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## Implementation Measures for International Competitive Bidding for Mechanical and Electrical Products (for Trial Implementation) [Effective]

機電產品國際招標投標實施辦法(試行)【現行有效】

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Order of the Ministry of Commerce  
(No. 1 [2014])

商務部令  
(2014年第1號)

The Implementation Measures for International Competitive Bidding for Mechanical and Electrical Products (for Trial Implementation), as deliberated and adopted at the tenth executive meeting in 2013 of the Ministry of Commerce of the People's Republic of China on December 9, 2013, are hereby issued, and shall come into force on April 1, 2014. The former Implementation Measures for International Competitive Bidding for Mechanical and Electrical Products (Order No. 13 [2004] of the Ministry of Commerce) shall be repealed simultaneously.

《機電產品國際招標投標實施辦法(試行)》已于2013年12月9日經中華人民共和國商務部2013年第10次部務會議審議通過，現予公布，自2014年4月1日起施行。原《機電產品國際招標投標實施辦法》(商務部2004年第13號令)同時廢止。

Minister: Gao Hucheng

部長：高虎城

February 21, 2014

2014年2月21日

Implementation Measures for International Competitive Bidding for Mechanical and Electrical Products (for Trial Implementation)

機電產品國際招標投標實施辦法(試行)

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Chapter I General Provisions

第一章 總則

Article 1 With a view to standardizing the international competitive bidding activities for mechanical and electrical products, safeguarding the state interests, the public interests and the lawful rights and interests of the parties involved in the bidding activities, enhancing economic performance, and ensuring the quality of projects, these Measures are developed pursuant to such laws and administrative regulations as ["javascript:ESLC\(23176,0\)"](#) the Bidding Law of the People's Republic of China (hereinafter referred to as the ["javascript:ESLC\(23176,0\)"](#) Bidding Law") and the Regulation on the Implementation of the Bidding Law of the People's Republic of China (hereinafter referred to as the "Implementation Regulation") and according to the provisions of the State Council concerning the division of responsibilities among the relevant departments for administrative supervision over bidding activities.

**Article 2** These Measures apply to the international competitive bidding activities for mechanical and electrical products within the territory of the People's Republic of China. For the purpose of these Measures, the term "international competitive bidding activities for mechanical and electrical products" means a procurement process whereby a bid inviting party within the territory of the People's Republic of China, based on the conditions and requirements for the procurement of a certain mechanical or electrical product, internationally invite prospective bidders to submit bids and determine the winning bidder from them by the prescribed procedure. For the purpose of these Measures, the term "mechanical and electrical products" means mechanical equipment, electrical equipment, means of transport, electronic products, electrical products, instruments and meters, and metal products, as well as the components and parts thereof. See Annex 1 for the scope of mechanical and electrical products.

**Article 3** International competitive bidding activities for mechanical and electrical products shall follow the principles of openness, fairness, equity, good faith and selecting the best qualified, and shall not be subject to territorial or departmental restrictions.

**Article 4** The Ministry of Commerce is responsible for managing and coordinating the international competitive bidding activities for mechanical and electrical products throughout the country and developing the relevant provisions; adjusting and publishing the scope of mechanical and electrical products subject to international competitive bidding; overseeing and regulating international competitive bidding agencies (hereinafter referred to as "bid invitation agencies") throughout the country; exercising administrative supervision over the international competitive bidding activities for mechanical and electrical products under projects funded by loans or financial aids from international organizations and foreign governments (hereinafter referred to as "foreign loans or financial aids"); building and managing expert databases for the international competitive bidding for mechanical and electrical products; and building and managing public service and administrative supervision platforms for the international competitive bidding for mechanical and electrical products. The commerce departments of all provinces, autonomous regions, municipalities directly under the Central Government, cities under separate state planning, Xinjiang Production and Construction Corps, open coastal cities and special economic zones, as well as authorities in charge of the import and export of mechanical and electrical products under the relevant departments of the State Council, shall be responsible for the administrative supervision and coordination of international competitive bidding activities for mechanical and electrical products for their respective regions or departments; the supervision and administration of bid invitation agencies subordinate to their respective regions or departments; and the routine management of bid evaluation experts in international competitive bidding for mechanical and electrical products within their respective regions or departments. Authorities in charge of the import and export of mechanical and electrical products at all

**第一條** 為了規範機電產品國際招標投標活動，保護國家利益、社會公共利益和招標投標活動當事人的合法權益，提高經濟效益，保證項目質量，根據《中華人民共和國招標投標法》（以下簡稱招標投標法）、《中華人民共和國招標投標法實施條例》（以下簡稱招標投標法實施條例）等法律、行政法規以及國務院對有關部門實施招標投標活動行政監督的職責分工，制定本辦法。

**第二條** 在中華人民共和國境內進行機電產品國際招標投標活動，適用本辦法。本辦法所稱機電產品國際招標投標活動，是指中華人民共和國境內的招標人根據採購機電產品的條件和要求，在全球範圍內以招標方式邀請潛在投標人參加投標，並按照規定程序從投標人中確定中標人的一種採購行為。本辦法所稱機電產品，是指機械設備、電氣設備、交通運輸工具、電子產品、電器產品、儀器儀表、金屬制品等及其零部件、元器件。機電產品的具體範圍見附件1。

**第三條** 機電產品國際招標投標活動應當遵循公開、公平、公正、誠實信用和擇優原則。機電產品國際招標投標活動不受地區或者部門的限制。

**第四條** 商務部負責管理和協調全國機電產品的國際招標投標工作，制定相關規定；根據國家有關規定，負責調整、公布機電產品國際招標範圍；負責監督管理全國機電產品國際招標代理機構（以下簡稱招標機構）；負責利用國際組織和外國政府貸款、援助資金（以下簡稱國外貸款、援助資金）項目機電產品國際招標投標活動的行政監督；負責組建和管理機電產品國際招標評標專家庫；負責建設和管理機電產品國際招標投標電子公共服務和行政監督平台。各省、自治區、直轄市、計劃單列市、新疆生產建設兵團、沿海開放城市及經濟特區商務主管部門、國務院有關部門機電產品進出口管理機構負責本地區、本部門的機電產品國際招標投標活動的行政監督和協調；負責本地區、本部門所屬招標機構的監督和管理；負責本地區、本部門機電產品國際招標評標專家的日常管理。各級機電產品進出口管理機構（以下簡稱主管部門）及其工作人員應當依法履行職責，不得以任何方式非法干涉招標投標活動。主管部門的工作人員對監督檢查過程中知悉的國家秘密、商業秘密，應當依法予以保密。

levels (hereinafter referred to as "competent authorities") and the staff members thereof shall perform duties according to law, and may not interfere with bidding activities in any form. The staff members of the competent authorities shall keep confidential the state secrets and trade secrets which they have access to in the supervision and inspection process.

