

Mandatory Tenders Regulations, 5753-1993

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By the power vested in me under sections 3, 4 and 7 of the Mandatory Tenders Law, 5752-1992 (hereinafter – the Law), and with the approval of the Knesset Constitution, Law and Justice Committee, I hereby make these Regulations:

Chapter A: Interpretation

Definitions
Regulations 5769-2009

1. In these Regulations –

"national priority area" – Within the meaning of section 3A(3) of the Law.

"website" –

(1) With respect to a government ministry – the website of the Government Procurement Administration in the Accountant General's Department (hereinafter – the government website).

(2) With respect to a public body other than a government ministry – the website of such public body or of several such public bodies.

"public body" – Each of the bodies enumerated in section 2(a) of the Law, excluding the defense establishment.

"labor laws" – The statutes listed in the Second Schedule to the Labor Court Law, 5729-1969, for the implementation of which the Minister of Industry, Trade and Labor is responsible, as well as the National Insurance Law [Consolidated Version]. 5755-1995.

"identification" – Connecting to an electronic system in a manner ensuring that only a particular person has logged into the system or performed actions in it.

"Accountant General" – The Accountant General in the Ministry of Finance.

"electronic bid" – A bid submitted as an electronic message to an electronic tender

* Published in [Kovetz HaTakanot 5753 No. 5523](#) of May 19, 1993, p. 826.
Amended in [Kovetz HaTakanot 5753 No. 5540](#) of August 19, 1993, p. 1066 – Regulations 5753-1993.
[Kovetz HaTakanot 5755: No. 5630](#) of October 6, 1994, p. 230 – Regulations 5755-1994. [No. 5653](#) of January 15, 1995, p. 567 – Regulations (No. 2) 5755-1995 (correction of error [No. 5660](#) of February 9, 1995, p. 716). [No. 5677](#) of April 25, 1995, p. 1378 – Regulations (No. 3) 5755-1995.
[Kovetz HaTakanot 5756: No. 5722](#) of December 14, 1995, p. 242 – Regulations 5756-1995; effective as of January 1, 1996. [No. 5748](#) of May 9, 1996, p. 832 – Regulations (No. 2) 5756-1996.
[Kovetz HaTakanot 5757 No. 5833](#) of June 3, 1997, p. 826 – Regulations 5757-1997; effective as of June 1, 1997, and see regulation 3 for transitional provision.
[Kovetz HaTakanot 5758 No. 5917](#) of August 13, 1998, p. 1105 – Regulations 5758-1998.
[Kovetz HaTakanot 5761 No. 6078](#) of January 16, 2001, p. 282 – Regulations 5761-2001; effective as of 30 days after their publication date.
[Kovetz HaTakanot 5763 No. 6262](#) of September 7, 2003, p. 1084 – Temporary Order 5763-2003.
[Kovetz HaTakanot 5767 No. 6596](#) of June 21, 2007, p. 968 – Regulations 5767-2007.
[Kovetz HaTakanot 5769: No. 6750](#) of February 9, 2009, p. 442 – Regulations 5769-2009; effective as of June 1, 2009, but see regulation 44 regarding effective date and regulations 45-47 regarding temporary orders and transitional provisions (amended in [Kovetz HaTakanot 5770 No. 6882](#) of March 25, 2010, p. 992 – Regulations (Amendment) 5770-2010; see regulation 4 regarding effective date. [Kovetz HaTakanot 5771: No. 6962](#) of January 6, 2011, p. 468 – Regulations (Amendment No. 2) 5771-2010. [No. 6977](#) of February 17, 2011, p. 702 – Regulations (Amendment No. 3) 5771-2011; effective as of January 1, 2011. [Kovetz HaTakanot 5772: No. 7069](#) of December 29, 2011, p. 504 – Temporary Order (Amendment) 5772-2011; effective as of January 1, 2012. [No. 7149](#) of August 1, 2012, p. 1549 – Temporary Order (Amendment No. 2) 5772-2012). [No. 6805](#) of August 20, 2009, p. 1244 – Temporary Order; effective as of June 1, 2009 until June 30, 2012 (amended in [Kovetz HaTakanot 5770 No. 6867](#) of February 11, 2010, p. 800 – Temporary Order (Amendment) 5770-2010; effective as of January 1, 2010. [Kovetz HaTakanot 5771 No. 6977](#) of February 17, 2011, p. 702 – Temporary Order (Amendment No. 2) 5771-2011; effective as of January 1, 2011. [Kovetz HaTakanot 5772 No. 7099](#) of March 13, 2012, p. 878 – Temporary Order (Amendment No. 3) 5772-2012; effective as of January 1, 2012).
[Kovetz HaTakanot 5772: No. 7149](#) of August 1, 2012, p. 1544 – Regulations 5772-2012; effective as of 30 days after their publication date.

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box.

"Government Appraiser" – The Chief Government Appraiser in the Ministry of Justice, or an appraiser on his behalf. In this regard, "appraiser on his behalf" – including an appraiser who is not a civil servant, chosen out of a pool of appraisers who won a tender issued by the Chief Government Appraiser in the Ministry of Justice and the Accountant General, in accordance with the Administrative Code.

"contract evaluation committee" –

(1) The members of the contract evaluation committee of a ministry, excluding the Office of the President of the State, the Knesset, the State Comptroller's Office and a public body other than a ministry, are: the Accountant General or his deputy, who shall act as chairman; the legal adviser of the Ministry of Industry, Trade and Labor or his representative; the legal adviser of the Ministry of Finance or his representative.

(2) The members of the contract evaluation committees of the Office of the President of the State, the Knesset, the State Comptroller's Office and a public body other than a ministry are, in each of them, as the case may be: the accountant or his deputy, who shall act as chairman; the legal adviser or his representative, and the head of the procurement department or his representative.

"secure electronic signature," "certified electronic signature" and "electronic message" – As defined in the Electronic Signature Law, 5761-2001.

Regulations 5772-2012

"working day" – Each of the days of the week, except for Friday and Saturday, holidays and any of the Jewish festivals listed in section 18A(a) of the Law and Administration Ordinance, 5708-1948, and the eves thereof, the intermediate days of Jewish festivals and Independence Day.

"tender" – A regular public tender, a restricted public tender or a closed tender.

"automated tender" – Within the meaning of regulation 19C.

"expedited automated tender" – Within the meaning of regulation 19E.

"dynamic automated tender" – Within the meaning of regulation 19D.

"framework tender" – Within the meaning of regulation 17F.

"central tender" – A tender held by the Accountant General for the ministries.

"closed tender" – A tender in which the invitation for bids is addressed solely to certain suppliers, pursuant to regulation 4.

"tender with two-stage evaluation" – Within the meaning of regulation 17D.

"tender with prequalification stage" – Within the meaning of regulation 17C.

"public tender" – A tender in which the invitation for bids is made in a notice to the public published in accordance with regulation 4.

"restricted public tender" – An expedited automated tender or a public tender in which negotiations are conducted with bidders in the tender.

"public tender with additional competitive process" – Within the meaning of regulation 17E.

"regular public tender" – A public tender other than a restricted public tender.

"ministry" – Any government ministry and any auxiliary unit of such ministry, excluding the Ministry of Defense.

Regulations 5772-2012

"quality score" – The score given by a tender committee to a bid, based on the criteria detailed in regulation 22(a)(2) to (6).

"minimum quality score" – A quality score specified in the tender documents as the quality score below which a bid will be rejected.

"supplier" – A supplier of goods, performer of work or provider of services.

"manpower-intensive work or services" – Guarding, security and cleaning services

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and any other field or sector as directed by the Accountant General, and with respect to a public body other than a ministry – the general manager of the public body, having regard to the directive of the Accountant General.

"Arabic-language newspaper" – An Arabic-language newspaper published daily or at least once a week, having a wide circulation.

"widely circulated newspaper" – A Hebrew-language newspaper published daily or at least once a week, having a wide circulation, taking into consideration the subject of the tender and according to the discretion of the tender committee.

"preliminary request for information" – Within the meaning of regulation 14A.

"competitive invitation for bids" – Within the meaning of regulation 5(d).

(Temporary Order)
5769-2009

"final group of bidders" – All the bidders who met the threshold conditions and achieved the minimum quality score, where such score was specified in the tender documents.

"contract value" – The sum of all the payments, including taxes, included in the contract, and *inter alia* –

(1) Any payment which a public body is required to pay to any party to a contract with it, and which that party to the contract is required by the terms of the contract to transfer to another.

Regulations 5772-2012

(2) An estimate of the sum of the payments which any third party is required to pay to any party to a contract with a public body, by virtue of the contract.

(3) An estimate of the sum of the payments, including payments as stated in paragraphs (1) or (2), included in an option of the public body under the contract.

"electronic tender box" – An automated system to which electronic bids in a tender are submitted.

"Administrative Code" – Administrative directives issued by the Accountant General.

**Tendering
Principles**
Regulations 5769-2009

1A. (a) A public body shall hold a tender or a specific invitation process pursuant to a central tender, as transparently as possible in the circumstances of the case and on a fair and equitable basis, ensuring maximum advantages for the public body.

(b) A public body that has decided to contract other than by way of a tender pursuant to these Regulations, shall conduct the processes leading to such contract as nearly as possible according to the principles specified in subregulation (a).

**Preference for
Public Tendering**
Regulations 5769-2009

1B. (a) A public body shall opt to contract by way of a regular public tender, even where it is permitted under these Regulations to contract other than by way of a regular public tender.

(b) A decision of a public body to contract by way of a restricted public tender shall be made in accordance with these Regulations, after examining the feasibility of conducting a regular public tender, and insofar as it is justified and reasonable in the circumstances of the case to contract other than by way of a regular public tender.

(c) A decision of a public body to contract by way of a closed tender shall be made in accordance with these Regulations, after examining the feasibility of conducting a public tender, and insofar as it is justified and reasonable in the circumstances of the case to contract other than by way of a public tender.

(d) A decision of a public body to contract other than by way of a tender shall be made in accordance with these Regulations, after examining the feasibility of conducting a tender, and insofar as this is justified and reasonable in the circumstances of the case.

(e) A public body shall do everything possible to prevent the contract from becoming urgent, in a manner that would necessitate contracting under an exemption from tendering in accordance with regulation 3(2) or in a manner that would necessitate holding an expedited automated tender in accordance with regulation 19E.

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Publication and Decisions Regulations 5769-2009

1C. (a) A public body that has decided to contract other than by way of a tender pursuant to these Regulations, excluding a contract under regulation 3(1), shall publish its reasoned decision on the website within five working days from the date of adoption of the decision.

(b) A public body is permitted not to publish or to partially publish its decision as stated in subregulation (a), for reasons of the State's security, its foreign relations, international trade relations or public security, or to make publication in a manner that does not disclose a professional or trade secret of the ministry.

(c) Subregulation (a) shall not apply to a government company or to a government subsidiary in actions in respect of which the Minister of Justice, with the approval of the Knesset Constitution, Law and Justice Committee, has exempted it from the application of the Freedom of Information Law, 5758-1998, under section 2(9) thereof.

Chapter B: Contracts of Ministries

Definitions

2. In this chapter –

"tender committee" – A tender committee appointed pursuant to regulation 8.

"exemption committee" – A committee appointed pursuant to regulation 11.

"ministerial exemption committee" – Within the meaning of regulation 10A.

(Temporary Order)
5769-2009

Exemption from Mandatory Tendering

3.¹ A ministry's entry into a contract for the execution of a transaction in goods or in land, for the performance of work or for the purchase of services does not require tendering, where the contract is one of the following:

Regulations 5772-2012

(1) A contract for a value of no more than NIS 50,000. However, in any consecutive period of 12 months, the ministry may not contract with a particular party, without a tender, pursuant to this paragraph, for a total sum of more than NIS 100,000, including also contracts concluded in such period as continuation contracts, as defined in paragraph (4), of a contract originally made under this paragraph.

Regulations 5769-2009
(Temporary Order)
5769-2009
Regulations 5772-2012

(2) A contract that is required urgently to prevent substantial damage, which must begin to be performed within two working days or less, on a scope and for a period as minimally required in such circumstances, where the ministerial exemption committee has given its approval thereto.

Regulations (No. 2)
5758-1995
(Temporary Order)
5769-2009

(3) A contract involving a transaction in respect of which the holding of a tender is liable to cause significant harm to the State's security, its foreign relations and economy, public security or a professional or trade secret of the ministry. If the value of the contract exceeds NIS 2,500,000 – the contract requires the approval of the Attorney General or whomever he has authorized in that regard.

(Temporary Order)
5769-2009

(4) (a) In this paragraph –

"first contract" – A contract of a ministry, including any option given to the ministry under that contract.

"expansion of first contract" – Increase in the quantity of the goods, the work, the land or the services which a supplier is to supply pursuant to a first contract.

"extension of first contract" – Extension of the term of validity of a first contract.

"continuation contract" – A contract made for the purpose of expanding or extending a first contract, other than by virtue of an option given to the ministry under the first contract.

Regulations 5772-2012

¹ See Administrative Code of the Accountant General in the Ministry of Finance regarding the adjustment of amounts, as stated in regulation 24 below.

"continuation contract at no additional cost" – A continuation contract where the value of the first contract together with the continuation contract does not exceed the value of the first contract.

(b) A continuation contract at terms identical to or more favorable than the first contract with the customer, in circumstances where it is necessary to maintain uniformity for reasons of economy and efficiency:

(1) With the approval of the tender committee, where each of the following is fulfilled:

(a) It is made during the period of the first contract or shortly thereafter.

(b) It is a continuation contract at no additional cost, or the cumulative value of all the continuation contracts made pursuant to the same first contract, including the current continuation contract, does not exceed NIS 50,000.

(2) With the approval of a ministerial exemption committee, where it is not a contract as stated in subparagraph (1)(a), or it is not a contract as stated in subparagraph (1)(b) and it fulfills each of the following:

(a) The first contract was made pursuant to a tender or pursuant to a competitive invitation for bids.

(b) The continuation contract was made within five years from when the first contract was made.

(c) The cumulative value of all the continuation contracts made pursuant to the same first contract does not exceed the value of the first contract.

(d) The cumulative value of all the continuation contracts made pursuant to the same first contract, including the current continuation contract, does not exceed NIS 2,500,000.

(e) During the 12 months before the execution of the continuation contract, no continuation contract was made pursuant to the first contract, or no continuation contract was made pursuant to another contract with the same supplier in the same matter, and the continuation contract was not split off from a first contract or from another contract with the same supplier as stated, where the reason for the split was to avoid holding a tender.

(3) With the approval of the Accountant General or whomever he has authorized in that regard, under special circumstances and for special reasons to be recorded, where it is not a contract as stated in subparagraph (1) or it does not fulfill the additional conditions according to subparagraph (2).

