts of the work for the project which it has won. The subcontractors shall possess the appropriate qualifications required and may not subcontract its project.

The winning bidder shall be accountable to the bid inviting party for the subcontracted projects, and the subcontractors shall bear joint and several liability for the subcontracted projects.

#### Chapter 5 Legal Liability

Article 49 Anyone who violates the provisions of this Law by failing to invite bids for a project for which bids must be invited, or by breaking up a project for which bids must be invited into several small parts or by otherwise avoiding the invitation of bids, shall be ordered to make amends within a specified time limit, and may be imposed a fine of not less than 0.5% nor more than 1% of the amount of the project contract; if the project is entirely or partially funded with State-owned funds, the implementation of the project or allocation of funds may be suspended. the persons in charge directly responsible and the other directly responsible persons of the unit shall be disciplined according to law.

中标人按照合同约定或者经招标人同意,可以将中标项目的部分非主体、非关键性工作分包给他人完成。接受分包的人应当具备相应的资格条件,并不得再次分包。中标人应当就分包项目向招标人负责,接受分包的人就分包项目承担连带责任。

#### 第五章 法律责任

第四十九条 违反本法规定,必须进行招标的项目而不招标的,将必须进行招标的项目化整为零或者以其他任何方式规避招标的,责令限期改正,可以处项目合同金额千分之五以上千分之十以下的罚款;对全部或者部分使用国有资金的项目,可以暂停项目执行或者暂停资金拨付;对单位直接负责的主管人员和其他直接责任人员依法给予处分。

Article 50 If a bid invitation agency violates the provisions of this Law by disclosing details or materials which relate to the bid invitation and submission procedures and are subject to maintenance of confidentiality, or if it colludes with the bid inviting party or a bidder in order to harm the interests of the State, the public interest or the lawful rights and interests of a third party, it shall be imposed a fine of not less than 50,000 yuan nor more than 250,000 yuan, and the persons in charge directly responsible and the other directly responsible persons of the unit shall be imposed a fine of not less than 5% nor more than 10% of the amount of the fine imposed upon the unit; if there are illegal earnings, such illegal earnings shall also be confiscated; if the circumstances are serious, the agency's qualifications to act as bid invitation agent shall be suspended or revoked; if a crime is constituted, criminal liability shall be investigated according to law. If losses are caused to others, liability for compensation shall be assumed according to law. If any of the acts mentioned in the preceding paragraph has an impact on the result of the determination of the winning bid, the acceptance of the winning bid shall be void.

Article 51 It the bid inviting party imposes

第五十条 招标代理机构违反本法规定，泄露应当保密的与招标投标活动有关的情况和资料的，或者与招标人、投标人串通损害国家利益、社会公共利益或者他人合法权益的，处五万元以上二十五万元以下的罚款，对单位直接负责的主管人员和其他直接责任人员处单位罚款数额百分之五以上百分之十以下的罚款；有违法所得的，并处没收违法所得；情节严重的，暂停直至取消招标代理资格；构成犯罪的，依法追究刑事责任。给他人造成损失的，依法承担赔偿责任。前款所列行为影响中标结果的，中标无效。

第五十一条 招标人以不合理的条件限制或者排斥

unreasonable conditions to restrict or preclude potential bidders or if it discriminates against potential bidders, or if it imposes on bidders a mandatory requirement to organize a consortium or if it restricts the competition among the bidders, it shall be ordered to make amends and may be imposed a fine of not less than 10,000 yuan nor more than 50,000 yuan

Article 52 If the party inviting bids for a project which legally requires the invitation of bids discloses to others the names or number of potential bidders which have received bid invitation documents or other bid invitation and bid submission details which could affect fair competition, or if it discloses the reserve price, it shall be given a warning and may additionally be imposed a fine of not less than 10,000 yuan nor more than 50,000 yuan; the persons in charge directly responsible and the other directly responsible persons of the unit shall be disciplined according to law; if a crime is constituted, criminal liability shall be investigated according to law. If any of the acts mentioned in the preceding has an impact on the determination of the winning bid, the acceptance of the winning bid shall be void.

