

Provisional Measures for Construction Project Management

Article 1 Purpose and Basis

This Provisional Measure is promulgated in accordance with relevant Chinese laws and administrative regulations to promote the sound development of construction project management in China as well as to regulate the related project management activities and gradually improve the level of management expertise and benefits from investing in construction works.

Article 2 Scope of Applicability

This Provisional Measure shall apply to all construction project management activities conducted in association with construction works in the territory of the People's Republic of China.

Construction Project Management as referred to herein shall mean professional management and service activities carried out by enterprises engaged in construction project management ("project management enterprises") at the authorization and entrustment of the project owner, throughout the works or during an individual stage.

Article 3 Corporate Qualifications

Project management enterprises shall have the qualifications in one or several of the following field of works: survey, design, construction, supervision, costing advisory, tendering agency.

Enterprises engaging in survey, design, construction, supervision, costing advisory and tendering agency may apply for other qualifications in addition to its existing qualifications, and in which case, its existing track record, qualifications or headcount of technical and managerial personnel, registered capital and premise may be evaluated together.

Article 4 Practice Licenses

Technical professionals engaging in construction project management shall have one or more of the following qualifications: urban planner, architect, engineer, constructor, supervisory engineer, costing engineer.

Technical professionals with qualifications as an urban planner, architect, engineer, constructor, supervisory engineer, costing engineer may apply for registration and may practice its trade in any of the following enterprises in the field of survey, design, construction, supervision, costing advisory and tendering agency.

Technical professionals with several of such qualifications may separately register and practice its individual trade in one enterprise.

Article 5 Scope of Services

Project management enterprises shall improve its organizational structure, establish project management system, strengthen the rank and files of project management professional staff and carry out construction project management activities within the scope as permitted under its specific grade of

qualifications in accordance with current administrative regulations for enterprise qualifications.

Article 6 **Items of Service**

Construction project management may cover the following items:

- 1). Assist the owner in preparatory planning, economic analysis, ad-hoc evaluations and determination of investment;
- 2). Assist the owner with relevant formalities such as requisition of land and application for planning permit;
- 3). Assist the owner with the following tasks: laying out design requirements, organizing the appraisal of design plans and tendering for survey and design, execution of survey and design contracts as well as supervision of its implementation, organizing the design institute to optimize the design and conduct comparisons between the various options in technical and economic terms and carrying out investment control;
- 4). Assist the owner with the following tasks: arranging for supervision and construction of the works as well as equipment procurement tendering;
- 5). Assist the owner in executing related contracts with general contractor or construction contractor as well as suppliers of building materials, equipment, structures and fittings as well as assisting with supervision of its implementation;
- 6). Assist the owner in preparing fund utilization plan, carrying out payment settlement upon completion and final accounting for the works, handling claims, organizing completion acceptance and transfer of as-built files to the owner;
- 7). Management during the trial operation and warranty period and organizing post project evaluation;
- 8). Other tasks as agreed under project management contract.

Article 7

The owner may select a project management enterprise through tendering or direct engagement and shall enter into project management contract in writing with selected project management enterprises. The contract shall specify the term of the contract, scope of work, the rights, obligations and responsibilities of the parties, project management compensation and method of payment as well as resolution of contractual disputes.

If a construction survey, design or supervision enterprise is to perform survey, design or supervision within the scope permitted by its qualifications in addition to project management for the same construction works, the method of tendering and bidding shall be adopted where it is mandatory.

Construction enterprise shall not engage in both project management and construction contracting on the same project.

Article 8 Bidding through a consortium arrangement

Two or more project management enterprises may form a consortium to jointly bid for a project in the capacity as one bidder. If the bid is successful, all the members of the consortium shall jointly enter into a project management contract with the owner and shall be jointly liable for the performance of the project management contract. The members of the consortium shall enter into a consortium agreement to specify the rights, obligations and responsibility of each party and to designate one member as the leader of the consortium, the project manager shall be nominated by the consortium leader.

Article 9 Cooperative Arrangement

Upon approval by the owner, the project management enterprise may cooperate, and enter into a cooperative arrangement, with other project management enterprises. Such cooperative arrangement shall specify the parties' rights, obligations responsibilities. The parties to the cooperation shall be jointly responsible for the performance of the project management contract.

Article 10 Management Team

The project management enterprise shall follow the agreements under the project management contract, designate a qualified professional as project manager who shall have obtained practicing licenses, set up a project management team and management systems adapted to the management tasks at hand, and staff the project management team with technical management professionals together with a set of job descriptions for project management staff for each discipline.

A project manager accountability system shall be implemented for construction project management. The project manager shall not simultaneously engage in project management on two or more construction works.

Article 11 Service Fee

The service fee for construction project management shall be specified by the owner and the project management enterprise in the project management contract based on the scope, extent, content, complexity of the construction works.

Service fee for construction project management shall be listed in the estimated budget for the works.

Article 12 Principles to be applied

In the course of implementing the project management contract, the project management enterprise and its staff shall abide by current national laws and regulations, construction procedures, and mandatory standards, and shall conduct project management in all fairness and good faith as well as complying with professional ethics and scientific methods.

Article 13 Incentives

The owner shall reward the project management enterprise with a certain percentage of the cost savings for reasonable recommendations proposed and implemented by the project management enterprise. Such incentive and the percentage shall be specified under the contract between the parties.

Article 14 Prohibited conduct

The project management enterprise is prohibited from engaging in the following conducts:

- 1). Be affiliated with or has other interests or stakes in the construction contractor or suppliers of building materials, components, fittings and equipment for the said construction works;
- 2). Undertakes construction for the said construction works in addition to project management services;
- 3). Transfer the whole of the contracted scope of project management services to others or divide it up and transfer the individual pieces to others;
- 4). Allow, in any way, other enterprises and individuals to undertake construction project management in its name;
- 5). Collude with others to compromise the owner's interests and damage project quality.

Article 15 Prohibited conducts

Project management professionals shall not engage in the following conducts:

- 1). Technical professionals with one or more practicing licenses shall not register nor practice simultaneously in two or more enterprises;
- 2). Accepting bribes or asking for paybacks or other favors;
- 3). Requesting, either expressly or implicitly, other relevant parties to violate laws and regulations or mandatory standards and to reduce project quality.

Article 16 Supervision and Administration

The specific departments under the State Council and construction administrative authorities under the people's government of each province or the like shall strengthen its supervision and administration of the conducts of the project management enterprises and its personnel, set up a credit rating system for the project management enterprises and their staff while punishing improprieties such as violation of laws and regulations.

Article 17 Guidance to be provided by each related industrial sectors

Relevant trade associations shall actively pursue trainings in construction project management, train construction project management professionals, prepare standards and rules of conduct for construction project management,

guide and regulate construction project management activities, strengthen professional self-discipline and strive for the sound development of construction project management.

Article 18 The Provisional Measures shall be subject to interpretation by Ministry of Construction.

Article 19 The Provisional Measures shall take effect on December 1, 2004.