(Temporary Order)
5769-2009

(5) (a) A contract with a government company, as defined in regulation 3D(a), for procuring goods, work or services, regarding which the exemption committee of the ministry of the minister responsible for the government company, and with respect to the grant of a right in land by the Israel Lands Administration – the Israel Lands Council, has confirmed that it is being made pursuant to a framework agreement, as defined in regulation 3D, within the period of the framework agreement, provided each of the following is fulfilled:

(1) There is one government company with whom there is a framework agreement under which it is possible to execute the contract in accordance with this paragraph. Where there are several

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such companies – a closed tender shall be conducted among them.

(2) The government company has undertaken that its contracts with other parties, insofar as they derive from the contract with the State, shall be made by tender.

(b) A contract of a ministry other than the ministry of the minister responsible for the government company shall be made pursuant to a decision of the tender committee that was approved by the exemption committee of the ministry and by the exemption committee of the ministry of the minister responsible for the government company.

Regulations 5755-1994
(Temporary Order)
5769-2009
Regulations 5772-2012

(5a) A contract with a government company, as defined in regulation 3D(a), in which 85 percent or more of the employees are entitled under any law to a disability allowance or benefit or to an old-age pension from the National Insurance Institute, for the purchase of services or for the performance of work. If the value of the contract exceeds NIS 2,500,000 – the contract requires the approval of the Attorney General or whomever he has authorized in that regard.

(6) A contract, pursuant to a government resolution, with a corporation, for the purpose of transferring to it tasks of a government unit, together with employees or assets of that unit, where the contract is for the transfer of the employees or the assets or for the performance of those tasks, for a period to be approved by the Accountant General which may not exceed three years.

Regulations (No. 2)
5755-1995
Regulations 5758-1998
(Temporary Order)
5769-2009
Regulations 5772-2012

(7) A contract with a corporation established by or pursuant to a law, within the framework of the corporation's functions according to the law by which it was established, provided that a contract for a value of more than NIS 2,500,000 is approved by the Attorney General, and with respect to the grant of rights in land by the Israel Lands Administration – provided that the contract is approved by the exemption committee of the Israel Lands Council, and the conditions set out in subparagraphs (1) and (2) of paragraph (5)(a) are fulfilled, *mutatis mutandis*.

(8) A contract of an auxiliary unit regarding which the Minister of Finance has determined that its contracts are exempt from mandatory tendering –

(a) For reasons of the State's security or its foreign relations – with the approval of the Knesset Foreign Affairs and Defense Committee.

(b) For other special reasons – with the approval of the Knesset Constitution, Law and Justice Committee.

Regulations 5769-2009
Regulations 5769-2009

(9) (Deleted).

(10) A contract for the marketing of agricultural produce the production of which derives from agricultural research conducted at the government's initiative. Such a contract shall be made, to the extent possible, following a process of examination of several viable proposals, provided that this is given expression in a public publication.

Regulations 5753-1993
Regulations (No. 2)
5755-1995
Regulations 5758-1998

(11) A contract for the purchase of special services or goods related to culture, art, entertainment or lifestyle.

Regulations (No. 2)
5755-1995
Regulations 5758-1998
Regulations 5769-2009

(12) A contract of the Government Press Office for advertising on any media. Such a contract shall be made, to the extent possible, following an examination of several viable proposals.

Regulations 5753-1993

(13) (a) A contract for the purchase of special medications, serums or vaccines.

Regulations 5769-2009

(b) (Deleted).

Regulations 5758-1998
Regulations 5769-2009

(c) A contract for the purchase of animals with special characteristics, for purposes of research, instruction or veterinary medicine.

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- Regulations 5772-2012 (14) A contract involving a transaction for the provision or receipt of a credit facility, investment of funds, receipt of banking services, sale or purchase of securities, or other actions in the capital market, provided that the Accountant General or whomever he has authorized has given his approval.
- Regulations 5772-2012 (14a) A contract for the sale of rights in land of a protected tenant under the Tenants Protection Law [Consolidated Version], 5732-1972, as well as a contract for the purchase of rights in land where the specific piece of land is required for the ministry's use due to any of the following:
- (a) Its particular location or another special characteristic.
 - (b) An urgent need for reasons of public security or health or for the advancement of public goals, based on a reasoned decision, on a scope and for a period as minimally required in the circumstances of the case.
 - (c) A need for continued occupancy of the land, where relocating from the land would have significant economic implications, provided that the total period of all the contracts exempted from tendering with respect to a particular piece of land does not exceed 25 years. However, the Accountant General may, based on a reasoned decision, approve such a contract even if the total of all such periods exceeds 25 years.
- Regulations (No. 3) 5755-1995
Regulations (No. 2) 5756-1996
Regulations 5761-2001
Regulations 5769-2009 (14b) A contract for the grant of ownership or leasehold rights in an apartment serving for dwelling, to an occupant of the apartment who is entitled to housing assistance based on the eligibility rules of the Ministry of Construction and Housing, provided that he has actually been residing in the apartment for at least two years, and with respect to national priority areas – provided that he has actually been residing in the apartment for at least one year, where the contract is made according to one of the following:
- (1) At a price being no less than the price set by a land appraiser, but no more than NIS 825,000.
 - (2) At a price greater than NIS 825,000, being the average between two determinations of land appraisers.
 - (3) According to a table of discounts as published and issued by the Ministry of Construction and Housing and the Ministry of Finance.
- Regulations (No. 2) 5756-1996 For purposes of this paragraph, "national priority areas" – within the meaning of the Mandatory Tenders Regulations (Preference for Products from National Priority Areas), 5755-1995.
- Regulations 5772-2012 (14c) A contract for the grant of a right in land, made in order to secure the State's rights in the land, based on a reasoned decision, with the approval of the Accountant General, on a scope and for a period as minimally required in the circumstances of the case.
- Regulations 5769-2009 (15) (Deleted).
- (16) A contract with a local authority for the receipt of services within the framework of the authority's functions by law.
- Regulations 5769-2009 (17) (Deleted).
- Regulations (No. 2) 5755-1995
(Temporary Order) 5769-2009
Regulations (No. 2) 5755-1995 (18) A contract for the implementation of public goals with the Jewish National Fund or Joint Distribution Committee in Israel (hereinafter – national institution), or a corporation controlled by the Joint Distribution Committee in Israel, provided each of the following is fulfilled:
- (a) The national institution funds 25 percent or more of the value of the contract, and with respect to a corporation controlled by the Joint Distribution Committee in Israel – 50 percent or more of the value of the contract, based on market prices, from sources outside the state budget.
 - (b) The national institution or the corporation controlled by the Joint
- Regulations (No. 2)

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- 5755-1995
Regulations 5772-2012
- Distribution Committee in Israel have undertaken that their contracts with other parties, insofar as they derive from the contract with the State, shall be made by public tender, except where the conditions specified in this regulation and in regulations 4 and 5 are fulfilled, and if they are fulfilled – the contracts shall be made in accordance with those regulations, as the case may be. In this paragraph, "control" – within the meaning of the Securities Law, 5728-1968.
- If the value of the contract exceeds NIS 2,500,000 – the contract requires the approval of the Attorney General or whomever he has authorized in that regard.
- Regulations (No. 2)
5755-1995
- (19) (a) A contract with the Jewish Agency or with the World Zionist Organization for the implementation of public goals including the establishment, consolidation or expansion of community, rural or agricultural settlements.
- Regulations (No. 2)
5755-1995
- (b) A contract with Keren Hayesod – United Jewish Appeal for Israel, with the United Jewish Appeal for Israel or with the United Jewish Appeal for Israel in Canada, for the implementation of public goals.
- Regulations 5755-1998
- (c) A contract for the implementation of public goals with foundations and institutions controlled exclusively by the Jewish Agency, the World Zionist Organization or Keren Hayesod – United Jewish Appeal for Israel. In this regard, "foundations and institutions" – according to the definition of "foundations and other institutions of the Jewish Agency" in the annex to the covenant signed between the Government of Israel and the World Zionist Organization, excluding the Jewish National Fund and the corporations controlled by it.
- Regulations 5772-2012
- (20) A contract for the purchase of operational equipment for the Israel Police, the Firefighting and Rescue Commission or the Witness Protection Authority, or another contract in respect of which the holding of a tender is liable to adversely affect the operating methods or the work methods of the Israel Police, the Firefighting and Rescue Commission or the Witness Protection Authority or to otherwise harm their operational activity, provided that the Inspector General of the Israel Police, the Firefighting and Rescue Commissioner or the Director General of the Ministry of Public Security, as the case may be, has given his approval. In this paragraph, in paragraph (20a) and in paragraph (32), "Israel Police" – including the Prisons Service and the Court Guard within the Courts Administration, and in the case of a contract of the Prisons Service or the Court Guard, "Inspector General of the Police" shall read "Commissioner of the Prisons Service or Director of the Courts, as the case may be." The Firefighting and Rescue Commissioner shall report to the Accountant General on contracts made pursuant to this paragraph.
- Regulations 5769-2009
- (20a) A contract of the Israel Police with a supplier of the defense establishment chosen in accordance with the Mandatory Tenders Regulations (Defense Establishment Contracts), 5753-1993, at terms identical to or more favorable than the terms set in the contract with the defense establishment, provided that the contract was approved by the Accountant General or whomever he has authorized in that regard, and he may approve in advance such contracts for the purchase of goods, work or service and having characteristics as directed by him.
- Regulations 5769-2009
- (21) (Deleted).
- (22) A contract with a person who is not a civil servant, for the appointment of medical experts, medical committees or committees for determining disability percentages.
- Regulations 5769-2009
- (23) (Deleted).
- Regulations 5769-2009
- (24) (Deleted).
- (25) A contract which is to be implemented in a foreign country, for the

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preparation of coins or bills that are legal tender in the State of Israel, the printing thereof or the transport thereof from the foreign country.

Regulations 5769-2009

(26) (Deleted).

Regulations 5769-2009

(27) (Deleted).

Regulations (No. 2)
5755-1995

Regulations 5769-2009

(28)² A contract involving special and rare circumstances that justify making it without a tender, provided that the exemption committee, and with respect to the grant of rights in land by the Israel Lands Administration – the exemption committee of the Israel Lands Council, with the approval of the Minister of Finance, has decided, for special reasons to be recorded, to exempt it from mandatory tendering.

Regulations 5769-2009

(Temporary Order)

5769-2009

(29) A contract with a person who by legal right or based on the actual state of affairs is the only one able to implement the subject of the contract (in these Regulations – solitary supplier), following a check for the existence of suppliers as provided in regulation 3A(a).

Regulations 5758-1998

Regulations 5769-2009

Regulations 5772-2012

(30) A contract for the implementation of a project which is to operate on a nonprofit basis for purposes of education, culture, religion, science, art, welfare, health, sports, settlement, immigration, research or a similar purpose, following a check for the existence of such projects as provided in regulation 3B and subject to the conditions specified therein, provided the following two are fulfilled:

Regulations 5772-2012

(a) The contract is being made with someone who is donating from his own resources no less than one-half of the cost of implementation of the project.

Regulations 5772-2012

(b) Contracts with other parties, insofar as they derive from the contract with the ministry, shall be made by tender, provided that they are not exempt from tendering under these Regulations.

Regulations 5769-2009

(31) A contract involving a transaction with a resident of a foreign country or a contract involving a transaction which is to be implemented in a foreign country (in these Regulations – foreign supplier), where such contract is one of the following:

(Temporary Order)

5769-2009

Regulations 5772-2012

(a) A transaction for the purchase of goods or services regarding which the head of the procuring entity has stated his opinion that, to the best of his knowledge, goods or services of the required kind are not to be found in Israel (in these Regulations – foreign goods), following a check for the existence of suppliers as provided in regulation 3A(a). If the value of the contract exceeds NIS 2,500,000 – the contract requires the approval of the Attorney General or whomever he has authorized in that regard.

Regulations 5772-2012

(b) A contract of a representative office or branch of the ministry in a foreign country, for its own uses. The tender committee shall conclude a contract as stated in this paragraph following an examination of several viable proposals, according to instructions to be issued by the Accountant General. The reasons for the decision shall be recorded in minutes.

Regulations 5769-2009

(32) A contract of the Israel Police with the owner of a unique and innovative concept (in these Regulations – owner of a concept), for the examination of the concept or the preliminary development of a security product, following a check for the existence of suppliers as provided in regulation 3A(b), with the approval of the director general of the ministry and the Accountant General.

Regulations 5772-2012

(33) A contract of an auxiliary unit whose main occupation is scientific research, for the execution of a transaction in goods, for the performance of

² Regarding contracts as of January 6, 2011 until January 1, 2012 for the rehabilitation of the North following the damages from the Carmel fire, see [Kovetz HaTakanot 5771 No. 6962](#) of January 6, 2011, p. 468.

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work or for the purchase of services, where the contract involves the purchase of scientific instruments, scientific literature, scientific equipment and services essential for research (in this paragraph – inputs), which are required to maintain the credibility, uniformity or continuity of the research, provided that it was concluded according to rules established by the legal adviser and the accountant of the auxiliary unit which were approved by the Accountant General, and that the value of such contract does not exceed NIS 500,000.

Regulations 5772-2012

(34) A contract of an auxiliary unit whose main occupation is scientific research, for cooperation in the areas of research, development and instruction, provided that such contract with a for-profit corporation is made, to the extent possible, following an examination of several viable alternatives.

Check for the Existence of Suppliers

Regulations 5769-2009
Regulations 5772-2012

3A. (a) (1) Where a procuring entity wishes to contract with a solitary supplier, pursuant to regulation 3(29), or with a foreign supplier for the purchase of foreign goods or foreign services, pursuant to regulation 3(31), said procuring entity shall submit to the tender committee a request for approval after it has done each of the following:

(a) The competent professional authority in the ministry gave his written opinion regarding the contract that the contracting party is a solitary supplier or that the goods or services are foreign goods or foreign services.

Regulations 5772-2012

(b) It published on the website, for a period of at least ten working days, and sent to every subscriber to the mailing list under regulation 15(e) –

(1) Notice of its intention to contract with someone who, in its opinion, is a solitary supplier, or with a foreign supplier for the purchase of foreign goods, as the case may be, and the main points of the contract.

(2) The opinion under subparagraph (a) or the main points thereof.

(3) Notice of the possibility of applying to it as stated in paragraph (a)(2), and the period during which such application can be made.

Regulations 5772-2012

(2) A person who believes there is another supplier who is able to perform the contract may apply to the procuring entity, within the period set by it, being not less than 14 working days, starting from the date of publication of the notice, and notify it that there is another supplier, or a local supplier, as the case may be, who is able to perform the contract.

(3) If a person has applied to the procuring entity within the period set as stated in paragraph (2), the competent professional authority in the ministry shall give his opinion on such application.

