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## **[Engineering] Penalty Measures for Violations of Foreign Contracted Engineering Enterprises (Trial)**

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### **Measures for Penalties for Violations of Foreign Contracted Engineering Enterprises (Trial)**

#### **Chapter I Purpose and Purpose**

Article 1 In order to meet the needs of the reform of the management system of foreign contracted projects, further strengthen supervision during and after the event, maintain the operating order of foreign contracted projects, clarify the punishment standards and procedures for violations by enterprises, and increase the penalties for enterprises that violate regulations. The Regulations on the Management of Foreign Contracted Projects, the Measures for the Recording and Coordination of Foreign Contracted Projects, and other provisions have been formulated.

Article 2 These Measures apply to member enterprises participating in over contracted engineering projects and related investment projects, hereinafter re as enterprises.

#### **Chapter II Definition of illegal behavior**

Article 3: The following behaviors in the participation of enterprises in the bidding (negotiation) of bids for overseas projects and their implementation are regarded as violations:

- (1) Failure to carry out project filing in accordance with the relevant requirements of the competent government department and the contractor association;
- (2) Disobeying the contractor's coordination with relevant departments, or failing to implement the coordination decision;

(3) the external leakage coordination process and industry secrets, which seriously endangers foreign relations and industry interests;

(4) Adopting the following acts of unfair competition:

1. Misreporting project tracking, providing false overseas performance, and exaggerating corporate qualifications and capabilities;

2. Maliciously slandering other Chinese enterprises, or using other means such as leaking or providing other bidding companies' operating conditions to exclude other Chinese enterprises;

3. The project's external quotation (including single quotation) is significantly lower than the average level of local Chinese-funded enterprises, or it has repeatedly priced at a large number of low prices, or it has significantly reduced financing conditions and disrupted market price levels;

4. After the public bidding project is opened, if the first place is a Chinese-funded enterprise, or the Chinese-funded enterprise that has negotiated the project has already carried out substantive work, it is in the critical period of bid negotiation. Provide more favorable financing conditions;

5. Subcontracting or subcontracting the project to Chinese-funded enterprises in order to obtain improper benefits from it by adopting a low price after winning the bid in China;

6. Violating relevant state regulations and industry norms, disrupting the market price level of contracted projects in other ways, and disrupting the order of market operations;

7. Commercial market bribery means for market trading opportunities;

(5) In the course of project implementation, no attention is paid to project quality and production safety management, and relevant standards and regulations for quality and safety management of foreign contracted projects are not strictly implemented and quality or safety accidents occur;

(6) In the course of project implementation, if the relevant laws and regulations of the country where the project is located are not strictly observed, damage to the environment and damage to the interests of the community has occurred;

(7) Others that have been identified as violations by the Coordination Committee of the Contractor's Association.

Article 4 The Contractor's Coordination Committee shall be responsible for determining the violations of the enterprise, and make corresponding punishment decisions based on the severity of the situation and the harmful consequences.

### **Chapter III Punishment Standards**

Article 5 Enterprises that have invested (negotiated) in foreign bids without conducting project registration in accordance with relevant regulations of the Chamber of Commerce shall be warned and ordered to make corrections; companies with serious circumstances may suspend the recommendation to participate in overseas investment (negotiated) bids for half a year to one year.

Article 6 For companies that do not participate in the coordination of the contractor organization, or do not implement coordination decisions, or adopt unfair competition practices, give notice of criticism and order correction; if the refusal to correct and the circumstances are serious, the recommendation to participate in the overseas investment can be suspended Standard projects for six months to two years, and reduce the relevant indicators in the industry credit rating and classification standards.

Article 7 For enterprises that leak the coordination process and industry secrets and seriously endanger foreign relations and industry interests, they can suspend the recommendation to participate in overseas investment (negotiation) bid projects for one to two years, and reduce the industry's credit rating and relevant indicators in the classification standards; If the circumstances are bad, and the impact and consequences are extremely serious, a penalty for expulsion will be given, and an administrative penalty is recommended by the competent government department.