**Article 5** The Ministry of Commerce shall designate a website (hereinafter referred to as "the bidding website") as a platform for the public service and administrative supervision of the international competitive bidding activities for mechanical and electrical products. For the international competitive bidding of mechanical and electrical products, procedures required for bidding activities, such as setting up archives for the project for which bids are to be invited, filing and recordation of documents involved in the bid invitation process, publication of the pre-qualification announcement, publication of the bid invitation announcement, selection of evaluation experts, announcement of the bid evaluation result, filing of objections and complaints and announcement of the award of contract, shall be completed on the bidding website, except for a project involving any state secrets.

The organizer of the bidding website shall provide network services within the scope of authority granted by the Ministry of Commerce and abide by laws, administrative regulations and these Measures, and may not damage the state interests, the public interests or the lawful rights and interests of the parties involved in bidding activities, divulge any information that should be kept confidential, refuse or delay the provision of services within the scope of authority, or charge fees against the relevant parties for services provided within the scope of authority.

## Chapter II Scope of Bid

**Article 6** To procure mechanical and electrical products originated outside the customs territory of China by way of bidding under any of the following circumstances, bids must be invited internationally:

(1) the mechanical and electrical products subject to international procurement and used in such projects as infrastructures and public undertakings which have a bearing upon the social public interests or public safety;

(2) the mechanical and electrical products subject to international procurement and used in the investment projects which entirely or partly use state-owned capital;

(3) the mechanical and electrical products subject to international procurement and used in the projects financed entirely or partly by the state;

(4) the mechanical and electrical products subject to international procurement and used in the projects which use foreign loans or financial aids;

(5) the mechanical and electrical products subject to international procurement in government procurement projects; and

(6) other mechanical and electrical products which should be procured by internationally inviting bids pursuant to any law or administrative regulation.

If it has been confirmed that a product to be procured originates within the customs territory of China, it may be exempted from international competitive bidding. For products which must be procured under international competitive bidding, no entity or individual may divide the project into several small parts or avoid international competitive bidding by other means such as domestic competitive bidding.

**第五條** 商務部委托專門網站為機電產品國際招標投標活動提供公共服務和行政監督的平台（以下簡稱招標網）。機電產品國際招標投標應當在招標網上完成招標項目建檔、招標過程文件存檔和備案、資格預審公告發布、招標公告發布、評審專家抽取、評標結果公示、異議投訴、中標結果公告等招標投標活動的相關程序，但涉及國家秘密的招標項目除外。

招標網承辦單位應當在商務部委托的範圍內提供網絡服務，應當遵守法律、行政法規以及本辦法的規定，不得損害國家利益、社會公共利益和招投標活動當事人的合法權益，不得泄露應當保密的信息，不得拒絕或者拖延辦理委托範圍內事項，不得利用委托範圍內事項向有關當事人收取費用。

## 第二章 招標範圍

**第六條** 通過招標方式採購原產地為中國關境外的機電產品，屬於下列情形的必須進行國際招標：

（一）關係社會公共利益、公眾安全的基礎設施、公用事業等項目中進行國際採購的機電產品；

（二）全部或者部分使用國有資金投資項目中進行國際採購的機電產品；

（三）全部或者部分使用國家融資項目中進行國際採購的機電產品；

（四）使用國外貸款、援助資金項目中進行國際採購的機電產品；

（五）政府採購項目中進行國際採購的機電產品；

（六）其他依照法律、行政法規的規定需要國際招標採購的機電產品。

已經明確採購產品的原產地在中國關境內的，可以不進行國際招標。必須通過國際招標方式採購的，任何單位和個人不得將前款項目化整為零或者以國內招標等其他任何方式規避國際招標。

商務部制定、調整並公布本條第一項所列項目包含主要產品的國際招標範圍。

The Ministry of Commerce shall determine, adjust and publish a list of major products for projects mentioned in item (1) of this Article.

**Article 7** Under any of the following circumstances, international competitive bidding is not required:

- (1) the mechanical or electrical products given as presents or in the form of gratuitous assistance by foreign (overseas) parties;
- (2) the samples and prototypes of machines for the research and development of producing enterprises and scientific research institutes;
- (3) the estimated value of a single contract is below the criteria set by the State Council for above which invitation of bids is required;
- (4) used mechanical and electrical products;
- (5) the parts and components for the production and maintenance of products;
- (6) special molds necessary for the production of producing enterprises; and
- (7) any other mechanical and electrical products unfit for procurement by international competitive bidding pursuant to laws and administrative regulations.

Bid inviting parties may not engage in falsification to apply the previous paragraph in order to avoid bid invitation.

**Article 8** Procurers are encouraged to purchase by way of international competitive bidding mechanical and electrical products which are not within the scope of products to be procured under international competitive bidding.

### Chapter III Bid Invitation

**Article 9** A bid inviting party shall carry out international competitive bidding activities after the project for which bids are to be invited is established, the relevant funds are received, the source of the funds is verified, the technical materials required for the invitation of bids are ready and other relevant conditions are satisfied.

For a project legally requiring the invitation of bids for which approval or confirmation procedures need to be handled according to the relevant state provisions, its scope of bid, bidding method and form of organization of bid invitation shall be first subject to the approval or confirmation of the project approval or confirmation authority.

**Article 10** A project legally requiring the invitation of bids in which state-owned funds hold a controlling or dominant stake shall be subject to public bidding; under any of the following circumstances, the selected bidding method may be adopted:

- (1) The project is technically complex, subject to special requirements or facing restrictions from the natural environment, and only a limited number of prospective bidders are available for selection.
- (2) The cost of public bidding accounts for too large a proportion of the contract value of the project.