(4) The procuring entity shall attach to its request to contract with a solitary supplier or with a foreign supplier for the purchase of foreign goods, as the case may be, the opinion referred to in paragraph (1)(a), the applications received as stated in paragraph (2), and the opinion given thereon as stated in paragraph (3).

(5) The tender committee shall send a copy of its decision to any person who applied to the procuring entity as stated in paragraph (2).

Regulations 5772-2012

(a1) The Accountant General may check and determine the existence of suppliers pursuant to subregulation (a) for subjects and for types of contracts as determined by him and for a period as determined by him, which may not exceed one year. Where such a check was made, this shall obviate the duty of the procuring entity to conduct a similar process itself.

Regulations 5772-2012

(b) (1) Where a unit of the Israel Police wishes to contract with the owner of a concept pursuant to regulation 3(32), the procuring unit shall submit to the tender committee a request for approval after it has published on the website, for a period of at least 15 working days, and sent to every subscriber to the mailing list under regulation 15(e), notice of –

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(a) Its intention to contract with the owner of the innovative concept, and the main points of the contract.

(b) The possibility of applying to it as stated in paragraph (a)(2), and the period during which such application can be made, being no less than 15 working days.

(2) A person who believes he is the owner of a concept with a result similar to that of the owner of the concept or that the concept is not unique and innovative, may apply to the procuring unit, within the period set by it, being not less than 15 working days, starting from the date of publication of the notice, and notify it as stated.

(3) If a person has applied to the procuring unit within the period set as stated in paragraph (2), the competent professional authority in the ministry shall give his opinion on such application.

(4) The procuring unit shall attach to its request to the tender committee to contract with the owner of a concept the applications received as stated in paragraph (2), and the opinion given thereon.

(5) The tender committee shall send a copy of its decision to any person who applied to the procuring unit as stated in paragraph (2).

(c) A ministerial exemption committee may, for special reasons to be recorded, approve a contract with a solitary supplier, with a foreign supplier or with an owner of a concept, without the publication of a notice as stated in this regulation or without the fulfillment of one of the conditions relating to such publication, provided that it reported its decision to the exemption committee. If the value of the contract exceeds NIS 1,000,000 – the contract requires the approval of the exemption committee.

Temporary Order
5769-2009

**Check for the
Existence of
Projects**
Regulations 5772-2012

3B. (a) Where a procuring entity wishes to enter into a contract for the implementation of a project pursuant to regulation 3(30), such procuring entity shall submit a request to the tender committee which shall consider the request in accordance with instructions to be issued by the Accountant General.

(b) If the tender committee decides that the request is for the purchase of services and not for support, it shall publish its decision on the website, prior to the conclusion of the contract, for a period of no less than 14 working days, and it shall send to every subscriber to the mailing list under regulation 15(e) –

(1) Notice of its intention to enter into a contract for the implementation of a joint project, and the main points of the contract.

(2) The reasons for its decision and the fact that a contract and not support is involved.

(3) Notice of the possibility of applying to it as stated in subregulation (c).

(c) A person who wishes to implement a project similar to the project in respect of which a notice was published as stated in subregulation (b), may apply to the tender committee within the period set in subregulation (b). The tender committee shall consider the applications received by it, having regard to the provisions of subregulation (a), after which it shall reach a decision.

(d) The tender committee shall send a copy of its decision to any person who applied to the committee as stated in subregulation (c).

Exercise of Option
Regulations 5769-2009
Regulations 5772-2012

3C. (a) A contract for the exercise of an option of a ministry that is included in a contract requires the approval of the tender committee.

(b) (Repealed).

**Framework Contract
with a Government
Company**
(Temporary Order)

3D. (a) In this regulation and in regulation 3(5) –
"government company" – A government company, including a government subsidiary or a mixed company, as these terms are defined in the Government Companies Law, 5735-

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1975, or another corporation as stated in section 60 of said law, provided that the shareholders of the mixed company comprise solely the State and public bodies. In this regard, "public body" – any corporation whose articles or the law or statute by which it was formed designate public purposes as detailed in the Schedule pursuant to section 345A of the Companies Law, 5759-1999.

"Forum of Directors General" – A forum whose members are the Director General of the Prime Minister's Office, the Director General of the Ministry of Finance, the Accountant General and the Director of the Government Companies Authority.

(b) A government ministry may conclude a framework contract with a government company, if the following two are fulfilled:

(1) The Forum of Directors General, having regard to the principles of equality, transparency, integrity and economy, while minimizing the harm to existing competition and to the possibility of developing competition in the different areas, has determined one of the following:

(a) That the government company, based on its founding documents and in accordance with the government resolution by which it was formed, constitutes an executive arm for direct and defined tasks of the government in areas of activity in which the government company has no competition or in areas of activity which are inseparably connected to a core activity of the government company in which it has no competition.

(b) The government company, based on its founding documents and in accordance with the government resolution by which it was formed, constitutes an executive arm of the government in management areas, and there are special circumstances due to which operating through it is essential for the optimal realization of the government's policy goals.

(c) A framework contract shall be concluded as follows:

(1) The director general of the ministry of the minister responsible for the government company, in coordination with the Director General of the Ministry of Finance, the Director of the Government Companies Authority and the Accountant General shall formulate principles for a framework agreement that *inter alia* delineate the agreement in terms of financial scope, period and areas of activity.

(2) The principles of a framework agreement with a government company as stated in subregulation (b)(1)(b) shall be published on the website.

(3) The principles of the framework agreement shall be submitted for approval to a committee of ministers to be authorized by the government in that regard, which shall be headed by the Minister of Finance. A meeting of the committee of ministers to approve the principles of a framework agreement with a government company, as provided in subregulation (b)(1)(b), shall be held no earlier than 14 days after the publication of the principles of the agreement on the website, in accordance with subparagraph (2).

(4) The ministry of the minister responsible for the government company shall conclude a framework agreement in accordance with the framework agreement principles approved as stated in paragraph (3), after the ministerial exemption committee has confirmed that it conforms to those principles. The framework agreement shall include, in addition to the principles provided for in paragraph (1), control and supervision mechanisms in connection with the company's activity for the implementation of the framework agreement. The framework agreement shall be published on the website.

Closed Tender
Regulations (No. 2)
5755-1995

4. A ministry's entry into a contract for the execution of a transaction in goods or in land, for the performance of work or for the purchase of services does not require a public tender but only a closed tender, where the contract is one of the following:

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- Regulations 5769-2009 (1) (Deleted).
- Regulations 5769-2009
Regulations 5772-2012 (2) A contract for the purchase of goods or services with special features and uncommon characteristics, including medical equipment, medications, serums or vaccines, a transaction involving insurance and a transaction involving advertising or public relations, having features and characteristics as stated, provided that there are a limited number of potentially suitable suppliers for that contract, and all such suppliers shall be deemed as the list of bidders for a closed tender and regulation 16(d) and (e) shall apply *mutatis mutandis*.
- Regulations 5769-2009 (3) (Deleted).
- Regulations 5769-2009 (4) (Deleted).
- Regulations 5769-2009 (5) (Deleted).
- (Temporary Order)
5769-2009 (6) A contract involving research and development.
- Regulations 5769-2009 (7) A contract as stated in regulation 3(5)(a)(2).
- Regulations 5769-2009 (8) A contract involving a transaction in respect of which the publication of a public tender is liable to harm the State's security, its foreign relations or public security.
- Regulations 5769-2009
Regulations 5772-2012 (9) A contract with a disabled veteran of the Israel Defense Forces for the management of a cafeteria in the ministry, according to a list of bidders recommended by the Rehabilitation Department of the Ministry of Defense, and such list shall be deemed as the list of bidders for a closed tender and regulation 16(d) shall apply *mutatis mutandis*.
- Contract with a Specialist**
- Regulations (No. s)
5755-1995
5. (a) A ministry's entry into a contract for the execution of work or for the purchase of services does not require tendering, where the contract is one of the following:
- (1) A contract for the performance of professional work requiring special knowledge and expertise in the professions of planning, design, graphics, engineering, architecture, surveying or real estate appraisal, excluding a contract with an architect for the planning of a public structure the planning of which is of public-architectural interest.
- (2) A contract for the performance of work requiring special relations of trust, including advocacy, accountancy, arbitration, consultancy or research.
- (3) A contract for the performance of scientific or literary work.
- (4) A contract in the field of acquisition of education or vocational training.
- Regulations (No. 2)
5755-1995 (b) A tender for contracting with an architect for the planning of a public building, the planning of which is of public-architectural interest, may be held according to procedures and rules as determined by the tender committee, notwithstanding that stated in these Regulations.
- Regulations (No. 2)
5755-1995
Regulations 5761-2001
(Temporary Order)
5769-2009
Regulations 5772-2012 (c) (1) A contract as stated in subregulation (a) shall be made, insofar as possible, by way of a competitive invitation for bids, in accordance with subregulation (d).
- (2) Where the tender committee has determined, after considering the possibility of contracting by way of a competitive invitation for bids, that in the circumstances of the case it is not possible or justified to do so, the tender committee shall make the contract following an examination of several viable bids, as stated in subregulation (e).
- (3) A determination of the tender committee as stated in paragraph (2) –
- (a) shall, where there is a bidders list of the ministry in that regard, be made for special reasons to be recorded;
- (b) shall, where there is a bidders list of the Accountant General, be made for special reasons to be recorded and with the approval of the ministerial exemption committee.

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- Regulations 5772-2012
- (4) This subregulation shall not apply to a contract with an expert chosen by a minister for the purpose of appointing him as the chairman or as a member of a public committee, or to a contract with an arbitrator appointed to decide a dispute with a third party, a mediator or a court-appointed expert, provided that the expert, the arbitrator or the mediator is clearly possessed of qualifications, experience and a reputation in his field.
- (Temporary Order)
5769-2009
- (d) A competitive invitation for bids shall be conducted as follows:
- (1) The tender committee shall examine several viable bids from the list of bidders, in accordance with regulation 16, based on criteria as provided in regulation 22, including the price of the bid. A competitive invitation for bids may be conducted as a two-stage evaluation process in accordance with the provisions of regulation 17D.
- Regulations 5772-2012
- (2) If pursuant to the invitation for bids fewer than three bids have been submitted, the tender committee shall not open the bids but shall return them to the bidders and issue another invitation to all the bidders who were originally approached or to all the bidders who responded to the first invitation, as decided by the tender committee, as well as to at least another five bidders or to all the bidders in the list of bidders for that type of contract, according to the lower number. The tender committee is permitted not to issue another invitation, if the original invitation was issued to at least ten suppliers, or with the approval of the ministerial exemption committee, if it considers this purposeless in the circumstances of the case.
- (Temporary Order)
5769-2009
- (e) An examination of several viable bids shall be conducted as follows
- (1) The tender committee shall conduct an invitation for bids process, insofar as possible, in a round, in a manner that is fair and confers maximum advantage on the ministry.
- (2) The invitation shall provide details of all or any of the criteria listed in regulation 22, on the basis of which the winning bid is to be chosen.
- (Temporary Order)
5769-2009
- (f) (1) The tender committee may conclude a framework agreement with a specialist, as stated in subregulation (a), other than by tender, if such agreement is made pursuant to a competitive invitation for bids and it fulfills each of the following:
- (a) The agreement is for a cumulative period of no more than five years and for a cumulative contract value of no more than NIS 4,000,000.
- (b) The agreement is made in respect of defined areas of activity.
- In this regard, "cumulative period" and "cumulative contract value" – including any option and any time extension under regulation 3(4).
- (2) Any procurement of work or services under the framework agreement shall be reported by the procuring entity to the tender committee.
- Contract with Planners**
(Temporary Order)
5769-2009
- 5A.** (a) In this regulation, "planner" – a professional in the field of planning, being one of the following: architect, engineer, planner, consultant, project manager, inspector, real estate appraiser and surveyor.
- (b) Notwithstanding that stated in regulation 5, a ministry's entry into a contract with a planner for the performance of professional work requiring special knowledge and expertise in the field of planning shall be done in the following manner:
- (1) For a contract value of up to NIS 1.5 million – by way of selection from a pool of planners and based on criteria as stated in regulation 22, excluding subregulation (a)(1) thereof.
- (2) For a contract value between NIS 1.5 million and NIS 3 million or for an undefined project – by way of a competitive invitation for bids.
- (3) For a contract value of NIS 3 million and up – by way of a public tender.

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- (c) (1) In any contract as stated in subregulation (b)(2) and (3) it shall be determined that 80 percent of the score for the bids submitted shall be awarded for the criteria set out in regulation 22(a)(2) to (5), and 20% of the score shall be awarded for the criterion specified in regulation 22(a)(1).

(2) Bids that deviate by more than 15 percent from the median bid price, where at least five bids have been submitted, shall be disqualified, provided that one-half of the valid bids submitted in the tender have not been disqualified.

Preliminary Conditions for Participation in a Tender

Regulations 5753-1993

- 6.** (a) Participation in a tender shall be subject to the following conditions:
- (1) Registration in any register maintained by law that is relevant to the subject of the contract, as well as the existence of the licenses required by law.
- (2) If an official Israeli standard, within the meaning of the Standards Law, 5713-1953, exists for the subject of the contract – compliance with the requirements of the standard.
- (3) The existence of all the approvals required under the Public Bodies Transactions Law, 5736-1976.
- (4) In a tender for the purchase of manpower-intensive work or services – provision of a written affidavit of the bidder and the holders of control therein regarding the bidder's compliance with the duties relating to the preservation of employee rights under the labor laws, the extension orders and the collective agreements applying to the bidder as an employer for purposes of providing the work or the services. In this regard:
- "holder of control" – As defined in regulation 6A(a)(2).
- "written affidavit" – Within the meaning of Title A in Chapter B of the Evidence Ordinance [New Version] 5731-1971.

Regulations 5769-2009
Regulations 5772-2012

Regulations 5769-2009
Regulations 5772-2012

(b) Participation in a tender may be made subject to other pertinent conditions, including conditions relating to the experience of the party interested in participating in the tender, its qualifications, the scope of its activity, compliance with the requirements of any unofficial Israeli standard, the importance of the place where its business is carried on, and the availability of recommendations about it.

Conditions for Rejection of a Bid

Regulations 5769-2009

6A. (a) Without derogating from the generality of that stated in these Regulations, in a tender for the purchase of manpower-intensive work or services, the tender committee shall disqualify a bid that fulfills one of the following:

(1) The bidder or any holder of control therein was convicted, during the three years prior to the deadline for the submission of bids in the tender, of a violation of the labor laws.

(2) The bidder or any holder of control therein was fined by a labor inspector under section 5 of the Administrative Offenses Law, 5746-1985, in the year prior to the deadline for the submission of bids in the tender, more than twice for violations of the labor laws. For purposes of this subregulation, "holder of control" – within the meaning of the Banking (Licensing) Law, 5741-1981.

