

Policy created 1998

Policy reviewed 2019

- Protect the rights and interests of outsourcing manufacturers in accordance with government regulations and procurement contract templates.
- <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=A0030057>

## **GOVERNMENT PROCUREMENT ACT**

- 1.Promulgated by presidential decree on May 27, 1998;
- 2.Amended and promulgated by presidential decree on January 10, 2001 for Article 7;
- 3.Amended and promulgated by presidential decree on February 6, 2002 for Articles 6, 11, 13, 20, 22, 24, 25, 28, 30, 34, 35, 37, 40, 48, 50, 66, 69, 70, 74 to 76, 78, 83, 85, 85.1 to 85.4, 86 to 88, 93.1, 95, 97, 98, 101 to 103, 114 and the title of Chapter 6;
- 4.Amended and promulgated by presidential decree on July 4, 2007 for Article 85-1.
- 5.Amended and promulgated by presidential decree on January 26, 2011 for Article 11,52 and,63
- 6.Amended and promulgated by presidential decree on January 6, 2016 for Article 73-1,85-1 and,86
- 7.Amended and promulgated by presidential decree on may 22, 2019 for Article 4,11-1,15,17,22,25,26-1, 30,31,50,52,59,63,70-1, 76,85,93,94,95,101,103.

### Article 6

In conducting any procurement, an entity shall observe the principle of protecting public interests, fairness and reasonableness, and shall not accord differential treatment to suppliers without due cause.

### Article 22

Under any of the following circumstances, an entity may apply limited tendering procedures to a procurement of a value reaching the threshold for publication :

1. where there is no tender in response to an open tender, selective tender, or the open procedures referred to in subparagraphs 9 through 11, or where the tenders submitted have been not in conformity with the requirements in the tender, provided, however, that the requirements of the initial tender are not substantially modified in the contract as awarded;
2. where the subject of a procurement is an exclusive right, a sole source product or supply, a work of art, or a secret, which can be supplied only by a particular supplier and no reasonable alternative or substitute exists;
3. in so far as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the entity, the subject of the procurement could not be obtained in time by means of open or selective tendering procedures;
4. for additional deliveries by the original supplier which are intended either as follow-up maintenance, or parts and components replacement for existing supplies or installations, or as extension of existing supplies, services, or installations where a change of supplier would not meet the requirements of compatibility or interchangeability with already existing supplies, services, or installations;
5. where the subject of a procurement is a prototype or a subject first produced or supplied which is developed in the course of research, experiment, or original development;
6. when additional construction work which was not included in the initial contract but which was within the objectives of the original tender documentation has, through unforeseeable circumstances, become necessary, and the entity needs to award contracts for the additional construction work to the contractor carrying out the construction work concerned to achieve the objectives of the initial contract since the separation of the additional construction work from the initial contract would be difficult for technical or economic reasons and cause significant inconvenience to the entity. However, the total value of contracts awarded for the additional construction work may not exceed 50 per cent of the amount of the main contract;

7. for any further procurement whose period, value, or quantity to be expanded is indicated in the tender notice and tender documentation;
8. for property purchased on a commodity market;
9. in the case of contracts for professional services, technical services or information services awarded to the winner selected publicly and objectively;
10. in the case of contracts awarded to the winner of a design contest and the winner selection has been conducted publicly and objectively;
11. in the case of designating an area for its real property procurement in response to the need of business operation provided that the real property procured has been solicited publicly in accordance with its requirements and criteria;
12. where the subjects of a procurement are supplies or services not for profit provided by the physically or mentally disabled, the aborigines, prisoners, philanthropic organizations of the physically or mentally disabled, registered organizations of the aborigines, prisoners works, or philanthropic organizations;

#### Article 101

Where a procuring entity finds that a supplier has any of the following circumstances, the entity shall notify the supplier of the facts and reasons related thereto, and indicate with a note in the notification that it will be published on the Government Procurement Gazette if the supplier does not file a protest:

1. where the supplier allows any others to borrow its name or certificate to participate in a tender;
2. where the supplier borrows or assumes any other's name or certificate or uses forged documents or documents with unauthorized alteration to tendering, contracting, or performing a contract;
3. where the supplier has substantially reduced the work or materials without obtaining a prior approval;

4. where the supplier forges or alters without authorization documents related to tendering, contracting, or contract performance;
5. where the supplier participates in tendering during the period when its business operation has been suspended by a disciplinary action;
6. where the supplier has committed any of the offenses prescribed in Articles 87 to 92 hereof, and has been sentenced by a court of the first instance;
7. where the supplier refuses to execute a contract without due cause after award;
8. where an inspection indicates any serious non-conformity with the contractual requirements;
9. where the supplier does not fulfill its obligation of guarantee after inspection and acceptance;
10. where the time-limit for contract performance is seriously delayed due to causes attributable to the supplier;
11. where the supplier is in breach of the requirement of Article 65 by assigning a contract to others;
12. where a contract is rescinded or terminated for causes attributable to the supplier;
13. where the supplier is under the procedure of bankruptcy; or
14. where the supplier seriously discriminates women, aborigines, or personnel of disadvantaged groups.

第十九條 其他

**Article 19 Miscellaneous**

(一) 廠商對於履約所僱用之人員，不得有歧視婦女、原住民或弱勢團體人士之情事。

In hiring employees for the contract performance, the Contractor shall not discriminate women, aborigines or personnel of disadvantaged groups.

(二) 廠商履約時不得僱用機關之人員或受機關委託辦理契約事項之機構之人員。

The Contractor shall not hire the Entity's employees or the personnel of the institution entrusted by the Entity to execute the contractual matters related thereto during the performance of the contract.

(三) 廠商授權之代表應通曉中文或機關同意之其他語文。未通曉者，廠商應備翻譯人員。

The authorized representative of the Contractor shall be fluent in Chinese or other language agreed by the Entity. Where such representative does not possess such proficiency, the Contractor shall be obliged to employ an interpreter.

(四) 機關與廠商間之履約事項，其涉及國際運輸或信用狀等事項，契約未予載明者，依國際貿易慣例。

Where performance matters between the Entity and the Contractor involve international transportation or Letter of Credit which are not specified herein, the pertaining practices of international trade shall govern.

(五) 機關及廠商於履約期間應分別指定授權代表，為履約期間雙方協調與契約有關事項之代表人。

YunTech complies with government regulations, including: Labor Standards Law, Gender Work Equality Law, Occupational Safety and Health Law guaranteeing equivalent rights of workers when outsourcing activities to third parties.

雲科大遵守政府法規，包括：勞動標準法、性別工作平等法、職業安全與健康法，保障工人在將活動外包給第三方時享有同等權利。

<https://law.moi.gov.tw/ENG/LawClass/LawAll.aspx?pcode=A0030003>

**Regulation 01: Labor Standards Act**

Amended Date : 2020-06-10

## **Article 62**

The owner of a business entity who contracts his/her work to a subcontractor who subsequently subcontracts, the contractor, the subcontractor, and the last subcontractor shall be jointly and severally liable to pay the compensation prescribed in this Chapter for occupational accidents related to the work performed by the workers hired by the contractor and the subcontractor.

When a business entity or contractor or subcontractor pays compensation for occupational accidents in accordance with the provisions of the preceding paragraph, each may claim reimbursement from the last subcontractor for the portion borne.

## **Article 63**

Where a contractor's or subcontractor's work site is located within the scope of work site of the original business entity or is provided for by the same, the said original business entity shall supervise the contractor or subcontractor to provide their hired workers with such labor conditions as prescribed in applicable statutes and administrative regulations.