For a project which falls under the circumstance in item (2) of the preceding paragraph and paragraph 2 of Article 9, the bid inviting party shall, before invitation of bids, submit a document issued by the project approval or confirmation authority on the approval or confirmation of the selected bidding method to the competent authority. To adopt the

**第七條** 有下列情形之一的，可以不進行國際招標：

- (一) 國（境）外贈送或無償援助的機電產品；
- (二) 採購供生產企業及科研機構研究開發用的樣品樣機；
- (三) 單項合同估算價在國務院規定的必須進行招標的標准以下的；
- (四) 採購舊機電產品；
- (五) 採購供生產配套、維修用零件、部件；
- (六) 採購供生產企業生產需要的專用模具；
- (七) 根據法律、行政法規的規定，其他不適宜進行國際招標採購的機電產品。

招標人不得為適用前款規定弄虛作假規避招標。

**第八條** 鼓勵採購人採用國際招標方式採購不屬於依法必須進行國際招標項目範圍內的機電產品。

### 第三章 招 標

**第九條** 招標人應當在所招標項目確立、資金到位或資金來源落實並具備招標所需的技術資料和其他條件後開展國際招標活動。

按照國家有關規定需要履行項目審批、核准手續的依法必須進行招標的項目，其招標範圍、招標方式、招標組織形式應當先獲得項目審批、核准部門的審批、核准。

**第十條** 國有資金占控股或者主導地位的依法必須進行機電產品國際招標的項目，應當公開招標；但有下列情形之一的，可以邀請招標：

- (一) 技術複雜、有特殊要求或者受自然環境限制，只有少量潛在投標人可供選擇；

- (二) 採用公開招標方式的費用占項目合同金額的比例過大。

有前款第二項所列情形，屬於本辦法第九條第二款規定的項目，招標人應當在招標前向相應的主管部門提交項目審批、核准部門審批、核准邀請招標方式的文件；其他項目採用邀請招標方式應當由招標人申請相應的主管部門作出認定。

selected bidding method for any other project, the bid inviting party shall apply to the relevant competent authority for determination.

**Article 11** To entrust bid invitation to an agency, a bid inviting party has the right to appoint a bid invitation agency of its own choice to handle bid invitation matters. No entity or individual may designate a bid invitation agency for the bid inviting party in any form. To handle bid invitation matters on its own, a bid inviting party shall have professionals in fields such as technology and economy required by the scale and complexity of the project for which bids are to be invited and be capable of preparing international competitive bidding documents (in both Chinese and English) and organizing bid evaluations. To handle bid invitation matters for a project which legally requires the invitation of bids, the bid inviting party shall go through recordation formalities with the competent authority.

**Article 12** A bid invitation agency shall have a business premise and funds necessary for providing bid invitation agency services, be professionally capable of preparing bidding documents (in both Chinese and English) and organizing bid evaluations, and have an adequate number of professionals with occupational qualifications for bid invitation. To provide international bid invitation agency services for mechanical and electrical products, a bid invitation agency shall register on the bidding website free of charge by filling out a registration form for international bid invitation agencies for mechanical and electrical products online.

Bid invitation agencies shall provide bid invitation agency services within the scope of authority granted by the bid inviting party, and no entity or individual may illegally interfere in that. A bid invitation agency's employees engaged in the international invitation of bids for mechanical and electrical products shall have legally entered into employment contracts with the agency. Bid invitation agencies may provide cross-regional services, and no region or department may require them to go through registration or recordation formalities or otherwise impose any restrictions on them.

When providing bid invitation agency services, bid invitation agencies shall abide by the provisions governing bid inviting parties in the Bidding Law, the Implementation Regulation and these Measures. In bid invitation activities, bid invitation agencies may not engage in falsification or damage national interests, public interests or the lawful rights and interests of bid inviting parties and bidders.

A bid inviting party shall enter into a written agency contract with the bid invitation agency entrusted by it, specifying the entrusted matter and the power of agency. The charging rates stipulated in the contract shall conform to the relevant state provisions.

A bid invitation agency may not accept any illegal content or requirement involved in the entrustment of a bid inviting party, submit bids for itself or others in the project undertaken by it, or provide consulting services for any bidder in the project.

Measures for the administration of bid invitation agencies shall be separately developed by the Ministry of Commerce.

**Article 13** Before making a pre-qualification announcement, making a bid invitation announcement or sending an invitation to bid, a bid inviting party or bid invitation agency shall create archives for its project on the bidding website. The archives shall cover the name of the project, the name and nature of the bid inviting party, the bidding method, the form of organization of bid invitation, the name of the bid invitation agency, the source and nature of funds, the value of contract entrusted for bid invitation, the department in charge of the approval or confirmation of the project, and the competent authority.

**Article 14** If the open bidding method is adopted, a bid inviting party shall make a bid invitation announcement.

If the selected bidding method is adopted, a bid inviting party shall send an invitation to bid

**第十一條** 招標人採用委托招標的，有權自行選擇招標機構為其辦理招標事宜。任何單位和個人不得以任何方式為招標人指定招標機構。

招標人自行辦理招標事宜的，應當具有與招標項目規模和複雜程度相適應的技術、經濟等方面專業人員，具備編制國際招標文件（中、英文）和組織評標的能力。依法必須進行招標的項目，招標人自行辦理招標事宜的，應當向相應主管部門備案。

**第十二條** 招標機構應當具備從事招標代理業務的營業場所和相應資金；具備能夠編制招標文件（中、英文）和組織評標的相應專業力量；擁有一定數量的取得招標職業資格的專業人員。

招標機構從事機電產品國際招標代理業務，應當在招標網免費註冊，註冊時應當在招標網在線填寫機電產品國際招標機構登記表。

招標機構應當在招標人委托的範圍內開展招標代理業務，任何單位和個人不得非法干涉。招標機構從事機電產品國際招標業務的人員應當為與本機構依法存在勞動合同關係的員工。招標機構可以依法跨區域開展業務，任何地區和部門不得以登記備案等方式加以限制。

招標機構代理招標業務，應當遵守招標投標法、招標投標法實施條例和本辦法關於招標人的規定；在招標活動中，不得弄虛作假，損害國家利益、社會公共利益和招標人、投標人的合法權益。

招標人應當與被委托的招標機構簽訂書面委托合同，載明委托事項和代理權限，合同約定的收費標準應當符合國家有關規定。

招標機構不得接受招標人違法的委托內容和要求；不得在所代理的招標項目中投標或者代理投標，也不得為所代理的招標項目的投標人提供諮詢。

招標機構管理辦法由商務部另行制定。

**第十三條** 發布資格預審公告、招標公告或發出投標邀請書前，招標人或招標機構應當在招標網上進行項目建檔，建檔內容包括項目名稱、招標人名稱及性質、招標方式、招標組織形式、招標機構名稱、資金來源及性質、委托招標金額、項目審批或核准部門、主管部門等。

**第十四條** 招標人採用公開招標方式的，應當發布招標公告。

招標人採用邀請招標方式的，應當向3個以上具備承擔招標

to at least three specific legal persons or other organizations which have the ability to undertake the project for which bids are to be invited and have a good credit standing.