(b) Notwithstanding the provisions of subregulation (a), a tender committee may decide, for special reasons to be recorded, not to disqualify a bid in a tender, even if it fulfills one of the above conditions. When so deciding the committee may take into account, *inter alia*, the bidder's conduct in general with respect to the preservation of employee rights, as well as the ratio between the scope of the bidder's activity in respect of which it was convicted or fined due to a violation of the labor laws and the overall scope of its activity.

Negotiations with Bidders in a Tender

7. (a) A ministry may enter into a contract for the execution of a transaction in goods or in land, for the performance of work or for the purchase of services by way of negotiations with the contenders in the tender whose bids were found suitable, where the contract is one of the following:

(1) A contract for the implementation of a project of special technological

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complexity, or a project requiring significant financial strength.

(2) A contract for the implementation of a combined project of construction and a transaction for the purchase of rights in land.

Regulations 5769-2009

(3) A contract as specified in paragraphs (6) and (7) of regulation 4.

Regulations (No. 2)
5755-1995

(4) A contract as specified in paragraphs (14) or (14a) or in regulation 3.

Regulations 5769-2009

Regulations (No. 2)
5755-1995

(5) A contract for the purchase of a right in land for the ministry's use.

Regulations 5769-2009

(6) A contract as specified in regulation 5(a).

Regulations 5769-2009
Regulations 5772-2012

(7) A contract for the purchase of goods or services with special features and uncommon characteristics, including medical equipment, medications, serums or vaccines, a transaction involving insurance and a transaction involving advertising or public relations, having features and characteristics as stated.

Regulations 5769-2009

(b) A decision of the tender committee regarding the conduct of negotiations, including the possibility of not conducting negotiations pursuant to subregulation (e), requires notification in the tender documents, and in a public tender – also publication in the notice regarding the holding of the public tender, as stated in regulation 15.

Regulations 5769-2009

(c) The tender committee shall conduct a tender in accordance with this regulation as follows:

(1) The tender committee shall determine the final group of bidders.

(2) The tender committee shall hold negotiations with every bidder in the final group of bidders, giving a fair opportunity to all the bidders with whom it negotiates, as detailed below:

(a) In a manner ensuring the writing of minutes that reflect the content of the negotiations.

(b) In the presence of the legal adviser who is a member of the committee, or his representative.

(c) Without there being any contact between a member of the tender committee or anyone on his behalf and any of the bidders, except by way of documented negotiations.

(3) Any action done in the framework of the negotiations, including the application to the bidder, any exchange of words and documents and the contents of the negotiations, shall be recorded in minutes.

(4) At the conclusion of the negotiations, every bidder in the final group of bidders shall be entitled, on a date to be determined by the tender committee, to submit a final bid to the tender box. If a bidder does not submit an additional bid, its first bid shall be the final one.

(5) Following the submission of the final bids, no further negotiations shall be conducted with the bidders.

(6) The tender committee shall examine all the bidders' bids, including their first bids, and shall reach a decision in accordance with regulation 21.

Regulations 5769-2009

(d) If the final group of bidders includes only one bidder –

(1) The tender committee may –

(a) conduct negotiations with the bidder, and it may decide that the bidder shall not be required to submit a final bid to the tender box but shall submit it in writing in a manner as determined by it;

(b) decide not to negotiate with the bidder.

(2) Regulation 23 shall apply.

Regulations 5769-2009

(e) The tender committee may decide not to conduct negotiations with the bidders,

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upon the fulfillment of one of the following:

- (1) Negotiations have not begun with any of the bidders.
- (2) All the bidders have agreed to waive negotiations.

Regulations 5769-2009

(f) The tender committee may decide not to accept an additional bid following the conduct of negotiations with all the bidders, if all the bidders have agreed to waive the submission of such a bid.

Tender Committee
Regulations 5769-2009

8. (a) (1) A director general of a ministry may appoint on behalf of the ministry, from among its employees, one tender committee or more, whose members shall be:

- (a) The director general of the ministry, or whomever he has appointed as his representative, who shall be the chairman of the committee.
- (b) The ministry's accountant or whomever he has appointed as his representative.
- (c) The ministry's legal adviser or a lawyer whom he has appointed as his representative.
- (d) Another two members to be appointed by the director general, where he has decided to do so, and he may, in exceptional cases, appoint them from outside the ministry's employees, if he considers this necessary in the circumstances of the case, provided that he has explained his decision in writing.

(2) The ministry's director general, its legal adviser and its accountant may each appoint a substitute for themselves or for their representative. The director general may appoint a substitute for whoever has been appointed as stated in paragraph (1)(d).

(3) Where the director general has appointed more than one tender committee, he shall determine the division of responsibilities between them.

(b) The minister, or the head of an auxiliary unit if he has so been authorized by the minister, may appoint one tender committee or more for an auxiliary unit that is not subordinate to the director general. The composition of the tender committee shall be as stated in subregulation (a), *mutatis mutandis*.

(c) The minister, or the director general if he has so been authorized by the minister, may appoint a separate tender committee for a unit in his ministry, where the scope or nature of its activity justifies this. The composition of the tender committee shall be as stated in subregulation (a), *mutatis mutandis*.

(d) The Accountant General may appoint separate interministerial tender committees for subjects which are common to several ministries. Such a committee shall be headed by the Accountant General or his deputy, and its members shall include the directors general of the relevant ministries, the legal adviser of each of the relevant ministries, the accountant of one of said ministries, or the representative of each of the above³.

(e) The Accountant General may appoint a special tender committee for central tenders or for special matters. The committee shall be headed by the Accountant General or his representative, and its members shall include an additional representative of the Accountant General as well as the legal adviser of the Ministry of Finance or his representative.

**Functions of the
Tender Committee**
Regulations 5769-2009

8A. (a) The functions of the tender committee are as follows:

- (1) To decide on any contract for the execution of a transaction in goods or in land, for the performance of work or for the purchase of services, made by a

³ Regarding contracts as of January 6, 2011 until January 1, 2012 for the rehabilitation of the North following the damages from the Carmel fire, see [Kovetz HaTakanot 5771 No. 6962](#) of January 6, 2011, p. 468.

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ministry or a unit in a ministry, excluding a contract as stated in regulation 3(1), (2) and (8).

(2) To decide on a preliminary request for information process and to conduct such a process, in accordance with regulation 14A.

(3) To decide on the type of tender, in accordance with regulations 17B to 17F and 19C to 19E.

(4) To decide on the holding of a tender and to approve the tender documents.

(5) To examine bids that were submitted in the tender or pursuant to an invitation for bids, to disqualify or reject a bid so submitted, to invite a bidder to clarify details of its bid and other details required by it for a decision and to choose the most suitable bid, or to choose several suitable bids, or to decide not to choose any bid at all, all as provided in these Regulations.

(6) To conduct negotiations with bidders in a tender, in accordance with regulation 7.

(7) To classify a contract as provided in regulation 9.

(8) To decide on the forfeiture of a tender guarantee, as provided in regulation 16B.

(9) To decide on the exercise of an option of a ministry that is included in a contract, in accordance with regulation 3C.

(10) To consult with someone who is not a member of the tender committee, including someone who is not an employee of the tender holder.

(11) To approve a material change in the terms of a contract that was concluded pursuant to a tender.

(12) To take any decision as required for the performance of its functions.

(13) Any other function assigned to it under these Regulations and in accordance with any statute.

(b) The tender committee may not delegate its functions under subregulation (a)(1) to (12), however it may appoint a subcommittee to present to it a recommendation on any of said subjects, and it is permissible for all or any of the members of the subcommittee not to be members of the tender committee.

**Classification of
Contracts**
Regulations 5769-2009

9. (a) (1) A ministry or a unit in a ministry that wishes to enter into contract other than by way of a regular public tender, shall submit a request to the tender committee. This provision shall not apply to a contract as stated in regulation 3(1), (2) and (8).

(2) Where the tender committee has decided to approve entry into a contract other than by way of a regular public tender, it shall classify the contract in accordance with regulations 3, 4, 5, 7 or 19E.

(3) The tender committee shall consider a request as stated in paragraph (1), having regard to the provisions of regulation 1B, and where it has decided as stated in paragraph (2), it shall explain the decision and the classification, having regard to the provisions of said regulation.

Regulations (No. 2)
5755-1995

(b) The tender committee may make an approval under subregulation (a) subject to conditions, including as to a requirement to publish publicly or otherwise the process of selection of the contracting party and as to the conduct of negotiations in the framework of said process.

**Work of a Tender
Committee**
Regulations (No. 2)
5755-1995
Regulations 5769-2009

10. (a) Resolutions of the tender committee shall be carried by a majority of the votes of the committee's members, they shall be reasoned and they shall be recorded in minutes to be signed by the members of the committee present at the meeting. A quorum at meetings of a tender committee shall be a majority of the members of the committee, provided that those listed in regulation 8(a)(1)(a) to (c) are present at any meeting.

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(b) The position of the legal adviser, or his representative on the committee, shall determine in legal matters. The position of the accountant, or his representative on the committee, shall determine in budgetary matters.

Regulations 5769-2009

(c) If a member of the tender committee, his relative, or a corporation in which he holds an interest, or an adviser, or a member of a subcommittee, has a personal or institutional interest in a matter under consideration by the committee, he may not participate in the meeting, and another member shall be appointed in his place for that matter. In this regard –

"relative" – Spouse, sibling, parent or child and the parent or spouse of each of them.

"interest holder" – Within the meaning of the Securities Law, 5728-1968.

Regulations 5769-2009

(d) If a member of the tender committee is absent from three consecutive meetings of the committee or from five meetings during a period of one year, without a substitute having been appointed for him for those meetings, the chairman of the tender committee shall notify the director general of the ministry and the Accountant General in that regard, and if the member is the representative of one of those listed in section 8(a)(1)(b) or (c) – also the person whom he is representing. The director general may dismiss that member from the committee, unless said member is the director general of the ministry, the legal adviser of the ministry or the accountant of the ministry. A member who has been dismissed as stated may be reappointed, for reasons to be recorded, while noting the fact that he is being appointed despite having been dismissed as stated.

Ministerial Exemption Committee

(Temporary Order)
5769-2009

10A. (a) (1) The director general of the ministry, its accountant and its legal adviser shall serve as members of a ministerial exemption committee.

(2) With respect to an auxiliary unit, the ministerial exemption committee shall consist of the position holders in the auxiliary unit as stated in paragraph (1), unless the minister of that ministry has decided that the ministerial exemption committee shall also serve as the exemption committee of the auxiliary unit, in general or for matters as directed by him.

(3) The Minister of Public Security – with respect to the Israel Police and the Prisons Service, and the Minister of Justice – with respect to the Court Guard, may direct that the ministerial exemption committee shall be headed by a permanent position holder with the rank of commissioner, or an equivalent rank, to be authorized by the Inspector General, the Commissioner of the Prisons Service or the Director of the Courts, as the case may be. Where the Minister of Public Security or the Minister of Justice, as the case may be, has directed as stated, the Inspector General, the Commissioner of the Prisons Service or the Director of the Courts, as the case may be, shall give his approval, pursuant to regulation 3(20), to decisions of the ministerial exemption committee that approve decisions of the ministerial tender committee, in accordance with that regulation.

(4) With respect to the Ministry of Finance – the exemption committee shall also serve as the ministerial exemption committee, unless the director general of the ministry has appointed another committee in that regard with a similar composition to that of the exemption committee.

(b) A decision of a tender committee regarding a contract with a value of more than NIS 150,000 requires the approval of the ministerial exemption committee, except where the approval of the Accountant General or the approval of the exemption committee is required, if it is one of the following:

(1) A decision to grant an exemption from tendering.

(2) A decision that a contract shall be made by way of an expedited automated tender, where the contract value exceeds NIS 400,000.

(3) A decision that a contract shall be made by way of a closed tender.

(c) A ministerial exemption committee may subject an approval under this

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regulation to conditions, including as to a requirement to publish publicly or otherwise the process of selection of the contracting party and as to the conduct of negotiations in the framework of said process.

(d) Resolutions of a ministerial exemption committee shall be carried by a majority of the votes of the committee's members, they shall be reasoned and they shall be recorded in minutes to be signed by the members of the committee. A quorum at meetings of a ministerial exemption committee shall be all the members of the committee jointly.

(e) If a member of a ministerial exemption committee, his relative or a corporation in which he holds an interest has a personal interest in a matter under consideration by the committee, he may not participate in the meeting on that matter, and such member shall appoint his deputy in his place. In this regard, "relative" and "interest holder" – as defined in regulation 10(c).

(f) (1) Where a resolution of a ministerial exemption committee, excluding a resolution on a contract under regulation 3(2), was not carried unanimously, any member of the ministerial exemption committee may object to the resolution within three working days from the day on which it was passed.

(2) An objection in respect of a contract which, had its value exceeded NIS 2,500,000, would have required the approval of the Accountant General, and an objection to a resolution to grant an exemption from tendering under regulation 3(4) or (5), shall be submitted to the Accountant General, and an objection in respect of any other resolution shall be submitted to the exemption committee.

(3) The Accountant General or the exemption committee shall consider the objection, in accordance with the provisions of regulation 12(c) or 12A, as the case may be.

(g) A resolution of a ministerial exemption committee to which no objection was submitted shall become effective at the end of three days from the day of its publication under regulation 1C, and in the case of a contract under regulation 3(2) – immediately upon its publication.

(h) A tender committee appointed under regulation 8(d) or (e) shall be deemed also a ministerial exemption committee for purposes of resolutions passed by such tender committee.

(i) With respect to a tender committee appointed under regulation 8(d) or (e), the Accountant General is authorized to designate from among the ministry's employees those who shall be qualified to open a tender box.

(Temporary Order)
(Amendment No. 2)
5772-2012

(Temporary Order)
(Amendment No. 2)
5772-2012

**Exemption
Committee**
(Regulations (No. 2)
5755-1995

**Approval of
Exemption
Committee**
Regulations 5753-1993
Regulations (No. 2)
5755-1995
(Temporary Order)
5769-2009
Regulations 5772-2012

Regulations 5758-1998
(Temporary Order)
5769-2009

Regulations 5753-1993
Regulations (No. 2)
5755-1995
(Temporary Order)

11. The Director General of the Ministry of Finance shall appoint a three-member exemption committee whose members shall include the Accountant General or his representative, as well as the legal adviser of the Ministry of Finance or his representative. Regulations 9(b) and 10 shall apply to the exemption committee, *mutatis mutandis*.

12. (a) Decisions of the tender committee to grant an exemption from tendering, excluding a contract that requires the approval of the Accountant General under regulation 3, or its decisions that a contract requires a closed tender, all the above when the value of the contract exceeds NIS 4,000,000, excluding a decision regarding a contract with a government company pursuant to a framework agreement, under regulation 3(5), require the approval of the exemption committee.

(b) (Repealed).