Article 53 If a bidder colludes with one or more other

潜在投标人的，对潜在投标人实行歧视待遇的，强制要求投标人组成联合体共同投标的，或者限制投标人之间竞争的，责令改正，可以处一万元以上五万元以下的罚款。

第五十二条 依法必须进行招标的项目的招标人向他人透露已获取招标文件的潜在投标人的名称、数量或者可能影响公平竞争的有关招标投标的其他情况的，或者泄露标底的，给予警告，可以并处一万元以上十万元以下的罚款；对单位直接负责的主管人员和其他直接责任人员依法给予处分；构成犯罪的，依法追究刑事责任。前款所列行为影响中标结果的，中标无效。

第五十三条 投标人相互串通投标或者与招标人串

bidders or with the bid inviting party in the submission of its bid, or if a bidder seeks to win the project by offering a bribe to the bid inviting party or one or more of the members of the bid evaluation committee, the acceptance of its bid shall be void, the bidder shall be imposed a fine of not less than 0.5% nor more than 1% of the amount of the project which it won and the persons in charge directly responsible and the other directly responsible persons of the unit shall be imposed a fine of not less than 5% nor more than 10% of the amount of the fine imposed upon the unit; if there are illegal earnings, such illegal earnings shall be confiscated; if the circumstances are serious, the bidder's bidding qualifications for projects which legally require the invitation of bids shall be suspended for one to two years and the same shall be publicly announced, or the administrative department for industry and commerce shall revoke its business license; if a crime is constituted, criminal liability shall be investigated according to law; if losses are caused to others, liability for compensation shall be assumed according to law.

通投标的, 投标人以向招标人或者评标委员会成员行贿的手段谋取中标的, 中标无效, 处中标项目金额千分之五以上千分之十以下的罚款, 对单位直接负责的主管人员和其他直接责任人员处单位罚款数额百分之五以上百分之十以下的罚款; 有违法所得的, 并处没收违法所得; 情节严重的, 取消其一年至二年内参加依法必须进行招标的项目的投标资格并予以公告, 直至由工商行政管理机关吊销营业执照; 构成犯罪的, 依法追究刑事责任。给他人造成损失的, 依法承担赔偿责任。

Article 54 If a bidder submits its bid in the name of a third party or uses other fraudulent means to have its bid accepted, the acceptance of the bid shall be void;

第五十四条 投标人以他人名义投标或者以其他方式弄虚作假, 骗取中标的, 中标无效, 给招标人造成损失的, 依法承担赔偿责任; 构成犯罪的, 依法

if losses are caused to the bid inviting party, it shall assume liability for compensation according to law; if a crime is constituted, criminal liability shall be investigated according to law. If a bidder for a project which legally requires the invitation of bids commits any of the acts mentioned in the preceding paragraph but the circumstances are not serious enough to constitute a crime, it shall be imposed a fine of not less than 0.5% nor more than 1% of the amount of the project which it won and the persons in charge directly responsible and the other directly responsible persons of the unit shall be imposed a fine of not less than 5% nor more than 10% of the amount of the fine imposed upon the unit; if there are illegal earnings, such illegal earnings shall be confiscated; if the circumstances are serious, the bidder's bidding qualifications for projects which legally require the invitation of bids shall be suspended for one to two years and the same shall be publicly announced, or the administrative department for industry and commerce shall revoke its business license; if a crime is constituted, criminal liability shall be investigated according to law; if losses are caused to others, liability for compensation shall be assumed according to law.

追究刑事责任。依法必须进行招标的项目的投标人有前款所列行为尚未构成犯罪的,处中标项目金额千分之五以上千分之十以下的罚款,对单位直接负责的主管人员和其他直接责任人员处单位罚款数额百分之五以上百分之十以下的罚款;有违法所得的,并处没收违法所得;情节严重的,取消其一年至三年内参加依法必须进行招标的项目的投标资格并予以公告,直至由工商行政管理机关吊销营业执照。

Article 55 If the party inviting bids for a project which legally requires the invitation of bids violates the provisions of this Law by holding negotiations with bidders on substantive contents such as bid prices, bid plans, etc., it shall be given a warning and the persons in charge directly responsible and the other directly responsible persons of the unit shall be disciplined according to law. If any of the acts mentioned in the preceding has an impact on the determination of the winning bid, the acceptance of the winning bid shall be void.

