



中华人民共和国招标投标法

Law of the People's Republic of China
on Bid Invitation and Bidding

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中华人民共和国招标投标法

(1999年8月30日中华人民共和国第九届全国人民代表大会常务委员会第十一次会议通过 1999年8月30日中华人民共和国主席令第21号公布 自2000年1月1日起施行)

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第一章 总 则

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。

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。

Law of the People's Republic of China on Bid Invitation and Bidding

(Adopted at 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 the People's Republic of China on August 30, 1999, and effective as of January 1, 2000)

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Chapter I General Provisions

Article 1 This Law is enacted in order to regulate bid invitation and bidding activities, protect the interests of the State and the public as well as the lawful rights and interests of the parties involved in bid invitation and bidding activities, increase economic benefits and ensure project quality.

Article 2 This Law is applicable to any bid invitation and bidding activities conducted within the territory of the People's Republic of China.

第三条 在中华人民共和国境内进行下列工程建设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。

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

Article 3 The following construction projects to be undertaken within the territory of the People's Republic of China, including the surveying, design, construction and supervision of such projects as well as the purchase of key equipment and materials for such projects, shall be subject to bid invitation:

(1) large infrastructure and public utility projects that concern public interests and security;

(2) projects invested completely or partly with State - owned funds or financed by the State; and

(3) projects using loans or aid funds from international organizations or governments of other countries.

The specific scope and threshold for bidding of the projects listed in the preceding paragraph shall be formulated by the development planning department under the State Council, together with the relevant departments under the State Council, and be submitted to the State Council for approval.

Where there are provisions in other laws or in the regulations of the State Council governing scope of other projects for which bid invitation is required, such provisions shall be followed.

Article 4 No units or individuals may break up into parts a project for which bid invitation is required by law or try to dodge bid invitation by any other means.

Article 5 Bid invitation and bidding activities shall be conducted in adherence to the principles of openness, fairness, impartiality and good faith.

Article 6 Bid invitation and bidding for projects for which bid invitation is required by law shall not be subject to limitations imposed by the local authorities or departments. No units or individuals may, in violation of law, impose limitations on legal persons or other organizations from other regions or departments or exclude them from participating in

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监督，依法查处招标投标活动中的违法行为。

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。

第二章 招 标

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。

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。

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。

第十条 招标分为公开招标和邀请招标。

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。

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。

bidding or illegally interfere, by any means, in bid invitation and bidding activities.

Article 7 All bid invitation and bidding activities and the parties involved shall be subject to supervision in accordance with law.

Relevant departments for administrative supervision shall, in accordance with law, exercise supervision over bid invitation and bidding activities, and investigate and deal with any violations of law in such activities.

The division of specific duties and powers among the departments for administrative supervision over bid invitation and bidding activities and the relevant departments shall be determined by the State Council.

Chapter II Bid invitation

Article 8 A bid inviter is a legal person or other organization that, in accordance with the provisions of this Law, presents a project for bidding and calls for bids.

Article 9 Where a project for bidding is required by relevant State regulations to undergo examination for approval, it shall do so before obtaining approval.

A bid inviter shall have the funds needed for the project for bidding or confirmed sources of funds and the fact shall be truthfully stated in its bid invitation documents.

Article 10 Bid invitation is classified into two categories: public invitation and invited bidding.

Public invitation means that the bid inviter, in the form of announcement for bidding, invites unspecified legal persons or other organizations to bid.

Invited bidding means that the bid inviter, in the form of written invitation, to invite specified legal persons or other organizations to bid.

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。

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。

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。

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。

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：

- (一) 有从事招标代理业务的营业场所和相应资金；
- (二) 有能够编制招标文件和组织评标的相应专业力量；
- (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、经济等方面的专家库。

Article 11 Where a national key project determined by the development planning department under the State Council or a local key project determined by the people's government of a province, an autonomous region or a municipality directly under the Central Government is not suited for public invitation, it may be subject to invited bidding with the approval of the said department and the said people's government respectively.