A business entity shall be jointly and severally liable with the contractor or subcontractor for the compensation of occupational accidents caused to workers hired by the contractor or subcontractor for having violated the provisions of the Occupational Safety and Health Act pertaining to obligations which the contractor or subcontractor are required to perform.

## **Article 63-1**

When a dispatched worker working at dispatch-requiring entity incurs an occupational accident, the dispatch-requiring entity and the dispatching entity shall be jointly and severally liable for compensation that an employer shall bear in accordance with this Chapter.

If the dispatch-requiring entity or the dispatching entity has already paid for compensation in accordance with the provisions of the Labor Insurance Act or other applicable statutes and administrative regulations, it may claim deduction.

If the dispatch-requiring entity and the dispatching entity violating the provisions of the Act or the Occupational Safety and Health Act shall be jointly and severally liable for the compensation of occupational accidents caused to the dispatched worker.

The compensation paid by the dispatch-requiring entity or dispatching entity in accordance with the Act may be deducted from the payment of compensation for damages arising out of the same accident.

## Regulation 02: Act of Gender Equality in Employment

<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?code=N0030014>

Amended Date : 2016-05-18

### Article 3

The terms used in the Act shall be defined as follows:

1. Employee means a person who is hired by an employer to work for wages.
2. Applicant means a person who is applying a job from an employer.
3. Employer means a person, a public or private entity or authority that hires an employee. A person who represents an employer to exercise managerial authority or who represents an employer in dealing with employee matters is deemed to be an employer. Dispatched entities utilizing dispatched workers are deemed as employers as provided in Articles 8, 9, 12, 13, 18, 19 and 36 of the Act.
4. Trainee means a student of a public or registered private senior high school or above who is participating in an extracurricular training program.
5. Dispatched entity means a unit that is actually ordering and supervising a dispatched workers doing the work in accordance with a dispatching contract.

### Chapter II Prohibition of Gender Discrimination

#### Article 7

Employers shall not discriminate against applicants or employees because of their gender or sexual orientation in the course of recruitment, screening test, hiring, placement, assignment, evaluation and promotion. However, if the nature of work only suitable to a specific gender, the above-mentioned restriction shall not apply.

#### Article 8

Employers shall not discriminate against employees because of their gender or sexual orientation in the case of holding or providing education, training or other related activities.

#### Article 9

Employers shall not discriminate against employees because of their gender or sexual orientation in the case of holding or providing various welfare measures.

#### Article 10

Employers shall not discriminate against employees because of their gender or sexual orientation in the case of paying wages. Employees shall receive equal pay for equal work or equal value. However, if such differentials are the result of seniority systems, award and discipline systems, merit systems or other justifiable reasons of non-sexual or non-sexual-orientation factors, the above-mentioned restriction shall not apply.

Employers may not adopt methods of reducing the wages of other employees in order to evade the stipulation of the preceding paragraph.

#### Article 11

Employers shall not discriminate against employees because of their gender or sexual orientation in the case of retirement, discharge, severance and termination.

Work rules, labor contracts and collective bargaining agreements shall not stipulate or arrange in advance that when employees marry, become pregnant, engages in childbirth or child care activities, they have to sever or leave of absence without payment. Employers also shall not use the above-mentioned factors as excuses for termination.

Any prescription or arrangement that contravenes the stipulations of the two preceding paragraphs shall be deemed as null and void. The termination of the labor contract shall also be deemed as null and void.

### **Regulation 03: Occupational Safety and Health Act**

<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0030014>

Amended Date : 2019-05-15

#### Article 25

**When business entities recruit contractors for projects**, their contractors assume the responsibilities of the employers stipulated in this Act for the portion contracted; the original business entities shall assume joint liabilities with the contractors for occupational accident compensation. The above also applies to subcontractors.

When the original business entities violate this Act or related safety and health regulations, resulting in occupational accidents suffered by laborers employed by the contractors, they assume joint liabilities with the contractors for indemnity. The above also applies to subcontractors.