**Article 15** A pre-qualification announcement, bid invitation announcement or invitation to bid shall include:

- (1) the name of the project for which bids are to be invited, the receipt of funds, and the verification of the source of funds;
- (2) the name, address and contact information of the bid inviting party or bid invitation agency;
- (3) the name, quantity and outline specifications of the products to be procured;
- (4) the location, time, manner and cost of acquiring pre-qualification documents or bidding documents;
- (5) the location and deadline for submitting pre-qualification application documents or bids;
- (6) the location and time of bid opening; and
- (7) the eligibility requirements for pre-qualification applicants or bidders.

**Article 16** Bid inviting parties may not preclude prospective or existing bidders under circumstances as set forth in Article 32 of the Implementation Regulation.

**Article 17** For a project subject to open bidding, the bid inviting party may conduct a pre-qualification on prospective bidders. Pre-qualification shall be conducted in accordance with the relevant provisions of the Implementation Regulation. For a project legally requiring the invitation of bids in which state-owned funds hold a controlling or dominant stake, the pre-qualification committee and the members thereof shall conform to the relevant provisions of these Measures governing bid evaluation committees and the members thereof.

**Article 18** In the preparation of the pre-qualification documents and bidding documents of a project which legally requires the international invitation of bids for the procurement of a mechanical or electrical product, the standard international bidding documents for mechanical and electrical products shall be used.

**Article 19** A bid inviting party shall prepare bidding documents according to the characteristics of the mechanical or electrical product to be procured and the actual needs. Bidding documents mainly include:

- (1) a bid invitation announcement or letter;
- (2) instructions to bidders, and a bid data sheet;
- (3) the name, quantity, technical specifications and other requirements of the product to be procured;
- (4) the bid evaluation methods and criteria;
- (5) the terms of contract;
- (6) the format of contract;
- (7) the format of bidding documents, and other materials:
  - a. a form of bid

項目能力、資信良好的特定法人或者其他組織發出投標邀請書。

**第十五條** 資格預審公告、招標公告或者投標邀請書應當載明下列內容：

- (一) 招標項目名稱、資金到位或資金來源落實情況；
- (二) 招標人或招標機構名稱、地址和聯系方式；
- (三) 招標產品名稱、數量、簡要技術規格；
- (四) 獲取資格預審文件或者招標文件的地點、時間、方式和費用；
- (五) 提交資格預審申請文件或者投標文件的地點和截止時間；
- (六) 開標地點和時間；
- (七) 對資格預審申請人或者投標人的資格要求。

**第十六條** 招標人不得以招標投標法實施條例第三十二條規定的情形限制、排斥潛在投標人或者投標人。

**第十七條** 公開招標的項目，招標人可以對潛在投標人進行資格預審。資格預審按照招標投標法實施條例的有關規定執行。國有資金占控股或者主導地位的依法必須進行招標的項目，資格審查委員會及其成員應當遵守本辦法有關評標委員會及其成員的規定。

**第十八條** 編制依法必須進行機電產品國際招標的項目的資格預審文件和招標文件，應當使用機電產品國際招標標準文本。

**第十九條** 招標人根據所採購機電產品的特點和需要編制招標文件。招標文件主要包括下列內容：

- (一) 招標公告或投標邀請書；
- (二) 投標人須知及投標資料表；
- (三) 招標產品的名稱、數量、技術要求及其他要求；
- (四) 評標方法和標準；
- (五) 合同條款；
- (六) 合同格式；
- (七) 投標文件格式及其他材料要求；

1、投標書；

- b. a summary sheet for bid opening;
- c. an itemized price list;
- d. a sheet of product descriptions;
- e. a responsiveness/deviation form for technical specifications;
- f. a responsiveness/deviation form for commercial terms;
- g. a bank guarantee of bid security;
- h. a power of attorney issued by the person in charge of the entity;
- i. eligibility certificates;
- j. a bank guarantee of performance security;
- k. a bank guarantee of advance payment;
- l. a documentary credit; and
- m. other materials which a bidder is required to provide.

**Article 20** The bid evaluation method and criteria shall be specified in the bidding documents. Generally, the lowest evaluated bid method is adopted for the evaluation of international bids for mechanical and electrical products. For a project for which bids are invited for the procurement of large-scale equipment or a complete set of equipment with a high degree of technical content or with a complicated process or technical plan, the comprehensive evaluation method may be adopted. Bid evaluation methods and criteria shall be disclosed to prospective bidders as an integral part of the bidding documents. Bid evaluation methods and standards not specified in the bidding documents may not be used as the basis for bid evaluation.

The lowest evaluated bid method is a method of evaluating bids that meet the commercial and technical terms and other substantive requirements of the bidding documents according to the bid evaluation factors and methods specified in the bidding documents and then determining the bid-winning candidates in an ascending order of the evaluated bid prices of bidders.

The comprehensive evaluation method is a method of comprehensively evaluating bids that meet the substantive requirements of the bidding documents according to the bid evaluation factors and methods specified in the bidding documents and then determining the bid-winning candidates in a descending order of excellence of the comprehensive evaluation results on bidders.

The comprehensive evaluation method is composed of evaluation contents, evaluation criteria, evaluation procedure and the principle for recommending award. Under the comprehensive evaluation method, the evaluation criteria for commerce, technology, price, service and other evaluation contents shall be established, and weights shall be set on each evaluation content accordingly.

The standards for the implementation of the comprehensive evaluation method for international competitive bidding for mechanical and electrical products shall be separately developed by the Ministry of Commerce.