Article 12 A bid inviter shall have the right to choose, on its own, a bid invitation agency and entrust it with the handling of the matters of bid invitation. No units or individuals may, by any means, designate a bid invitation agency for the bid inviter.

A bid inviter who has the capability of preparing documents for bid invitation and arranging for bid evaluation may handle the matters of bid invitation on its own. No units or individuals may compel the bid inviter to entrust a bid invitation agency with the handling of such matters.

Where a bid inviter handles, on its own, the matter of bid invitation for a project for which bid invitation is required by law, he shall register with the relevant department for administrative supervision.

Article 13 A bid invitation agency is an intermediary organization set up in accordance with law to engage in bid invitation as an agent and provide service in this field.

A bid invitation agency shall satisfy the following conditions:

(1) having a place and the necessary funds for serving as a bid invitation agency;

(2) having the necessary professionals to prepare documents for bid invitation and arrange for bid evaluation; and

(3) having a pool of experts in technology, economics, etc. who meet the qualifications prescribed in Paragraph 3 of Article 37 of this Law and who can be candidates for members of a bid evaluation committee.

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。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。

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。

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。

Article 14 The qualifications of a bid invitation agency for engineering projects shall be subject to verification by the administrative department for construction under the State Council or the people's government of a province, an autonomous region or a municipality directly under the Central Government. The specific measures therefor shall be formulated by the administrative department for construction under the State Council together with the relevant departments under the State Council. The competent departments for verifying the qualifications of bid invitation agencies in other fields of endeavor shall be determined by the State Council.

There shall be no subordination or other relationship of interest between a bid invitation agency and an administrative organ or any other State organ.

Article 15 A bid invitation agency shall handle the matters of bid invitation within the scope entrusted to it by the bid inviter and shall abide by the provisions of this Law regarding the bid inviters.

Article 16 Where a bid inviter adopts public invitation, it shall make an announcement for bidding. An announcement for bidding made for which bid invitation is required by law shall be published in newspapers, information networks or other medium as are designated by the State.

In the announcement for bidding shall be clearly stated such particulars as the name and address of the bid inviter, the nature, number, site and time of the projects involved and the means of obtaining the bid invitation documents.

Article 17 Where a bid inviter adopts invited bidding, it shall send written invitation to at least three specified legal persons or other organizations that are capable of undertaking the project for bidding and have a good reputation and qualification.

In the written invitation for bidding shall be clearly stated the particulars specified in Paragraph 2 of Article 16 of this Law.

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的，依照其规定。

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。

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。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。

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

Article 18 Based on the requirements of the project for bidding, a bid inviter may, in its announcement or written invitation for bidding, request potential bidders to provide certificates and information concerning their competence and business achievements and examine the qualifications of the potential bidders. Where there are State regulations governing qualifications of the bidders, such regulations shall be followed.

No bid inviter may, with unreasonable requirements, impose limitations on any potential bidder or exclude them from bidding or discriminate against them.

Article 19 A bid inviter shall, on the basis of the characteristics and requirements of a project, prepare bid invitation documents. Such documents shall include technical specifications of the project for bidding, criteria for examination of the bidders' qualifications, requirements for bid quotation, bid evaluation criteria, and other substantive requirements and terms, as well as the principal clauses of a contract to be signed.

Where there are State regulations governing the technology and standards for the project subject to bidding, a bid inviter shall, in accordance with such regulations, state its requirements in the bid invitation documents.

Where it is necessary to divide a project for bidding into bid lots or to fix a time limit for completion of the project, the bid inviter shall do it reasonably and shall state it clearly in the bid invitation documents.

Article 20 In a bid invitation document no specified producer or supplier may be demanded or indicated, nor any other particulars favoring or excluding potential bidders may be contained.

Article 21 A bid inviter may, in light of the specific conditions of a project subject to bidding, make arrangements for potential bidders to inspect the site of the project.

Article 22 No bid inviter may disclose to others the names and

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。

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。

第三章 投 标

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。

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。

第二十六条 投标人应当具备承担招标项目的能力；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