(c) An exemption committee shall give its decisions under these Regulations within 30 days from the date of receipt of an application, provided that a complete application has been received with all the necessary documents attached as provided in regulation 24(a)(2).

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If a decision is not given within such time, it shall be referred to the ministerial exemption committee. No objection may be submitted under regulation 10A(f) to such decision of the ministerial exemption committee.

Approval of the Accountant General

(Temporary Order)
5769-2009
Regulations 5772-2012

12A. The Accountant General shall give his decisions under these Regulations within 30 days from the date of receipt of an application, provided that a complete application has been received with all the necessary documents attached as provided in regulation 24(a)(2). If a decision is not given within such time, it shall be referred to the ministerial exemption committee. No objection may be submitted under regulation 10A(f) to such decision of the ministerial exemption committee.

Reporting of Decisions

Regulations 5753-1993
Regulations (No. 2)
5755-1995
Regulations 5769-2009
(Temporary Order)
5769-2009

13. (a) A procuring entity shall report to the tender committee a decision to contract without tendering in accordance with regulations 3(1) and (8).

Regulations (No. 2)
5755-1995
(Temporary Order)
5769-2009

(b) A ministerial exemption committee shall report to the Accountant General its decisions to approve contracting other than by way of a public tender, as well as its decisions to approve contracting by way of an expedited automated tender. Such reports shall be made in an automated manner, according to instructions to be given by the Accountant General.

Regulations 5769-2009

14. (Repealed).

Preliminary Request for Information

Regulations 5769-2009

14A. (a) A tender committee may decide to issue a preliminary request for information that is required by it for purposes of contracting.

(b) A preliminary request for information shall be made publicly.

(c) The receipt of information and holding of discussions with those responding to the request shall be done on an equal basis between the respondents.

(d) The tender committee shall document any information received and any discussions held with those responding to a preliminary request for information.

(e) A response to a preliminary request for information shall not be a condition for participation in the tender held pursuant thereto, shall not confer on a respondent an advantage merely because he responded to the request, and shall not obligate such respondent's inclusion in the tender or contracting with him in any other manner.

(f) Information as stated in subregulation (d), based on which a tender was held that was awarded to the provider of the information, shall be subject to regulation 21(e), *mutatis mutandis*.

Centralization of Contracts

Regulations 5769-2009
(Temporary Order)
5769-2009

14B. (a) Where the Accountant General conducted a central tender for the government ministries, or gave, six months in advance, notice of an intention to issue such a tender, a ministry may not hold a tender for or otherwise enter into a contract which is the subject of the central tender, except through the central tender or with the approval of the exemption committee.

(b) Notwithstanding that stated in subregulation (a), a ministry may enter into a contract which is the subject of the central tender if it published a tendering notice shortly before the notice of an intention to publish a central tender, and where no such notice was given – shortly before the date of holding of the central tender, and the deadline for the submission of bids shall be a date shortly after the date of the notice or the date of holding of the tender, as the case may be.

Publication of a Central Tender

Regulations 5769-2009

15. (a) If a ministry wishes to enter into a contract that requires a public tender, the tender committee shall publish a notice to that effect in a widely circulated newspaper, in an Arabic-language newspaper and on the website. The notice on the website shall be published in Hebrew and in Arabic. The notice shall be published a reasonable time before the deadline for the submission of bids.

Regulations 5769-2009

(b) (Repealed).

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- Regulations 5756-1995
Regulations 5769-2009
Regulations 5753-1993
- (c) A notice regarding the holding of a public tender shall set out, *inter alia*:
- (1) The nature of the proposed contract and a description of its subject, including any option to expand the scope of the contract.
- Regulations 5753-1993
- (2) The period of the proposed contract, including any option for extending the period.
- Regulations 5769-2009
- (3) Preconditions, if any, for participation in the tender under regulation 6; conditions, if any, for the rejection of a bid in a tender for the purchase of manpower-intensive work or services under regulation 6A.
- (4) The time and place where additional details and the tender documents can be received, and the payment for the tender documents, if any is required.
- (5) The deadline and place for submitting bids.
- Regulations 5769-2009
- (6) The fact that the tender is a negotiated tender, a tender with prequalification stage, a tender with two-stage evaluation, a public tender with additional competitive process, a dynamic automated tender or an expedited automated tender, as the case may be.
- Regulations 5756-1995
Regulations 5769-2009
- (d) If notice of the holding of a public tender is published as stated in this regulation, the tender committee may publish the contents of the notice publicly also in one or more foreign countries, or by sending to at least two bidders domiciled in a foreign country.
- Regulations 5769-2009
- (e) In addition to that stated in subregulation (a), notice of the holding of a public tender shall be disseminated by electronic mail to any person who requested to be included in the list of subscribers for notices under this regulation.
- Regulations 5769-2009
- (f) The Accountant General shall publish, on the website, in a notice in Reshumot, and at reasonable intervals also in a widely circulated newspaper and in an Arabic-language newspaper, the manner of joining the list of subscribers as stated in subregulation (e).
- Bidders List**
Regulations 5769-2009
(Temporary Order)
5769-2009
Regulations 5772-2012
- 16.** (a) The tender committee shall maintain lists, arranged by types of contracts, of potentially suitable suppliers, provided that a central list in the same matter is not maintained by the Accountant General (hereinafter – bidders list). A tender committee may maintain a bidders list in a matter in respect of which a central list is maintained, for reasons to be recorded and with the approval of the ministerial exemption committee.
- (b) The bidders list shall be updated at least once a year, shall be managed in an automated manner, shall be published and shall be available for public inspection on the website, all in a manner as determined in the Administrative Code.
- (c) The tender committee shall publish a notice of its intention to prepare a bidders list. Anyone wishing to be included in the bidders list under a particular category of contracts shall submit a written request to the tender committee together with all the relevant details and documents, and he shall be included in the list if the tender committee deems him suitable. The tender committee shall notify an applicant of its decision and the reasons for such decision.
- (d) The tender committee may decline to include a person in the bidders list for a tender for the purchase of manpower-intensive work or services, or it may direct that he be deleted from such list, for special reasons to be recorded, after it allowed him an opportunity to present his arguments and taking into consideration his conduct with respect to the preservation of employee rights. If a person was included in the bidders list and he fulfills the conditions set out in regulation 6A, he shall be deleted from the bidders list unless the contract evaluation committee has approved his retention on the list, for special reasons to be recorded.
- (e) The tender committee, with the approval of the ministry's legal adviser and the ministry's accountant, and subject to the provisions established in that regard in the Administrative Code, shall prepare a written procedure for the selection of suppliers from the bidders list to whom application shall be made, in a manner ensuring the holding of a fair and equitable round among them that confers maximum advantage on the tender holder.

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Holding a Closed Tender and Competitive Invitation for Bids

Regulations 5769-2009
(Temporary Order)
5769-2009
Regulations 5772-2012

16A. (a) If the tender committee wishes to contract with a supplier from a bidders list in the framework of a closed tender or in the framework of a competitive invitation for bids, it shall apply to suppliers from the bidders list as follows:

- (1) If the bidders list for a particular category includes no more than ten bidders, the tender committee shall apply to all of them.
- (2) If the bidders list includes more than ten bidders – the tender committee shall apply to at least five bidders.
- (3) the suppliers to which the invitations to bid are addressed shall be chosen to the extent possible in a round, according to a procedure as provided in regulation 16(e).

(b) If the tender committee wishes to contract with a disabled veteran of the Israel Defense Forces for the management of a cafeteria in a ministry under regulation 4(9), it shall include among the criteria for selecting winning bid under regulation 22 the rehabilitation needs of any bidder as determined by the Rehabilitation Department of the Ministry of Defense.

Tender Guarantee

Regulations 5769-2009

16B. (a) A tender committee may determine that participation in a public or closed tender, or in another competitive process, shall be conditional on the deposit of a guarantee at terms as determined by it with respect to the type of guarantee, its terms, amount and duration (in this regulation – tender guarantee).

(b) The tender committee may order the forfeiture of a bidder's tender guarantee, in whole or in part, after it allowed the bidder an opportunity to present his arguments, where the bidder fulfills one of the following:

- (1) He acted in the course of the tender deceitfully, manipulatively or unethically.
- (2) He gave the tender committee misleading information or inaccurate material information.
- (3) He retracted the bid submitted by him in the tender after the deadline for the submission of bids in the tender elapsed.
- (4) After being chosen as the winner in the tender, he did not act according to the provisions of the tender which are a precondition for the entry of the public body into a contract with the winner of the tender.

Tender Documents

Regulations 5769-2009

17. (a) The tender documents shall be provided for perusal to anyone requesting them, without payment, at the offices of the public body, and to the extent possible through the website. If it is not possible to provide the documents through the website, it may be determined that the documents shall be provided against a reasonable payment based on the cost of printing them.

(b) The tender documents shall include, *inter alia*, all of the following:

- (1) The terms of the tender, including conditions for participation in the tender.
- (2) The text of the bid of the participant in the tender, except if the tender committee has decided, for reasons to be recorded, that there is no room in the circumstances of the case for including such text.
- (3) The text of the contract, including a timetable and payment terms, as well as detailed plans relating to the implementation of the contract.
- (4) If a guarantee is required – the type of guarantee, its terms, amount and duration.
- (5) The criteria as stated in regulation 22 according to which the winning bid is to be chosen.
- (6) Any document or other information required in the opinion of the tender committee for the fair and proper conduct of the tender and to ensure acceptance of the bid that confers maximum advantage on the ministry, including a

Regulations 5761-2001

Regulations 5769-2009

Regulations (No. 2)
5755-1995
Regulations 5769-2009

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requirement for the receipt of any document or information relating to the qualifications, experience or ability of the bidder.

Regulations 5769-2009

(7) If it is intended to prepare an estimate of the contract value – the existence of an estimate and the significance of such estimate for the tender process.

Regulations 5769-2009

(c) The tender committee may decide not to provide all the tender documents but to make all or any of them available for perusal at a place as determined by it in the circumstances of the case and for reasons to be recorded. Where it has decided as stated – the tendering notice provided for in regulation 15 shall specify the time and place for perusal of the documents.

Estimate of Contract Value

Regulations 5769-2009

17A. (a) An estimate of the contract value shall be prepared by a professional who has been authorized for that purpose by the tender committee, and shall be signed by him and by the chairman of the tender committee.

(b) An estimate of the contract value shall be prepared and deposited in the tender box before the deadline for the submission of the bids in the tender and shall be kept in the box until it is opened as stated in regulation 19. If the tender is a tender with two-stage evaluation, the estimate of the contract value shall be deposited in the tender box and kept there until the price bids are opened.

Regulations 5772-2012

(c) Notwithstanding that stated in subregulations (a) and (b), in the case of a contract in which the ministry is purchasing or renting a real estate property, an estimate of the contract value, signed by the Government Appraiser, may be prepared any time after the deadline for the submission of bids in the tender.

Types of Competitive Processes

Regulations 5769-2009

17B. The tender committee may determine that a tender shall be conducted as a tender with prequalification stage, as a tender with two-stage evaluation, as a public tender with additional competitive process, as a framework tender or as a combination of such tendering methods.

Tender with Prequalification Stage

Regulations 5769-2009

17C. A tender with prequalification stage shall be conducted as follows:

(1) The tender committee shall invite bidders to submit documents, on a date to be determined by it (in this regulation – the first date), for the purpose of examining the bidders' compliance with threshold conditions and with a minimum quality score, where such have been set, in order to determine the final group of bidders.

(2) The tender committee shall determine the final group of bidders and shall notify all those who have submitted documents as stated in paragraph (1) of their inclusion or non-inclusion in the final group of bidders, shortly after the tender committee has reached its decision.

(3) The tender committee shall invite all those included in the final group of bidders to submit their bid in the tender on a date to be determined by it (in this regulation – the second date).

(4) The tender committee may determine in the tender documents that following the submission of the bids on the second date, additional threshold conditions and an additional minimum quality score shall be set that were not examined when determining the final group of bidders on the first date.

Tender with Two-Stage Evaluation

Regulations 5769-2009

17D. A tender with two-stage evaluation shall be conducted as follows:

(1) The tender documents shall specify that the price bids are to be submitted separately from the other parts of the bid and marked as a price bid. Where the bids have been submitted to a tender box other than an electronic tender box, the persons who have opened the tender box in accordance with regulation 19(b) shall sign the envelopes containing the price bids, while still sealed, and shall deposit the price bids in the tender box until the time of their opening as provided in paragraph (3).

(2) Following the opening of the tender box, the tender committee shall

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determine the final group of bidders and the quality score for each bidder.

(3) The price bids shall be opened only after the tender committee has determined the quality score. Following the opening of the price bids, the tender committee shall determine a final score for the bids that weights the quality score determined as provided in paragraph (2) with the score based on the price.

**Public Tender with
Additional
Competitive
Process**
Regulations 5769-2009

17E. A regular public tender with additional competitive process shall be conducted thus:

(1) The tender documents shall specify conditions upon the fulfillment of which an additional competitive process shall be held.

(2) Upon the fulfillment of the conditions as stated in subparagraph (1), the tender committee shall notify the bidders who have met those conditions that they may submit, on a date as directed by the committee, a final price bid at terms more favorable to the tender holder compared to their original bid. If a bidder does not submit an additional bid, his first bid shall be the final bid.

Framework Tender
Regulations 5769-2009

17F. (a) A framework tender is a public tender in which more than one supplier is selected (each referred to in this regulation as a framework tender supplier), pursuant to which framework agreements are signed with each framework tender supplier, in accordance with the tender terms, and the identity of the supplier from whom each procurement order for goods, work or services is actually made is determined from time to time during the period of the framework agreement, in accordance with the terms of the framework tender.

(b) In this regard, "framework agreement" – an agreement for the purchase of goods, work or services, concluded with a particular supplier on a particular subject and for a defined period, where the details of the goods, the work or the services to be provided in its framework, their quantity or scope, are not known at the time the agreement is concluded and are determined by the customer by way of procurement orders made from time to time during the period of the agreement.

(c) The tender committee may hold a framework tender, for the minimum period required in the circumstances of the case, which may not exceed five years, where such tender confers on the tender holder a substantial advantage in the terms of purchase of the goods, the work or the services, or where the holding of such tender will serve to substantially increase the efficiency of the ministry's work, provided one of the following is fulfilled:

(1) The contract involves the provision of standard goods, work or services that can be accurately described.

(2) The contract involves the provision of complex goods, work or services whose characteristics or features can only be described in general terms.

(d) The tender committee shall set out in its decision to hold a framework tender the reasons as stated in subregulation (c).

(e) If a framework tender is held, every procurement order for goods, work and services pursuant thereto shall be executed in the following manner:

(1) The tender committee shall invite bids from all the framework tender suppliers, in the manner provided for, if at all, in the tender (in this regulation – specific invitation).