**Article 21** The technical and commercial terms in bidding documents shall be clear, definite and unambiguous, and may not have any discriminatory terms or unreasonable requirements to preclude prospective bidders. In principle, bidding documents shall be prepared on the condition of enabling at least three prospective bidders to participate in competition. Bidding documents shall be prepared according to the following provisions:

- 2、開標一覽表;
- 3、投標分項報價表;
- 4、產品說明一覽表;
- 5、技術規格響應/偏離表;
- 6、商務條款響應/偏離表;
- 7、投標保證金銀行保函;
- 8、單位負責人授權書;
- 9、資格證明文件;
- 10、履約保證金銀行保函;
- 11、預付款銀行保函;
- 12、信用證樣本;
- 13、要求投標人提供的其他材料。

**第二十條** 招標文件中應當明確評標方法和標準。機電產品國際招標的評標一般采用最低評標價法。技術含量高、工藝或技術方案複雜的大型或成套設備招標項目可採用綜合評價法進行評標。所有評標方法和標準應當作為招標文件不可分割的一部分並對潛在投標人公開。招標文件中沒有規定的評標方法和標準不得作為評標依據。

最低評標價法，是指在投標滿足招標文件商務、技術等實質性要求的前提下，按照招標文件中規定的價格評價因素和方法進行評價，確定各投標人的評標價格，並按投標人評標價格由低到高的順序確定中標候選人的評標方法。

綜合評價法，是指在投標滿足招標文件實質性要求的前提下，按照招標文件中規定的各項評價因素和方法對投標進行綜合評價後，按投標人綜合評價的結果由優到劣的順序確定中標候選人的評標方法。

綜合評價法應當由評價內容、評價標準、評價程序及推薦中標候選人原則等組成。綜合評價法應當根據招標項目的具體需求，設定商務、技術、價格、服務及其他評價內容的標準，並對每一項評價內容賦予相應的權重。

機電產品國際招標投標綜合評價法實施規範由商務部另行制定。

**第二十一條** 招標文件的技術、商務等條款應當清晰、明確、無歧義，不得設立歧視性條款或不合理的要求排斥潛在投標人。招標文件編制內容原則上應當滿足3個以上潛在投標人能夠參與競爭。招標文件的編制應當符合下列規定：

(1) The key terms (parameters) of the bidding documents shall be marked with the asterisk ("\*"), and a note shall be made that, if any of the terms (parameters) marked with the asterisk ("\*") has not been satisfied, it will be considered to have failed to meet the substantive requirements of the bidding documents and will result in the rejection of the bid. The evaluation basis for rejecting a bid may also include the excess of the maximum range and the largest number of items of deviation permitted for general terms (parameters), in addition to the failure to respond to the key terms (parameters).

Where the lowest evaluated bid method is adopted for bid evaluation, the evaluation basis shall include: the calculation method for adjusting the evaluated bid price within the range and number of terms of deviation permitted for general commercial and technical terms (parameters); for deviation to each general technical term (parameter), generally, the evaluated bid price will be raised by 0.5%, or 1% at the most, of the bid price of the equipment; if the price of each item is not separately listed in the bid, the evaluated bid price shall be adjusted on the basis of the total bid price. The computation method for adjusting the evaluated bid price for deviation to such commercial terms as the date of delivery and the terms of payment may be separately specified in the bidding documents.

Where the comprehensive evaluation method is adopted for bid evaluation, all key terms (parameters) marked with the asterisk ("\*") in the bidding documents must be listed together.

(2) The bidding documents shall specify the maximum range or weight of omissions in the itemized prices of a bid substantially responsive to the bidding documents, and state that, if the omissions exceed the maximum range or weight, the bid will be considered substantially nonresponsive to the bidding documents and will be rejected.

(3) The bidding documents shall specify the contents that shall be signed by each bidder with its initials. In particular, such contents as quoted prices and responsiveness to key commercial and technical terms (parameters) in the bidding documents shall be signed by bidders with their initials page by page.

(4) The bidding documents shall specify the currencies and methods in which bidders are to state their prices, and indicate whether such terms belong to key commercial terms or not, and shall expressly state that no alternative price or price with additional conditions is acceptable.

(5) If the bid inviting party has set a maximum bid price, the limit or the computation method thereof shall be specified in the bidding documents. A bid inviting party may not set a minimum bid price.

(6) The bidding documents shall specify the bid evaluation basis and such commercial terms and technical specifications as requirements on the performance, finance and credit standing of bidders, and may not use ambiguous or indefinite terms or indicators as key commercial or technical terms (parameters) or as the basis for price adjustment. The eligibility requirements on bidders as set forth by the bidding documents, if any, shall specify the title of the eligibility required, the institution certifying it and the form of the certificate to be submitted, and shall require that the eligibility be veracious and valid within a given time limit.

(7) The bid inviting party may use the credit information disclosed by the relevant administrative supervision departments as the basis for the eligibility requirements on bidders.

(8) The bidding documents shall comply with the state laws and regulations on safety, hygiene, environmental protection, quality, energy consumption, standards and social responsibility.

(一) 對招標文件中的重要條款(參數)應當加注星號("\*"), 並注明如不滿足任一帶星號("\*")的條款(參數)將被視為不滿足招標文件實質性要求, 並導致投標被否決。

構成投標被否決的評標依據除重要條款(參數)不滿足外, 還可以包括超過一般條款(參數)中允許偏離的最大範圍、最多項數。

採用最低評標價法評標的, 評標依據中應當包括: 一般商務和技術條款(參數)在允許偏離範圍和條款數內進行評標價格調整的計算方法, 每個一般技術條款(參數)的偏離加價一般為該設備投標價格的0.5%, 最高不得超過該設備投標價格的1%, 投標文件中沒有單獨列出該設備分項報價的, 評標價格調整時按投標總價計算; 交貨期、付款條件等商務條款的偏離加價計算方法在招標文件中可以另行規定。

採用綜合評價法的, 應當集中列明招標文件中所有加注星號("\*")的重要條款(參數)。

(二) 招標文件應當明確規定在實質性響應招標文件要求的前提下投標文件分項報價允許缺漏項的最大範圍或比重, 並注明如缺漏項超過允許的最大範圍或比重, 該投標將被視為實質性不滿足招標文件要求, 並將導致投標被否決。

(三) 招標文件應當明確規定投標文件中投標人應當小簽的相應內容, 其中投標文件的報價部分、重要商務和技術條款(參數)響應等相應內容應當逐頁小簽。

(四) 招標文件應當明確規定允許的投標貨幣和報價方式, 並注明該條款是否為重要商務條款。招標文件應當明確規定不接受選擇性報價或者附加條件的報價。

(五) 招標人設有最高投標限價的, 應當在招標文件中明確最高投標限價或者最高投標限價的計算方法。招標人不得規定最低投標限價。

(六) 招標文件應當明確規定評標依據以及對投標人的業績、財務、資信等商務條款和技術參數要求, 不得使用模糊的、無明確界定的術語或指標作為重要商務或技術條款(參數)或以此作為價格調整的依據。招標文件對投標人資質提出要求的, 應當列明所要求資質的名稱及其認定機構和提交證明文件的形式, 並要求相應資質在規定的期限內真實有效。

(七) 招標人可以在招標文件中將有關行政監督部門公布的信用信息作為對投標人的資格要求的依據。

(八) 招標文件內容應當符合國家有關安全、衛生、環保、質量、能耗、標準、社會責任等法律法規的規定。



(9) If the bidding documents permit a consortium to bid, eligibility requirements and other corresponding requirements for the leading party and each member of the consortium shall be clearly set down.