Article 56 If a member of the bid evaluation committee accepts property or other benefits from a bidder, or if a member of the bid evaluation committee or relevant working personnel participating in the evaluation discloses to others details of the evaluation and comparison of the bid documents, the recommendation of candidates for the status of winning bidder or other relevant details of the bid evaluation, he shall be given a warning and the property accepted shall be confiscated, and he may additionally be imposed a fine of not less than 3,000 yuan nor more than 50,000 yuan; a member of the bid evaluation committee who has committed any of the aforementioned acts shall be stripped of his

第五十五条 依法必须进行招标的项目，招标人违反本法规定，与投标人就投标价格、投标方案等实质性内容进行谈判的，给予警告，对单位直接负责的主管人员和其他直接责任人员依法给予处分。前款所列行为影响中标结果的，中标无效。

第五十六条 评标委员会成员收受投标人的财物或者其他好处的，评标委员会成员或者参加评标的有关工作人员向他人透露对投标文件的评审和比较、中标候选人推荐以及与其他情况有关的，给予警告，没收收受的财物，可以并处三千元以上五万元以下的罚款，对有所列违法行为的评标委员会成员取消担任评标委员会成员资格，不得再参加任何依法必须进行招标的项目的评标；构成犯罪的，依法追究刑事责任。

qualifications for membership of bid evaluation committee and may never again participate in the evaluation of bids for projects which legally require the invitation of bids; if a crime is constituted, criminal liability shall be investigated according to law.

Article 57 If the winning bidder determined by the bid inviting party was not among the candidates lawfully recommended by the bid evaluation committee, or if all the bids for a project which legally requires the invitation of bids have been rejected by the bid evaluation committee but the bid inviting party subsequently and on its own authority determines a bidder to be the winning bidder, the acceptance of the winning bidder's bid shall be void, the bid inviting party shall be ordered to make amends and may be imposed a fine of not less than 0.5% nor more than 1% of the amount of the project for which it determined the winning bidder; the persons in charge directly responsible and the other directly responsible persons of the unit shall be disciplined according to law.

Article 58 If the winning bidder assigns the project which it has won to a third party, or break ups the project which it has won and subsequently assign the

第五十七条 招标人在评标委员会依法推荐的中标候选人以外确定中标人的,依法必须进行招标的项目在所有投标被评标委员会否决后自行确定中标人的,中标无效。责令改正,可以处中标项目金额千分之五以上千分之十以下的罚款;对单位直接负责的主管人员和其他直接责任人员依法给予处分。

第五十八条 中标人将中标项目转让给他人的,将中标项目肢解后分别转让给他人的,违反本法规定将中标项目的部分主体、关键性工作分包给他人

parts to third parties, or violates the provisions of this Law by subcontracting out some of the principal or key parts of the work for project which it has won, or if a subcontractor sub-contracts its project, the assignment, subcontracting or sub-contracting shall be void and the winning bidder or the subcontractor, as the case may be, shall be imposed a fine of not less than 0.5% nor more than 1% of the amount of the project assigned, subcontracted or sub-contracted; if there are illegal earnings, such illegal earnings shall be confiscated; the winning bidder or the subcontractor, as the case may be, may be ordered to suspend business and rectify the situation; if the circumstances are serious, its business license shall be revoked by the administrative department for industry and commerce.

Article 59 If the bidder inviting party and the winning bidder fail to conclude a contract according to the bid invitation documents and the winning bidder's bid documents, or if the bid inviting party and the winning bidder conclude an agreement which contravenes the substantive terms of the contract, they shall be ordered to make amends and may be imposed a fine of not less than 0.5% nor more than 1% of the amount of the project won.

的, 或者分包人再次分包的, 转让、分包无效, 处  
转让、分包项目金额千分之五以上千分之十以下的  
罚款; 有违法所得的, 并处没收违法所得; 可以责  
令停业整顿; 情节严重的, 由工商行政管理机关吊  
销营业执照。

第五十九条 招标人与中标人不按照招标文件和中  
标人的投标文件订立合同的, 或者招标人、中标人  
订立背离合同实质性内容的协议的, 责令改正; 可  
以处中标项目金额千分之五以上千分之十以下的  
罚款。

Article 60 If the winning bidder fails to perform the contract concluded with the bid inviting party, the performance bond shall not be refunded; if the losses caused to the bid inviting party exceed the amount of the performance bond, the winning bidder shall also compensate for the excess; if the winning bidder did not pay a performance bond, it shall be liable for compensation of the losses suffered by the bid inviting party.

If the winning bidder fails to perform its obligation according to the contract concluded with the bid inviting party and the circumstances are serious, its bidding qualifications for projects which legally require the invitation of bids shall be suspended for two to five years and the same shall be publicly announced, or the administrative department for industry and commerce shall revoke its business license.

The preceding two paragraphs shall not apply if the non-performance of the contract was due to force majeure.