(2) The framework tender suppliers shall submit their bids in response to the specific invitation according to the terms established in the framework tender. The bid price for each item or unit procured may not exceed the bid price per item or per unit specified in the framework tender, where such price was set.

(3) The tender committee shall select a supplier who shall supply the specific procurement order in accordance with the terms of the framework tender.

(4) The tender committee shall not hold negotiations with the framework tender suppliers pursuant to the specific invitation.

(5) If the framework tender is held as a central tender, the tender committee

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for that purpose shall be the tender committee of the procuring entity.

(6) The Accountant General may publish in the Administrative Code –

(a) Instructions as to the manner of execution of the specific invitation, the manner of submission of the response to the specific invitation, and the manner of selection of the supplier to supply the goods, the work or the services pursuant to the specific invitation.

Regulations 5772-2012

(b) Instructions as to the terms of execution of a specific invitation for a contract with a value of no more than NIS 50,000, and it may determine that such an invitation shall be executed other than by the tender committee or that such an invitation shall not be made to all the framework tender suppliers.

Submission of Bids
Regulations 5769-2009

18. (a) A person wishing to participate in a tender which is not an automated tender shall submit to the tender committee a full and complete signed bid, inside a sealed envelope (hereinafter – the tender envelope), in the manner, on the date, at the place and in the number of copies as specified in the tender conditions. If the tender conditions do not specify the number of copies – the bid shall be submitted in two copies.

Regulations 5769-2009

(b) Participation in the tender may be made conditional on a reasonable payment for the cost of production of the tender.

Tender Box
Regulations 5755-1995
Regulations 5769-2009

19. (a) The bids for the tender shall be kept, until they are opened on the deadline for the submission of the bids or thereafter, in one or more locked boxes set aside for the holding of tender documents (in these Regulations – the tender box).

Regulations (No. 2)
5755-1995
Regulations 5769-2009

(b) A director general of a government ministry, and in the case of an auxiliary unit as stated in regulation 8(b) – whoever has been authorized in that regard under said subregulation, shall appoint from among his ministry's employees those who are qualified to open a tender box. The tender box shall be opened in the presence of the tender committee or in the presence of at least three of said qualified persons or at least three members of the tender committee.

Regulations 5769-2009

(c) (Deleted).

Regulations 5769-2009

(d) On the occasion of the opening of the tender box, a protocol shall be prepared in which shall be written, *inter alia*, the number of bids contained in the box, their content, their identification, the estimate, if any was made, and to the extent possible also the price proposed or requested, as the case may be.

Regulations 5769-2009

(e) In a tender which is not an automated tender, the tender box shall be opened no later than at the end of the working day after the deadline for the submission of the bids in the tender, unless the tender committee has explained the need for opening the box on a later date.

Types of Automated Tenders
Regulations 5769-2009

19A. The tender committee may determine that a tender shall be held as an automated tender, as a dynamic automated tender, and upon the fulfillment of the appropriate conditions, as an expedited automated tender.

Automated System Management
Regulations 5769-2009
Regulations 5772-2012

19B. (a) The tender committee shall perform actions in the automated system through at least two of the ministry's employees who have been authorized by the tender committee, after they have identified themselves for the purpose of performing the action.

(b) The automated system shall document every action performed and every electronic message sent to and from it, including their times and the identity of the persons who performed them. Any such documentation shall be subject to regulation 21(e).

(c) The system shall have an accurate internal clock, calibrated according to accepted rules.

(d) The system shall take on a routine basis reasonable protective measures against any infiltration or disruption of its work that could compromise the reliability of the information contained in it.

(e) The system shall be backed up by protected and secure means, and the backup

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shall be held separately from the system.

Automated Tender
Regulations 5769-2009

19C. (a) An automated tender shall be held by the submission of electronic bids to an electronic tender box, in the following manner:

- (1) An electronic bid shall be submitted by a bidder who has identified himself for that purpose and signed the bid with a secure or certified electronic signature.
- (2) A bid that was submitted to the electronic tender box may not be viewed or modified by any person, except for viewing of the bids by the persons authorized to do so at the time of the opening of the electronic tender box.
- (3) The electronic tender box shall be opened by whoever is authorized to do so under regulation 19(b), after he has identified himself for that purpose.

(b) The tender committee may decide that a part of the bid shall be submitted as an electronic bid and a part – not as an electronic bid.

Dynamic Automated Tender
Regulations 5772-2012

19D. A dynamic automated tender shall be conducted as follows:

- (1) Where the tender documents provide for an evaluation of the bidder's compliance with threshold conditions or with a minimum quality score, the tender committee shall determine the group of final bidders in accordance with regulation 17C(1) and (2) or regulation 17D(1) and (2).
- (2) Following the determination of the final group of bidders, the tender committee shall set a first date on which all the bidders in the final group of bidders may submit bids, as well as additional dates, as necessary, on which the bidders shall be entitled to submit an additional bid compared to their last bid, all as specified in the tender documents.
- (3) The submission of bids as stated in paragraph (2) shall be done in the presence of at least two members of the tender committee.

Expedited Automated Tender
Regulations 5769-2009

19E. (a) The tender committee may decide to conduct an expedited automated tender process with respect to a contract that fulfills one of the following:

- (1) The contract is required urgently to prevent substantial damage, on a scope and for a period as minimally required in such circumstances.
- (2) The contract value does not exceed NIS 400,000.

(b) An expedited automated tender shall be conducted as follows:

- (1) The notice on the website and the notice sent to subscribers under regulation 15(e) shall state in a conspicuous manner that the tender is an expedited automated tender, as well as the deadline for the submission of bids.
- (2) Notwithstanding that stated at the end of regulation 15(a), the deadline for the submission of bids in an expedited automated tender may be five working days after the date of publication of the tendering notice. In a tender for a contract that is required urgently to prevent substantial damage, the deadline for the submission of bids shall be a time, being no less than four hours after such notices were sent, as determined by the tender committee having regard to the time required for the preparation of the contract and the contract's urgency.
- (3) The tender committee may determine that an expedited automated tender shall be conducted as a dynamic automated tender.

Evaluation of Bids

20. (a) The bids shall be evaluated by the tender committee within a reasonable time after the opening of the tender box.

(b) The tender committee shall not consider bids that were not deposited in the tender box by the deadline for the submission of bids.

(c) If clerical errors or arithmetical errors are discovered in any bid, the chairman of the tender committee may correct them. The correction shall be made during the evaluation of the bids by the committee and shall be recorded in minutes. Notice of the correction shall be given to the bidder.

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Regulations 5769-2009 (d) The tender committee shall disqualify bids if they are lacking, erroneous or based on incorrect assumptions or on a misunderstanding of the subject matter of the tender, as well as bids from which it is apparent that implementation of the contract will result in an infringement of employee rights, unless the committee has decided otherwise for special reasons to be recorded. The tender committee shall reject bids that do not fulfill the conditions under regulation 6A(a), unless it has decided otherwise pursuant to regulation 6A(b).

(e) The committee may, for reasons to be recorded in minutes, invite a bidder to clarify details of his bid as well as other details needed by it to reach a decision. The details of the clarification shall also be recorded in minutes.

Decisions of the Tender Committee

21. (a) Following the completion of the evaluation of all the bids and the clarification of the necessary details, the tender committee shall give its decision. The committee may decide to select the most suitable bid or it may decide not to choose any bid at all, all for the purpose of ensuring the maximum advantage for the tender holder.

Regulations 5769-2009 (a1) Where an estimate of the contract value was made, as provided in regulation 17A, and all the bids submitted in the tender are less favorable for the tender holder than the estimate, the tender committee may determine that all the participants in the tender who are included in the final group of bidders shall submit a repeat, improved price bid, in accordance with regulation 17E(2).

Regulations (No. 2) 5755-1995
Regulations 5769-2009 (b) The tender committee shall select the lowest or highest bid, as the case may be, unless it has decided not to do so, under special circumstances and for special reasons to be recorded and after it allowed the lowest or highest bidder, as the case may be, an opportunity to present his arguments. If the tender documents include details of criteria according to which the winning bid is to be selected, the tender committee shall select the bid that confers maximum advantages on the tender holder based on such criteria, unless it has decided not to do so under special circumstances to be recorded, after it allowed the bidder who submitted the bid conferring maximum advantages on the tender holder based on such criteria an opportunity to present his arguments.

Regulations 5753-1993 (c) The committee may decide to select several suitable bids, splitting the contract among them, or to select only a part of a bid, provided notification of this possibility was given in the tender documents.

(d) Every participant in a tender shall receive a notice of the results of the tender committee's final decision.

Regulations 5769-2009 (e) (1) Any participant may, within 30 days from the date of delivery of the notice, peruse the minutes of the tender committee, its correspondence with the bidders, the professional opinions that were prepared at its request, the position of the committee's legal adviser and the winning bid in the tender, and receive a copy of these documents, excluding –

(a) Parts of the decision or the bid the perusal of which could, in the opinion of the tender committee, reveal a trade secret or a professional secret or harm the State's security or its foreign relations or economy or public security.

(b) A legal opinion that was prepared in the framework of legal counseling to the committee, including an examination of possible alternatives to an action or decision of the tender committee, or an assessment of the prospects and risks resulting from such decisions in future legal proceedings.

(2) That stated in this subregulation shall not derogate from the provisions of the Freedom of Information Law, 5758-1995.

Regulations 5769-2009 (f) The tender documents may specify that such perusal by a participant shall be done against payment to cover the cost of fulfillment of the provisions of subregulation (e).

Criteria

22. (a) The criteria for the selection of the bid conferring maximum advantages on the

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- Regulations (No. 2)
5755-1995
Regulations 5769-2009
- Regulations (No. 2)
5755-1995
- Regulations (No. 2)
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Regulations 5769-2009
- Regulations 5769-2009
- Regulations 5769-2009
- Single Bid**
Regulations 5769-2009
- Regulations 5769-2009
Regulations 5772-2012
- Amendment 5769-2009
(Temporary Order)
5769-2009
- (Temporary Order)
5769-2009
- Administrative Code**
- tender holder are, wholly or partly:
- (1) The price proposed or requested, as the case may be.
 - (2) The quality and any special features of the goods or the land, the work or the service proposed, and their suitability for the tender holder.
 - (3) The bidder's credibility, qualifications, experience, expertise and areas of specialization.
 - (4) Recommendations about the bidder, if required under the tender conditions, and the degree of satisfaction with the manner of performance of previous contracts.
 - (5) Special requirements of the tender holder.
 - (6) The bidder's conduct with respect to the preservation of employee rights, including the existence of a written negative opinion or a negative audit report in that regard by a ministry with which the bidder contracted during the three years prior to the deadline for the submission of bids.
- (b) The tender committee shall detail in the tender documents all the criteria and secondary tests, the relative weight to be given to the selection of the bid that confers maximum advantages on the tender holder and the weighting method.
- (c) Where the tender committee has assigned relative weight to the criteria –
- (1) It shall specify in the tender documents the relative weight to be given to bids for the price proposed or requested, as the case may be, compared to the quality score, and the weighting method.
 - (2) It shall specify in the tender documents the relative weight of each of the criteria and of the secondary tests for the criteria, if any were set. The tender committee shall be entitled, in exceptional cases, not to publish the relative percentages of the criteria under this paragraph, the aforesaid secondary tests and the weighting method, if it is persuaded that such publication could hinder the proper conduct of the tender process, for reasons to be recorded.
- (d) The tender committee may set in the tender documents a minimum quality score, and it may determine in the tender documents, if so required in the circumstances of the case, that if the number of bids of the final group of bidders is higher or lower than a particular number, the minimum quality score shall change.
- 23.** (a) Where a single bid has been submitted in a public tender, or a single bid remains for consideration by the tender committee, at a price that is less favorable for the tender holder than the estimate of the contract value, the tender committee may give the bidder who submitted the bid a notice to that effect and allow him to submit a price bid at terms favorable to the tender holder, on a date as determined by the committee.
- (a1) Where a single bid has been submitted in a public tender, or a single bid remains for consideration by the tender committee, the tender committee may decide to select the bid in accordance with the tender terms or to cancel the tender, and if it decided as stated, it may decide to hold a new tender.
- (a2) The tender committee may not select a single bid in a closed tender, except with the approval of the ministerial exemption committee, where the latter deems that holding an additional tender will not be of any benefit. Where the contract value exceeds NIS 4,000,000 – the contract requires the approval of the exemption committee.
- (b) Where no bid has been submitted in a tender or the tender committee has not recommended any bid, the ministry may issue a new public or closed tender, as the case may be, or it may contract without tendering, with the approval of the ministerial exemption committee, where the latter deems that holding an additional tender will not be of any benefit. Where the contract value exceeds NIS 4,000,000 – the contract requires the approval of the exemption committee.
- 24.** (a) Without derogating from his powers under any law, the Accountant General may

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Regulations 5769-2009

establish in the Administrative Code administrative provisions regarding the implementation of the Law and these Regulations, including –

- (1) Provisions as to the implementation of contracts which are exempt from mandatory tendering under these Regulations.
- (2) Provisions as to the manner of applying to the exemption committee and to the Accountant General for the receipt of an approval under these Regulations, including the documents that should be attached to such application.
- (3) Provisions as to the manner of implementation of contracts by an auxiliary unit that is exempt from mandatory tendering under regulation 3(8).
- (4) Provisions as to the possibility available to tender committees to issue tenders with standard wording of the tender documents as formulated by the Accountant General.
- (5) Provisions for assessing the quality of suppliers' implementation of their contracts with the State, and the score weighting which shall be determined based on such assessments in other tenders in which they participated, including conditions under which a supplier shall be prevented from participating in tenders owing to the quality of his implementation of such contracts in the past.
- (6) Provisions as to the preservation of employee rights and assurance of compliance with the labor laws by tender participants or winners or by persons contracting with the State.
- (7) The addition of areas or branches in respect of which the proposal of a bidder for inclusion in a bidders list shall be rejected or a bidder shall be deleted from such list in light of his conduct with respect to the preservation of employee rights.
- (8) The management of tender lists, arranged by types of contracts, of potentially suitable suppliers for contracts with ministries. Such lists shall be subject to regulation 16, *mutatis mutandis*.
- (9) Provisions as to the provision of information to the Accountant General regarding contracts of tender committees, for processing of said information for the purpose of drawing lessons and formulating directives.
- (10) Provisions as to the promotion of goods and corporations with an environmental standard in contracts of ministries. In this regard, "environmental standard" – an Israeli standard or another international standard recognized for purposes of these Regulations by the Ministry of Environmental Protection.
- (11) Provisions as to the manner of publication of decisions of a ministerial exemption committee and the exemption committee, and the degree of detailing of their decisions.

(Temporary Order)
5769-2009

Amendment 5769-2009

(b) Provisions of the Administrative Code relating to these Regulations shall be published on the website and offered for sale to anyone interested.