(10) If the bidding documents permit bidders to submit alternative proposals, it shall be clearly stipulated that a bidder can only provide one alternative proposal and shall specify the principal proposal in its bids, and that the bid price in the alternative proposal shall not be higher than that in the principal proposal.

(11) The bidding documents shall specify the computation methods of the total evaluated bid price for products inside and outside the customs territory of China and designate the place of destination. Except for projects using foreign loans or financial aids, the total evaluated bid price shall include all costs and expenses incurred before the goods arrive at the place of destination designated by the bid inviting party.

For a product outside the customs territory of China: CIF price + import linkage tax + costs of inland transport and insurance (if bids are offered on CIP, DDP or any other price basis, the total evaluated bid price shall be computed by reference to this method); in particular, for a product imported prior to the deadline for the receipt of bids: sales price (including import linkage tax and sales linkage value-added tax) + costs of inland transport and insurance. For a product manufactured inside the customs territory of China: ex-factory price (including value-added tax) + consumption tax (if applicable) + costs of inland transport and insurance. If the price has ever been adjusted, the raise made for deviation shall be included in the total evaluated bid price.

(12) The bidding documents shall specify that the sum in words shall prevail in the event of any inconsistency between the sum in words and the sum in figures, that the sum of itemized prices shall prevail in the event of any inconsistency between the total bid price and the sum of itemized prices, and that, if the decimal point of the itemized prices is evidently misplaced, the total bid price shall prevail, and the itemized prices shall be amended accordingly. The bidding documents shall also specify the languages used in the bidding documents, the bids and the bid evaluation report and, when two or more languages are used, which one is governing in the event of any inconsistency between them.

**Article 22** The bidding documents shall specify the validity period of bids which shall be sufficient to enable the bid inviting party to complete the evaluation and selection of bids and to enter into contract. The validity period of bids shall start from the deadline specified in the bidding documents for submission of bids.

**Article 23** Where a bid inviting party requires in the bidding documents that bidders pay a bid security, the amount of the bid security may not exceed 2% of the estimated value of the project for which bids are to be invited. The validity period of bid security shall be identical with that of bids.

For a project which legally requires the invitation of bids, the bid security paid by a domestic bidder in the form of cash or check shall be transferred from its basic account.

A bid security may be a letter of guarantee or irrevocable letter of credit issued by a bank, a transfer check, a bank demand draft or any other legal guarantee specified in the bidding documents.

If the bidder is a consortium, the bid security shall be paid by one or all of the members of the consortium in a way stipulated in the joint bid agreement. If the bid security is paid in the name of one member, it is binding upon all members of the consortium.

A bid inviting party may not misappropriate the bid security.

**Article 24** A bid inviting party or bid invitation agency shall, prior to the date when it starts selling the pre-qualification documents or bidding documents, upload the documents for sale to the bidding website for archival purposes.

(九) 招標文件允許聯合體投標的，應當明確規定對聯合體牽頭人和聯合體各成員的資格條件及其他相應要求。

(十) 招標文件允許投標人提供備選方案的，應當明確規定投標人在投標文件中只能提供一個備選方案並註明主選方案，且備選方案的投標價格不得高於主選方案。

(十一) 招標文件應當明確計算評標總價時關境內、外產品的計算方法，並應當明確指定到貨地點。除國外貸款、援助資金項目外，評標總價應當包含貨物到達招標人指定到貨地點之前的所有成本及費用。其中：

關境外產品為：CIF價+進口環節稅+國內運輸、保險費等（採用CIP、DDP等其他報價方式的，參照此方法計算評標總價）；其中投標截止時間前已經進口的產品為：銷售價（含進口環節稅、銷售環節增值稅）+國內運輸、保險費等。關境內製造的產品為：出廠價（含增值稅）+消費稅（如適用）+國內運輸、保險費等。有價格調整的，計算評標總價時，應當包含備離加價。

(十二) 招標文件應當明確投標文件的大寫金額和小寫金額不一致的，以大寫金額為準；投標總價金額與按分項報價彙總金額不一致的，以分項報價金額計算結果為準；分項報價金額小數點有明顯錯位的，應以投標總價為準，並修改分項報價；應當明確招標文件、投標文件和評標報告使用語言的種類；使用兩種以上語言的，應當明確當出現表述內容不一致時以何種語言文本為準。

**第二十二條** 招標文件應當載明投標有效期，以保證招標人有足夠的時間完成組織評標、定標以及簽訂合同。投標有效期從招標文件規定的提交投標文件的截止之日起算。

**第二十三條** 招標人在招標文件中要求投標人提交投標保證金的，投標保證金不得超過招標項目估算價的2%。投標保證金有效期應當與投標有效期一致。

依法必須進行招標的項目的境內投標單位，以現金或者支票形式提交的投標保證金應當從其基本賬戶轉出。

投標保證金可以是銀行出具的銀行保函或不可撤銷信用證、轉賬支票、銀行即期彙票，也可以是招標文件要求的其他合法擔保形式。

聯合體投標的，應當以聯合體共同投標協議中約定的投標保證金繳納方式予以提交，可以是聯合體中的一方或者共同提交投標保證金，以一方名義提交投標保證金的，對聯合體各方均具有約束力。招標人不得挪用投標保證金。

**第二十四條** 招標人或招標機構應當在資格預審文件或招標文件開始發售之日前將資格預審文件或招標文件發售稿上傳招標網存檔。

**Article 25** For a project which legally requires the invitation of bids, the pre-qualification announcement and the bid invitation announcement shall be published at a legally required media and the bidding website.