Article 61 The decision to impose administrative penalties under this Chapter shall be made by the relevant administrative supervision department designated by the State Council, except in instances

第六十条 中标人不履行与招标人订立的合同的，履约保证金不予退还，给招标人造成的损失超过履约保证金数额的，还应当对超过部分予以赔偿；没有提交履约保证金的，应当对招标人的损失承担赔偿责任。

中标人不按照与招标人订立的合同履行义务，情节严重的，取消其二年至五年内参加依法必须进行招标的项目的投标资格并予以公告，直至由工商行政管理机关吊销营业执照。

因不可抗力不能履行合同的，不适用前两款规定。

第六十一条 本章规定的行政处罚，由国务院规定的有关行政监督部门决定。本法已对实施行政处罚的机关作出规定的除外。

where this Law has already designated the department to impose the administrative penalty.

Article 62 If, in violation of this Law, any unit restricts or precludes the participation in bid submission by legal persons or other organizations from outside its own region or network, or designates a bid invitation agency for the bid inviting party, or coerces a bid inviting party into appointing a bid invitation agency to carry out the bid invitation matters or otherwise intervenes in the bid invitation and bid submission activities, it shall be ordered to make amends; the persons in charge directly responsible and the directly responsible persons of the unit shall be given a warning and have a demerit or serious demerit recorded according to law; if the circumstances are serious, such persons shall be disciplined by being demoted, dismissed or expelled according to law. If an individual abuses his powers to commit any of the illegal acts mentioned above, his liability shall be investigated according to the provisions of the preceding paragraph.

Article 63 If working staff of the State organs legally charged with the duty to carry out administrative supervision of bid invitation and submission activities commit favoritism, graft, abuse of powers

第六十二条 任何单位违反本法规定，限制或者排斥本地区、本系统以外的法人或者其他组织参加投标的，为招标人指定招标代理机构的，强制招标人委托招标代理机构办理招标事宜的，或者以其他方式干涉招标投标活动的，责令改正；对单位直接负责的主管人员和其他直接责任人员依法给予警告、记过、记大过的处分，情节较重的，依法给予降级、撤职、开除的处分。个人利用职权进行前款违法行为的，依照前款规定追究责任。

第六十三条 对招标投标活动依法负有行政监督职责的国家机关工作人员徇私舞弊、滥用职权或者玩忽职守，构成犯罪的，依法追究刑事责任；不构成犯罪的，依法给予行政处分。

or dereliction of duties, thereby constituting a crime, their criminal liability shall be investigated according to law; if no crime is constituted, they shall be given administrative sanctions according to law.

Article 64 If the acceptance of the winning bidder's bid for a project which legally requires the invitation of bids is void due to violation of the provisions of this Law, the winning bidder shall be determined anew from the remaining bidders according to the conditions specified in this Law for determination of the winning bidder, or bids shall be invited anew according to this Law.

#### Chapter 6 Supplementary Provisions

Article 65 If a bidder or another interested party considers bid invitation and submission procedures not to be in conformity with the relevant provisions of this Law, it or he shall have the rights to lodge an objection with the bid inviting party or to complain to the relevant administrative supervision department according to law.

Article 66 Subject to the relevant provisions of the State, the invitation of bids shall not be required for projects with special circumstances not suited to the invitation of bids, such as those which involve State security, State secrets or emergency rescue, the use of

第六十四条 依法必须进行招标的项目违反本法规定, 中标无效的, 应当依照本法规定的中标条件从其余投标人中重新确定中标人或者依照本法重新进行招标。

#### 第六章 附 则

第六十五条 投标人和其他利害关系人认为招标投标活动不符合本法有关规定的, 有权向招标人提出异议或者依法向有关行政监督部门投诉。

第六十六条 涉及国家安全、国家秘密、抢险救灾或者属于利用扶贫资金实行以工代赈、需要使用农民工等特殊情况, 不适宜进行招标的项目, 按照国家有关规定可以不进行招标。

poverty relief funds as remuneration for people in  
poor areas given employment rather than outright aid,  
or the need to use farmer workers.

Article 67 Where bids are invited for a project using  
a loan from an international organizations or foreign  
government or aid funds, and the lender or financier  
has different provisions in respect of the specific  
conditions and procedures for the invitation and  
submission of bids, its provisions may be applied,  
unless they are against the public interest of the  
People's Republic of China.

第六十七条 使用国际组织或者外国政府贷款、援  
助资金的项目进行招标, 贷款方、资金提供方对招  
标投标的具体条件和程序有不同规定的, 可以适用  
其规定, 但违背中华人民共和国的社会公共利益的  
除外。

Article 68 This Law shall take effect as of January 1,  
2000.

第六十八条 本法自 2000 年 1 月 1 日起施行。