Regulations 5769-2009

Chapter B1: Website and Automated Tendering System

Website

Regulations 5769-2009

24A. (a) A public body shall publish notices pursuant to these Regulations also on the website.

(b) Any public body shall publish the address of its website in a notice in Reshumot and at a reasonable frequency also in two widely circulated newspapers and in an Arabic-language newspaper.

(c) Any public body which is not a government ministry shall give the Accountant General notice of its website address. The Accountant General shall publish on the government's website a list of websites of all the public bodies which are not government ministries, as provided to him by them.

Management of the
Website

24B. (a) Any public body shall appoint persons with authority to manage the website (in

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this regulation – persons authorized to manage the site).

(b) Only the persons authorized to manage the site may publish notices on the website under these Regulations, as well as any change in such notice, after identifying themselves for that purpose. Such a notice, together with the date of publication, shall be signed by the persons authorized to manage the site by a secure or certified electronic signature.

(c) Any notice published on the website shall be available to the public on the website for a period of at least one year from the publication date.

(d) A public body shall provide assistance to the public in the computer aspects of reading notices published on the website as stated.

Government Website

Regulations 5769-2009

24C. (a) In each government ministry persons shall be appointed who are authorized to manage the ministry's notices on the website. Said authorized persons shall have access to the government website for the purpose of publishing notices of the ministry. Such a notice, together with the date of publication, shall be signed by the authorized persons by a secure or certified electronic signature.

(b) The Accountant General shall issue instructions with respect to the government website, ensuring that –

(1) only the persons authorized to manage notices and the persons authorized to manage the website are able to introduce changes in the website and publish notices on it, after identifying themselves for that purpose;

(2) documentation is kept of every notice published and every action performed on the website, including the identity of the person who performed it and the date on which it was performed.

Special Powers of the Accountant General

(Temporary Order)
5769-2009

24D. (a) The Accountant General may instruct the tender committee of any ministry to hold a discussion on a defect which he found in a decision made by it –

(1) Regarding the conditions of a tender which it published – at any stage from the date of publication of the tender until a week before the deadline for the submission of bids in the tender.

(2) Regarding the disqualification or rejection of a bid that was submitted in a tender, or regarding the selection of a winner in a tender – within two weeks from the date when such decision was made.

(b) The tender committee shall hold a discussion and decide on the matter in respect of which the Accountant General instructed it as stated in subregulation (a), and it shall inform the Accountant General of its decision within the period as determined by him.

(c) The Accountant General may instruct the tender committees and the ministerial exemption committees to submit to him periodic and other reports relating to the committee's work, if he considers this necessary due to defects which occurred, in his opinion, in its work.

Chapter C: Contracts of the Israel Lands Administration for the Execution of Land Transactions

Exemption from Mandatory Tendering in a Land Transaction

25. In addition to that stated in regulation 3, a contract of the Israel Lands Administration (hereinafter – the Administration) for the execution of a transaction in land of the State, of the Development Authority or of the Jewish National Fund, does not require mandatory tendering when the subject of the contract is one of the following:

(1) The grant of rights in land to an owner of rights in that land or to whomever the owner of rights may direct. In this regard, "owner of rights in land" – a party to a development contract, a lease contract or a sublease contract for a period of at least 21 years, a person with a legal right to be a party to such contract, and a person who was a party to such contract or held the land continuously for at least ten years, with the consent of the Administration.

(2) The grant of rights in land to an owner of rights in jointly owned land in

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which the Administration holds at least one-half of the rights, where there is no possibility of actually dividing the land under a plan as defined in the Planning and Building Law, 5725-1965.

(3) The grant of rights in a property as defined in the Tenant's Protection Law [Consolidated Version], 5732-1972 to an owner of rights in the property under said law, including the grant of building rights in the building in which the property is located.

(4) The grant of rights in land as part of a land dispute settlement, or within the framework of the evacuation of an enterprise whose location poses a nuisance, provided the Accountant General or his representative as well as the Administration's legal adviser have confirmed that the grant of the rights is necessary and warranted in the circumstances of the case.

Regulations 5753-1993

(5) (a) The grant of rights in land in a national priority area to an enterprise engaged in industry or crafts, or in the construction of industrial buildings for rent, if it is an approved enterprise within the meaning of the Encouragement of Capital Investment Law, 5719-1959 and the Investment Center Administration has confirmed that the particular land is needed by the enterprise within the framework of the approved plan as defined in said law.

Regulations 5761-2001

(a1) The grant of rights in land in a national priority area to an approved agricultural enterprise within the meaning of the Encouragement of Capital Investments in Agriculture Law, 5741-1980, if the Agricultural Investment Administration has confirmed that that land is needed by the enterprise within the framework of the approved plan as defined in said law.

Regulations 5753-1993

(b) The grant of rights in land in national priority areas to an enterprise that engages in industry or crafts or in the construction of industrial buildings for rent, on the recommendation of the Ministry of Industry and Trade, provided that the area is among those included in a notice in the press published by the Ministry of Industry and Trade at least once a year, that invites applications to be submitted for the grant of rights in land as stated. The rejection of such an application by the Ministry of Industry and Trade shall be for reasons to be recorded.

(c) The grant of rights as stated in subparagraphs (a) and (b) may be done based on a table of reduced prices that has been approved in that regard by the Minister of Finance.

(6) The grant of rights in land for "public needs" within the meaning of section 188(b) of the Planning and Building Law, 5725-1965, provided that the contract is made with a local authority, for its needs.

Regulations (No. 2)

5755-1995

Regulations 5769-2009

(7) The grant of rights of use of agricultural land for seasonal cultivation or grazing, which do not include a right to construction, during a maximum period of three years, on condition that the contract value does not exceed NIS 100,000 per year.

(8) The grant of a right of possession of land to the Jewish National Fund for the execution of afforestation works or for works for the preservation of nature and the landscape.

(9) The grant of rights in land within the framework of compensation granted under the Land (Acquisition for Public Needs) Ordinance, 1943, or under the Land Acquisition (Validation of Acts and Compensation) Law, 5713-1953.

(10) The grant of rights in supplementary land within the meaning of section 70 of the Planning and Building Law, 5725-1965, with a maximum area of 500 square meters not constituting an independent construction unit under a plan as defined in said law, provided that the contract is made with an owner of rights in adjacent land, where said land is needed by him to supplement his construction

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unit under that plan.

Regulations 5741-2001

(10a) The grant of rights in land to an owner of rights in adjacent land, to enable the most efficient exploitation of the land, considering the zoning of the land and its intended use, provided that it is not possible to exploit the land as stated by marketing it through a tender. The grant of rights as stated requires a reasoned approval of the exemption committee of the Israel Lands Council and the approval of the Minister of Finance.

Regulations (No. 2)
5755-1995

(11) The grant of rights in land adjacent to an existing enterprise for the expansion of the enterprise, pursuant to a reasoned recommendation of the ministry responsible for the enterprise's area of activity. The grant of rights as stated for an area greater than 50 percent of the area of the enterprise requires the approval of the exemption committee of the Israel Lands Council.

Regulations (No. 2)
5756-1996

(11a) The grant of rights in land adjacent to an existing educational institution, for the expansion of the institution, pursuant to a reasoned recommendation of the Ministry of Education, Culture and Sports. The grant of rights as stated for an area greater than 50 percent of the area of the educational institution requires the approval of the exemption committee of the Israel Lands Council. In this regard, "educational institution" – within the meaning of the Compulsory Education Law, 5719-1949.

(12) The transfer of ownership of land pursuant to section 2(2) of the Israel Lands Law, 5720-1960.

Regulations (No. 2)
5755-1995

(13) The grant of rights in land to an investor who is not a resident of Israel, for the establishment of a business venture, including a tourism venture or a hotel venture, if in the opinion of the Minister of Finance and the relevant minister, in consultation with the Investment Authority in the Ministry of Finance, the venture will be of benefit to the national economy and the grant of rights in the particular land without a tender is essential for the venture's success.

(14) The grant of rights in land for the establishment of a special tourism venture other than a hotel venture, pursuant to a recommendation of a joint committee of the Ministry of Tourism and the Administration, on condition that the Minister of Tourism or whomever he has authorized have approved that the allotment of the land without a tender is essential for the venture's success.

Regulations (No. 3)
5755-1995

(15) (a) The grant of rights in land for the establishment of a tourism venture, including a hotel venture, pursuant to a recommendation of a joint committee of the Ministry of Tourism and the Administration, provided that the following two conditions are fulfilled:

(1) The land is included in the list of areas which are not areas in demand for tourism purposes, as determined by the joint committee of the Ministry of Tourism, the Administration and the Ministry of Finance.

(2) The land is included in a notice in the press published by the Ministry of Tourism at least once a year, that invites applications to be submitted for the grant of rights in the land as stated. The notice shall include as accurate a description as possible of the area zoned for ventures.

(b) The rejection of an application as stated in subregulation (a)(2) shall be for reasons to be recorded.

(16) The grant of leasehold rights in land to a disabled IDF veteran for the operation of a gasoline station, pursuant to a recommendation of the Rehabilitation Department of the Ministry of Defense.

(17) The grant of leasehold rights in land to prayer houses or to ritual bath houses. Such grant shall be made based on equitable tests to be determined by

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the local authority in whose jurisdiction the land is located, according to the residents' needs, and it requires the approval of the legal advisor of the local authority.

Regulations 5756-1995

(17a) The grant of rights in land to a not-for-profit institution that holds a license under section 15(a)(3) of the Jewish Religious Services Law [Consolidated Version], 5731-1971 (hereinafter – license), or that holds a confirmation from the Minister of Religious Affairs that he intends to give it a license subject to the grant of rights as stated, for the purpose of its activity in accordance with the license.

(18) The grant of rights in land for residential construction to a severely disabled IDF veteran, pursuant to a recommendation of the Rehabilitation Department of the Ministry of Defense, after the competent authority in the Rehabilitation Department examined and confirmed his eligibility for the recommendation.

Regulations (No. 3)
5755-1995

(19) The grant of rights in land for residential construction in rural areas to residents of such place, and the grant of rights in land for residential construction in confrontation line settlements to residents of such place who undertake to actually live there during a minimum of five years. In this regard, "confrontation line settlement" – a settlement on the front line at a distance of ten kilometers or less from the international borderline with Syria or with Lebanon.

(20) The grant of residential construction rights to Bedouin in the Bedouin settlements.

(21) The grant of rights in land against a waiver of rights in land.

(22) The grant of rights in land in respect of which at least two public tenders were held, whose conditions, apart from the required minimum price, are identical, where no more than two years have elapsed between them and nine months have not elapsed from the day of publication of the later of them, and no bids that comply with the tender conditions have been submitted in them. The grant of rights shall be done upon the conditions specified in said tenders and at a price to be determined by the Government Appraiser.

Regulations 5769-2009

(23) The grant of rights in land to the winner of a tender held by the Ministry of Construction and Housing as part of the implementation of an annual program for residential construction and within the framework of such award.

(24) The grant of rights in land to or on behalf of persons serving in the defense forces, as part of a project that is being implemented at the initiative of the Israel Defense Forces and with the approval of the Minister of Defense.

Regulations 5761-2001

(24a) The grant of rights in land in minority settlements to persons who are serving or have served a minimum of two years in the defense forces, for residential construction, pursuant to a recommendation of the Ministry of Defense.

(25) The grant of rights in land for residential purposes, or for self construction of one residential unit, to a needy person within the meaning of the Welfare Services Law, 5718-1958.

(26) The purchase of land by the Israel Lands Administration.

Regulations 5761-2001

(27) (Repealed).

(28) The grant of rights in agricultural land, for agricultural purposes including for farmers' dwelling, within the framework of the establishment, consolidation or expansion of community, agricultural or rural settlements, in areas included in the Northern and Southern Districts as defined in the notice issued by the government pursuant to its power under section 3 of the Law and Administration Ordinance

Regulations 5763-2003

(29) (a) The grant of an additional authorization for mining and for stone

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quarrying to the holder of a previous authorization, provided he submitted an application for exemption under this paragraph no later than on August 10 2003 (12 Av 5763). In this paragraph –

"holder of a previous authorization" – A person who fulfills each of the following:

- (1) He held an authorization for mining and for stone quarrying on the same land (hereinafter – right) on the effective date of the Law.
- (2) The right was extended and was valid on each of the following:
 - (a) on the determining date;
 - (b) during any period between the effective date of the Law and the determining date, and the owner of the right continued the mining or the quarrying, without the Administration's objection, until the determining date.
- (3) His payments to the Administration in that regard were settled no later than on August 15, 2003 (17 Av 5763).

"determining date" – May 16, 1998 (20 Iyar 5758).

(b) An additional authorization shall be given for the appropriate period of time having regard, *inter alia*, to the type of stone, to the duration of time in which the quarry was operated, the ratio between the financial investment in the quarry and the return that could have been earned on it in the past as well as the public and economic interest in the allocation of authorizations for mining and quarrying by public tender. A condition for the grant of an exemption is the existence of any permit required under law for mining and for quarrying, and *inter alia* certificates and permits under the Mining Ordinance and under the Planning and Building Law, 5725-1965. As a rule, an exemption as stated shall not be granted unless the terms of the additional authorization are equitable and in accordance with the Administration's accepted rules.

(c) A decision to grant an exemption under this paragraph shall be given based on a reasoned recommendation in writing of a professional committee, headed by a retired judge to be appointed by the Minister of Justice, whose members shall be a representative of the Ministry of Finance, the legal adviser of the Administration and two public representative to be appointed by the Minister of Finance, one at the suggestion of the President of the Manufacturers Association and the other, who shall be an accountant, at the suggestion of the President of the Institute of Certified Public Accountants in Israel.

Regulations 5755-1994

(30) The grant of rights in land for residential construction to persons eligible for rehabilitation, pursuant to a recommendation of the Collaborators Rehabilitation Administration in the Prime Minister's Office, after the administration has confirmed their eligibility.

Regulations (No. 2)
5755-1995
Correction of Error
5755-1995

(31) The grant of rights in land to a not-for-profit corporation whose occupation is in the field of health, for the purpose of engaging in its occupation.

Regulations 5761-2001

(32) The grant of rights in land for the establishment and operation of a telecommunications installation within the meaning of the Telecommunications Law, 5742-1982, to the holder of a license for the provision of communication services, provided the Director General of the Communications Ministry has confirmed that the land is required by the license holder and that its area is not greater than required for the operation of such installation.