**Article 26** A bid inviting party shall reasonably determine the time needed by bidders to prepare bids. For a project which legally requires the invitation of bids, the time shall not be less than 20 days from the date when the offer of bidding documents starts to the deadline for submission of bids.

The offer period of bidding documents may not be less than five working days.

The paper and electronic bidding documents offered by a bid inviting party shall have the same legal effect. Unless otherwise specified, the paper ones shall prevail in the event of any inconsistency.

**Article 27** Where it has been specified in the bid invitation announcement that those without purchasing bidding documents may not participate in bidding, if, upon the end of the offer period of bidding documents, the number of prospective bidders who have purchased bidding documents is less than three, the bid inviting party may re-invite bids in accordance with these Measures. If the number of potential or existing bidders is still less than three after re-invitation of bids, paragraph 2 of Article 46 of these Measures may apply.

**Article 28** Before opening bids, the bid inviting party, the bid invitation agency and the relevant staff members may not disclose the name and number of prospective bidders that have obtained bidding documents or any other information about bid invitation or submission that may impair fair competition.

**Article 29** If necessary, a bid inviting party may clarify or alter the pre-qualification documents or bidding documents that have been issued. If the clarified or altered content may affect the preparation of the pre-qualification documents or bids, the bid inviting party or bid invitation agency shall, at least three days before the deadline for submission of pre-qualification documents or 15 days before the deadline for submission of bids, notify all prospective bidders that have obtained the pre-qualification documents or bidding documents in writing, and upload the clarification or alteration to the bidding website for archival purposes. If there are less than 3 or 15 days left, the bid inviting party or bid invitation agency shall postpone the deadline for submission of pre-qualification documents or bids accordingly. The clarification or alteration shall be a component part of the pre-qualification documents or bidding documents. For any inconsistency between the clarification or alteration and the pre-qualification announcement or bid invitation announcement, a modification announcement shall be made on the media where the original pre-qualification announcement or bid invitation announcement is published and on the bidding website. Where a clarification or alteration of the pre-qualification documents or bidding documents is made due to any objection or complaint, the previous paragraph shall apply.

**Article 30** Where a bid inviting party postpones the deadline for submission of bids, it shall, at least three days prior to the deadline set by the bidding documents for submission of bids, notify all prospective bidders that have obtained the bidding documents of the modification in writing, and publish a modification announcement on the bidding website.

**Article 31** Unless a force majeure event occurs, the bidding documents or pre-qualification documents will not be returned once issued. A bid inviting party may not terminate the bid invitation process after publishing the bid invitation announcement, sending the invitation to bid or issuing the bidding documents or pre-qualification documents.

To terminate the bid invitation process, a bid inviting party shall promptly make an announcement thereon, or notify prospective bidders that have been invited or have obtained pre-qualification documents or bidding documents in writing. If it has offered pre-qualification documents or bidding documents or has taken a bid security, the bid inviting party shall

**第二十五條** 依法必須進行招標的項目的資格預審公告和招標公告應當在符合法律規定的媒體和招標網上發布。

**第二十六條** 招標人應當確定投標人編制投標文件所需的合理時間。依法必須進行招標的項目，自招標文件開始發售之日起至投標截止之日止，不得少於20日。

招標文件的發售期不得少於5個工作日。

招標人發售的紙質招標文件和電子介質的招標文件具有同等法律效力，除另有約定的，出現不一致時以紙質招標文件為準。

**第二十七條** 招標公告規定未領購招標文件不得參加投標的，招標文件發售期截止後，購買招標文件的潛在投標人少於3個的，招標人可以依照本辦法重新招標。重新招標後潛在投標人或投標人仍少於3個的，可以依照本辦法第四十六條第二款有關規定執行。

**第二十八條** 開標前，招標人、招標機構和有關工作人員不得向他人透露已獲取招標文件的潛在投標人的名稱、數量以及可能影響公平競爭的有關招標投標的其他信息。

**第二十九條** 招標人可以對已發出的資格預審文件或者招標文件進行必要的澄清或者修改。澄清或者修改的內容可能影響資格預審申請文件或者投標文件編制的，招標人或招標機構應當在提交資格預審文件截止時間至少3日前，或者投標截止時間至少15日前，以書面形式通知所有獲取資格預審文件或者招標文件的潛在投標人，並上傳招標網存檔；不足3日或者15日的，招標人或招標機構應當順延提交資格預審申請文件或者投標文件的截止時間。該澄清或者修改內容為資格預審文件或者招標文件的組成部分。澄清或者修改的內容涉及到與資格預審公告或者招標公告內容不一致的，應當在原資格預審公告或者招標公告發布的媒體和招標網上發布變更公告。因異議或投訴處理而導致對資格預審文件或者招標文件澄清或者修改的，應當按照前款規定執行。

**第三十條** 招標人順延投標截止時間的，至少應當在招標文件要求提交投標文件的截止時間3日前，將變更時間書面通知所有獲取招標文件的潛在投標人，並在招標網上發布變更公告。

**第三十一條** 除不可抗力原因外，招標文件或者資格預審文件發出後，不予退還；招標人在發布招標公告、發出投標邀請書後或者發出招標文件或資格預審文件後不得終止招標。

招標人終止招標的，應當及時發布公告，或者以書面形式通知被邀請的或者已經獲取資格預審文件、招標文件的潛在投標人。已經發售資格預審文件、招標文件或者已經收取投標保證金的，招標人應當及時退還所收取的資格預審

promptly refund fees charged for the pre-qualification documents or bidding documents, and the bid security that has been taken plus interest calculated at the bank deposit interest rate for the same period.

#### Chapter IV Submission of Bids

**Article 32** A bidder is a legal person or other organization which responds to an invitation of bids and participates in the bidding competition.

Any legal person or other organization that has an interest relationship with the bid inviting party that may impair the fairness of the bidding may not participate in bidding. Any legal person or other organization providing consulting services in the earlier stage of the project or participating in the preparation of bidding documents upon entrustment may not participate in the bidding of the project, or prepare bids or provide consulting services for any bidder of the project.

Entities may not participate in the bidding of the same project package for which bids are invited when they are under the charge of the same person, one holds a controlling stake in another or one is in charge of the management of another, unless they have formed a consortium.

Where any of the preceding three paragraphs is violated, the bid concerned shall be invalid.