Article 8 For enterprises that have quality and safety accidents, or damage to the environment, damage to the interests of the community, or are punished by the competent domestic government department, they shall be notified of criticism and ordered to make corrections; if they refuse to make corrections and the circumstances are serious, they may suspend recommendation participation Overseas investment (negotiation) bidding projects for half a year to two years, and reduce the relevant indicators in the industry credit rating and classification standards.

Article 9 For enterprises that have been punished by the government of the host country, international financial institutions, etc., if the coordination committee determines that the enterprise has indeed violated the regulations, it will give notice of criticism and suspend the recommendation to participate in overseas investment (negotiation) bid projects for half a year to two years as appropriate And reduce the relevant indicators in the industry credit rating and classification standards.

#### **Chapter IV Investigation Processing Procedures**

Article 10 The secretariat of the Coordination Committee is responsible for conducting preliminary investigations, and notifying the suspected violation of the enterprise in written form and hearing the complaint opinions of the enterprise, collecting relevant information, and proposing penalties in accordance with these measures.

Article 11 The special coordination group of the Coordination Committee, after reviewing the facts of the violation of the enterprise and hearing the complaint of the suspected non-compliance enterprise, makes written penalties in accordance with the circumstances and according to the provisions of these Measures. Notify offending companies.

Article 12 The special coordination group is composed of 9 units and is randomly generated from the president unit and the governing unit by lot. The penalty decision is made by voting (including written voting). Voting must be conducted by two-thirds and The above passed. Avoidance system is adopted for voting, and any enterprise with related relationship shall not participate in voting.

Article 13 If the offending company has any objection to the punishment of the special coordination group of the coordination committee, it may submit a reconsideration within 5 working days after receiving the punishment decision. The final review decision will be formed by the reconsideration of the coordination committee. Reported to the chairman's meeting for approval.

Article 14 An enterprise suspected of violating regulations shall actively cooperate with the contractor's committee to coordinate the investigation and verification work of the committee, and bear the costs of investigation, supervision and inspection. For enterprises that take a non-cooperative attitude, the Coordination Committee will impose severe penalties depending on the circumstances.

Article 15 The secretariat of the Coordination Committee shall be responsible for notifying the decision of the penalty to the competent government department, the relevant business (participation) office of the foreign embassy and the financial institution, and record it in the enterprise credit file.

Article 16 The member companies of the Contractor Association can reflect in various forms on illegal activities such as unfair competition in the relevant bus activities, and assist in investigation and verification. The contractor will coordinate committee and the secretariat to keep the relevant materials confidential.

## **Chapter 5 Others**

Article 17 If an enterprise violates the regulations, but can take appropriate measures in time to eliminate internal and external adverse effects, the punishment may be reduced; if no corresponding measures are taken for the adverse effects caused or the effects cannot be recovered, the punishment may be increased.

Article 18 During the punishment period, an enterprise punished for violation of regulations shall not recommend the contractor to participate in an intergovernmental cooperation project in principle.

Article 19 For violations by non-member companies, the contractor will advise and assist the relevant government departments to give corresponding penalties.

Article 20 If an enterprise receives administrative penalties for violating the "Regulations on the Management of Foreign Contracted Projects" and other administrative regulations, the contractor coordinating committee may decide to add appropriate industry penalties according to the situation.

### **Chapter VI Supplementary Provisions**

Article 21 These Measures are formulated and explained by the Industry Rules Committee of the Contractors Association.

Article 22 These Measures shall be implemented after being adopted by the Third Session of the Seventh Council of the Contractors' Meeting on November 30, 2017. The "Measures for Punishment of Violations by Foreign Contracted Engineering Enterprises (Trial)" shall be abolished as of the date of implementation of these Measures.

Article Source: Contractors Meeting

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