**Article 33** A bidder shall prepare bids according to the requirements of the bidding documents, and truly respond to the requirements and conditions specified in the bidding documents based on its commercial and technical capabilities. All contents of the bids shall be valid during the validity period of bids.

**Article 34** In its bids, a bidder shall provide technical support materials for the key technical terms (parameters) marked with the asterisk (“\*”).

Technical support materials shall be the printed materials publicized by the manufacturer, the testing reports issued by testing institutions, or other forms of materials as permitted by the bidding documents. Otherwise, they shall be regarded as invalid.

**Article 35** A bidder shall submit the original or a photocopy of the certificate of credit status issued by the bank with which the bidder opened the basic account within three months prior to the bid opening day.

**Article 36** If having any objection to the pre-qualification documents, a prospective bidder or any other interested party shall raise it to the bid inviting party or bid invitation agency at least two days before the deadline for submission of pre-qualification application documents, and upload the objection to the bidding website. If having any objection to the bidding documents, a prospective bidder or any other interested party shall raise it to the bid inviting party or bid invitation agency at least ten days before the deadline for submission of bids, and upload the objection to the bidding website. The bid inviting party or bid invitation agency shall give a reply within three days upon receipt of the objection, and upload the reply to the bidding website. Before a reply is given, the bidding activities shall be suspended.

**Article 37** Where the pre-qualification documents or bidding documents prepared by a bid inviting party violate the compulsory provisions of any law or administrative regulation, betray the principles of openness, fairness, equity and good faith, or affect the pre-qualification result or prospective bidders' submission of bids, if the invitation of bids is legally required for the project, the bid inviting party shall re-invite bids after amending the pre-qualification documents or bidding documents.

**Article 38** Prior to the deadline for submission of bids as set by the bidding documents, a

文件、招標文件的費用，以及所收取的投標保證金及銀行同期存款利息。

#### 第四章 投標

**第三十二條** 投標人是響應招標、參加投標競爭的法人或其他組織。

與招標人存在利害關係可能影響招標公正性的法人或其他組織不得參加投標；接受委託參與項目前期諮詢和招標文件編制的法人或其他組織不得參加受託項目的投標，也不得為該項目的投標人編制投標文件或者提供諮詢。

單位負責人為同一人或者存在控股、管理關係的不同單位，不得參加同一招標項目包投標，共同組成聯合體投標的除外。

違反前三款規定的，相關投標均無效。

**第三十三條** 投標人應當根據招標文件要求編制投標文件，並根據自己的商務能力、技術水平對招標文件提出的要求和條件在投標文件中作出真實的響應。投標文件的所有內容在投標有效期內應當有效。

**第三十四條** 投標人對加注星號（“\*”）的重要技術條款（參數）應當在投標文件中提供技術支持資料。

技術支持資料以製造商公開發布的印刷資料、檢測機構出具的檢測報告或招標文件中允許的其他形式為準，凡不符合上述要求的，應當視為無效技術支持資料。

**第三十五條** 投標人應當提供在開標日前3個月內由其開立基本賬戶的銀行開具的銀行資信證明的原件或複印件。

**第三十六條** 潛在投標人或者其他利害關係人對資格預審文件有異議的，應當在提交資格預審申請文件截止時間2日前向招標人或招標機構提出，並將異議內容上傳招標網；對招標文件有異議的，應當在投標截止時間10日前向招標人或招標機構提出，並將異議內容上傳招標網。招標人或招標機構應當自收到異議之日起3日內作出答復，並將答復內容上傳招標網；作出答復前，應當暫停招標投標活動。

**第三十七條** 招標人編制的資格預審文件、招標文件的內容違反法律、行政法規的強制性規定，違反公開、公平、公正和誠實信用原則，影響資格預審結果或者潛在投標人投標的，依法必須進行招標的項目的招標人應當在修改資格預審文件或者招標文件後重新招標。

**第三十八條** 投標人在招標文件要求的投標截止時間

bidder shall register on the bidding website free of charge. To this end, a bidder shall fill out the registration form for bid invitation and submission online and submit the registration form and the business license (photocopy) affixed with the official seal of the bidder to the bidding website. An overseas bidder shall submit a certificate (photocopy) on registration at its locality. A bidder without an official seal shall submit the registration form for bid invitation and submission signed by the person in charge of the entity. Bidders that have not completed registration on the bidding website by the deadline for submission of bids may not participate in bidding, unless they have any special reasons.

**Article 39** A bidder shall, before the deadline for submission of bids as specified in the bidding documents, deliver its bids to the bid submission place as specified in the bidding documents. A bidder may, before the deadline for submission of bids, notify the bid inviting party in writing to supplement, amend or withdraw the bids it has submitted. The supplement or amendment shall be considered a component part of the bids. A bidder may not supplement or amend its bids after the deadline for submission of bids.

**Article 40** A bidder shall pack and seal its bids according to the requirements of the bidding documents. Where a bidder submits a bid statement on change of price or any other information before the deadline for submission of bids, it shall seal the statement together with or separately from the summary sheet for bid opening, and affix an obvious mark thereon to make it convenient for announcing at the time of bid opening.

**Article 41** A bid inviting party shall refuse to accept the bids submitted by a bidder failing to pass the pre-qualification, delivered beyond the prescribed time, or not sealed according to the requirements of the bidding documents.

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前，應當在招標網免費註冊，註冊時應當在招標網在線填寫招標註冊登記表，並將由投標人加蓋公章的招標註冊登記表及工商營業執照（複印件）提交至招標網；境外投標人提交所在地登記證明材料（複印件），投標人無印章的，提交由單位負責人簽字的招標註冊登記表。投標截止時間前，投標人未在招標網完成註冊的不得參加投標，有特殊原因的除外。

**第三十九條** 投標人在招標文件要求的投標截止時間前，應當將投標文件送達招標文件規定的投標地點。投標人可以在規定的投標截止時間前書面通知招標人，對已提交的投標文件進行補充、修改或撤回。補充、修改的內容應當作為投標文件的組成部分。投標人不得在投標截止時間後對投標文件進行補充、修改。

**第四十條** 投標人應當按照招標文件要求對投標文件進行包裝和密封。投標人在投標截止時間前提交價格變更等相關內容的投標聲明的，應與開標一覽表一並或者單獨密封，並加施明顯標記，以便在開標時一並唱出。

**第四十一條** 未通過資格預審的申請人提交的投標文件，以及逾期送達或者不按照招標文件要求密封的投標文件，招標人應當拒收。

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