**Closed Tender of
Lottery**

26. Contracts of the Israel Lands Administration for the execution of a land transaction do not require a public tender but only a closed tender in the course of which a lottery may also

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be held, upon the fulfillment of one of the following:

- (1) The grant of rights under regulation 25(1) to (7), (10, (11), (13) to (15), (17) and (19) to (21), in cases where two or more persons who satisfy the conditions noted in each of said paragraphs, as the case may be, are interested in the land.
- (2) The grant of rights in land within the framework of a "Build Your Own Home" program or to special groups, in areas in which the supply of land exceeds the demand or the State has a special interest in encouraging settlement.
- (3) The grant of rights in land for residential construction in distressed neighborhoods or neighborhoods undergoing rehabilitation, pursuant to a recommendation of the Ministry of Construction and Housing and based on equitable tests.
- (4) The grant of rights in land for the construction of one residential unit for a disabled person for his dwelling, if he is a citizen of Israel who is a permanent paraplegic with a disability rating of 75 percent or higher.

Tender for Land of the Jewish National Fund

27. If a transaction in land of the Jewish National Fund requires tendering under these Regulations, the Administration may conduct the tender in a manner conforming to the covenant signed between the State and the Jewish National Fund on November 28, 1961 (20 Kislev 5722).

Administration Exemption Committee

Regulations (No. 2)
5755-1995
Correction of Error
5755-1995

28. (a) The Israel Lands Council shall appoint an exemption committee from among its members together with the legal adviser of the Administration or his representative and the accountant of the Administration or his representative (in these Regulations – Israel Lands Council exemption committee). The council members who are members of the committee shall include a representative of the Ministry of Finance who is a member of the council, or another civil servant from among the council members – if the council members do not include a representative of the Ministry of Finance.

Regulations (No. 2)
5755-1995
Regulations 5763-2003
Regulations 5769-2009

(b) Decisions of the tender committee regarding the grant of an exemption for contracts as provided in regulations 25(22) and 25(29), or when the contract value exceeds NIS 5,000,000, require the approval of the Israel Lands Council exemption committee.

Application of Provisions of Chapter B

29. Regulations 8 to 10, 14A, 15 to 20, 22, 23(a) and 24 shall apply, *mutatis mutandis*, to contracts for the execution of a transaction in land by the Israel Lands Administration.

Price in a Contract without a Tender

Regulations 5758-1998

30. (a) The grant of rights in land by the Administration without a public tender shall be at a price to be determined by the Government Appraiser.

(b) The price of the land as determined by the Government Appraiser for purposes of contracts under regulation 25(1) and (3) shall take into account the existence of rights with respect to the land.

Regulations 5758-1998

(c) The Administration may contract at a lower price than the price determined by the Government Appraiser, for reasons to be recorded, provided that any such decision is subject to section 40(c) of the Budget Foundations Law, 5745-1985.

Regulations 5763-2003

Chapter D: Contracts of the Office of the President of the State, the Knesset, the State Comptroller's Office or the Knesset Central Elections Committee

Contracts of the Office of the President of the State, the Knesset, the State Comptroller's Office or the Knesset Central Elections Committee

Regulations 5753-1993

31. (a) The provisions of these Regulations shall apply to the Office of the President of the State, to the Knesset, to the State Comptroller's Office and to the Knesset Central Elections Committee.

(b) In this regard, wherever the terms "ministry" or "Ministry of Finance" appear in

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Regulations 5769-2009
Regulations 5772-2012

these Regulations, they should read "Office of the President of the State," "Knesset," "State Comptroller's Office" or "Knesset Central Elections Committee," and wherever the terms "Minister," "Accountant General" or "Director General" appear in these Regulations, they should read, with respect to the Office of the President of the State – "Director General of the Office of the President of the State," with respect to the Knesset – "Chairman of the Knesset, as well as the Secretary of the Knesset or the Director General of the Knesset, if they were so authorized by the Chairman of the Knesset," with respect to the State Comptroller's Office – "State Comptroller," and with respect to the Knesset Central Elections Committee – "Chairman of the Knesset Central Elections Committee, or the Director General of the Knesset Central Elections Committee, if he was so authorized by the Chairman of the Committee," and wherever the term "Israel Police" appears in these Regulations, it should read "Knesset Guard," and regulation 16(a) should be read as if the words "provided that a central list in the same matter is not maintained by the Accountant General" were deleted.

Chapter E: Contracts of a Government Company and a Government Subsidiary

Definition

32. In this chapter, "government company" – including a government subsidiary.

Application of Provisions of Chapter B

Regulations 5769-2009
Regulations 5772-2012

33. (a) Subject to the provisions of this chapter, regulations 3 to 7, 8A, 9, 10, 14A and 15 to 23 shall apply to a government company, *mutatis mutandis*. In this regard, wherever the term "ministry" appears in Chapter B, it should read "government company," and wherever the term "Accountant General" appears, it should read "Director General," and regulation 16(a) shall be read as if the words "provided that a central list in the same matter is not maintained by the Accountant General" were deleted.

(b) The provisions of Regulation 9 shall not apply to the contracts referred to in regulation 34(2) to (6).

Exemption from Tendering

34. In addition to that stated in regulation 33, a contract of a government company for the execution of a transaction in goods or in land, for the execution of work or for the purchase of services does not require tendering, if it is one of the following:

(1) A contract in respect of which the holding of a tender, or the holding of a tender in respect of contracts of the same type, is liable to harm the company's profitability, its ability to compete with others, a business opportunity it has, its ability to perform a function or task assigned to it by law or its ability to provide a vital service or commodity to the public.

Regulations 5769-2009

(2) A contract whose value does not exceed NIS 200,000; with respect to companies with an annual volume of contracts above NIS 1,000,000,000 – a contract whose value does not exceed NIS 600,000.

Regulations 5761-2001
Regulations 5769-2009

(2a) A contract of a company in privatization, as defined in the Government Companies Law, 5735-1975, with an annual volume of contracts above NIS 2,080 million, provided the contract value does not exceed NIS 3,000,000.

(3) A contract of a government subsidiary with the parent company, with another government subsidiary of that company or with a government company that controls that company.

Regulations 5753-1993

(4) A contract of a company – excluding a company that is the exclusive provider of a vital public service – in which 20 percent or more of the voting power in its general meetings or the right to appoint 10 percent or more of its directors is not held by the State, by a government company, by a local authority or by a corporation created by law, jointly or severally, as well as a contract of a subsidiary of such company.

(5) A contract made with a tender holder pursuant to the award of the tender to that company.

(6) A contract with a resident of a foreign state for the sale of goods or the purchase of services.

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(7) A contract for the acquisition of rights in land, where the particular land is required for the company's use due to its special location or some other special attribute.

(8) A contract made with the winner of a central tender, at terms identical to the Accountant General's terms in the same tender, or at terms more favorable for the government company.

(9) A contract involving the purchase of services or goods from a ministry.

Regulations 5753-1993
Regulations (No. 2)
5755-1995

Tender Committee
Regulations (No. 2)
5755-1995
Regulations 5758-1998
Regulations 5769-2009

35. The director general of a government company shall, with the approval of the company's board of directors, appoint to the company one or more tender committees with at least three members who are employees of the company. The composition of the committee shall be as specified in regulation 8(a), *mutatis mutandis*, and it may not include members of the company's board of directors. If the company does not have a legal adviser who is an employee of the company, a legal adviser or his representative shall participate in meetings of the company, but his standing shall not be that of a member and he shall not have any voting rights. For purposes of regulations 3(28) and 23, the tender committee shall be deemed an exemption committee. Where two or more tender committees have been appointed to a company, the division of responsibilities between the committees shall be determined by the appointor.

Reporting to the Tender Committee
Regulations 5769-2009

36. A tender committee shall report once in a quarter to the company's audit committee regarding the grant of an exemption from mandatory tendering under these Regulations. The audit committee shall maintain a regular follow-up of these reports.

Chapter F: Contracts of a Corporation

Definition

37. In this chapter, "corporation" – a corporation established by law.

Application of Provisions of Chapter B

Regulations 5753-1993
Regulations (No. 2)
5755-1995
Regulations 5769-2009
Regulations 5772-2012

38. (a) Subject to the provisions of this chapter, regulations 3 to 7, 8A, 9, 10, 14A and 15 to 23 shall apply to a corporation, *mutatis mutandis*, and in this regard, wherever the terms "ministry" or "Ministry of Finance" appear in Chapter B, they should read "corporation," and wherever the term "Accountant General" appears, it should read "general manager of the corporation even if his title is different," and wherever the term "accountant" appears, it should read "accountant or manager of the finance unit," and in regulation 3(1), "ministry" should read "unit of the corporation having a closed expense budget," and regulation 16(a) shall be read as if the words "provided that a central list in the same matter is not maintained by the Accountant General" were deleted.

Regulations 5753-1993
Regulations 5772-2012

(b) In addition to that stated in subregulation (a), regulation 34(5), (7), (8) and (9) and regulation 35 shall apply to a corporation, *mutatis mutandis*, and in this regard, wherever it says in regulation 34 "government company," it shall read "corporation."

Exemption from Tendering
Regulations 5769-2009

39. In addition to that stated in regulation 38, a contract of a corporation does not require tendering if it is one of the following:

(1) A contract in respect of which the holding of a tender, or the holding of a tender in respect of contracts of the same type, is liable to impair the corporation's ability to perform a function or task assigned to it by law, to provide a vital service or commodity to the public or to act in accordance with management principles prescribed in the law under which it was established.

(2) A contract with a subsidiary of a corporation which the corporation established for the fulfillment of its functions, provided that the contracts of the subsidiary with other parties shall, insofar as they derive from the contract with the corporation, be made in a tender.

Approval

40. A decision regarding types of contracts as stated in regulation 39 requires the approval of the organ competent to set the organization's policy. If the law establishing the corporation does not contain an explicit provision regarding such an organ, the decision shall require the approval of the corporation's managing organ.

Regulations 5757-1997

Chapter F1: Contracts of a Health Fund

Definitions

Regulations 5757-1997

40A. In this chapter –

"Director" and "Health Fund Council" – Within the meaning of the Health Insurance Law, 5754-1994 (hereinafter – the National Health Insurance Law).

"director general" – The director general of a health fund, even if his title is different.

"internal auditor" – The person appointed under the Internal Audit Law, 5752-1992.

Application of

Provisions of

Chapter B

Regulations 5757-1997

Regulations 5769-2009

Regulations 5772-2012

40B. (a) Subject to the provisions of this chapter, health funds shall be subject to regulations 3 to 7, 8A, 9, 10, 14A and 15 to 23, *mutatis mutandis*. In this regard, wherever the terms "ministry" or "Ministry of Finance" appear in Chapter B, they shall read "health fund, a hospital of a health fund or a unit of a health fund having a closed expense budget," wherever the term "Accountant General" appears, it shall read "director general," and regulation 16(a) shall be read as if the words "provided that a central list in the same matter is not maintained by the Accountant General" were deleted.

Regulations 5769-2009

(b) With respect to contracts of a health fund –

(1) In regulation 3(1), "50,000" shall be read as "100,000," and "100,000" shall be read as "300,000."

(2) In regulation 19E(a)(2) – "400,000" shall be read as "1,235,000."

(3) In regulation 5(a), after paragraph (4), the following shall be deemed to appear:

"(5) A contract of a health fund for the purchase of biodegradable medical equipment and for the purchase of medications included in a procurement order issued under section 8(g) of the Health Insurance Law."

Exemption from

Tendering

Regulations 5757-1997

40C. In addition to that stated in regulation 40B, a contract of a health fund does not require tendering if it is one of the following:

(1) A contract involving hospitalization services or services in an outpatient clinic.

(2) A contract with a pharmacy as well as with a professional providing a medical or paramedical service, provided he received a license or accreditation from the Director. Such a contract shall be made in accordance with rules as determined by the fund. In this regard, "professional" – an individual, or a corporation where the contract is made in respect of an individual professional who is a shareholder or partner in the corporation, excluding a manpower company.

(3) A contract for the lease of land for a minimum period of five years, provided the area of the land does not exceed 1,000 square meters and the rent is no higher than the amount determined by a certified appraiser.

(4) A contract with a health fund.

(5) A contract with a subsidiary of a health fund, provided that contracts of the subsidiary for the purchase of goods or services for the implementation of a contract as stated were made starting from January 1, 1998 (4 Tevet 5758), in accordance with the provisions of this chapter.

(6) A contract as stated in regulation 34(5), (8) or (9), and for this purpose, wherever the "government corporation" appears in regulation 34 it shall read "health fund."

(7) A contract in respect of which a director general has determined that holding a tender is liable to impair its ability to provide to its insured members health services in accordance with the provisions of the Health Insurance Law.

(8) A contract resulting from a tender, from an invitation for bids or from the giving of an undertaking, where any of the above was done before the effective date of the Mandatory Tendering Regulations (Amendment), 5757-1997

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(hereinafter – the 1997 Regulations), in accordance with the rules and procedures in effect prior to the effective date of those regulations.

(9) A contract for the exercise of an option included in a contract that was concluded before the effective date of the 1997 Regulations.

Regulations 5769-2009

(10) A contract with a maximum value of NIS 600,000, where it is made in accordance with procedures approved by the fund's legal adviser.

Tender Committee
Regulations 5757-1997

40D. (a) The director general, with the approval of the Health Fund Council or a subcommittee authorized by it in that regard, shall appoint to the health fund one or more tender committees with at least three members, including a legal adviser, the fund's accountant or their representatives (hereinafter – tender committee). For purposes of regulations 3(28) and 23, the tender committee shall be deemed an exemption committee.

(b) Where two or more tender committees have been appointed to a fund –

(1) The division of responsibilities between the committees shall be determined by the appointor.

(2) The appointor is permitted not to include in the composition of a particular tender committee a legal adviser or his representative.

Reporting
Regulations 5757-1997

40E. The tender committee shall report –

(1) To the internal auditor of the health fund – regarding the grant of an exemption from mandatory tendering under paragraphs (3) to (6) of regulation 340.

(2) To the director general, to the internal auditor and to the Health Fund Council – regarding the grant of an exemption under regulation 40C(7) and regarding a tender-exempt contract with a value of more than NIS 1 million.

(3) To the Director – regarding the grant of an exemption from a tender under regulation 40C(7), within 30 days.

Regulations 5769-2009

40F. (Repealed).

Chapter G: Miscellaneous Provisions

Regulations 5769-2009

41. (Repealed).

Regulations 5769-2009

42. (Repealed).

**Provisions for a
Public Body**
Regulations 5769-2009

42A. (a) A public body which is not a ministry shall act having regard to the provisions of the Administrative Code determined for purposes of these Regulations or in accordance with a written internal procedure established by the public body.

(b) The director general of a public body shall, having regard to the provisions of the Administrative Code, establish provisions as to the preservation of employee rights and assurance of compliance with the labor laws by tender participants or winners or by persons contracting with the public body, including the areas or branches in respect of which provisions relating to assurance of compliance with the labor laws shall apply, provided that this does not derogate from the provisions established in that regard in the Administrative Code as applicable to the public body.

**Training for
Committee
Members**
Regulations 5769-2009
Temporary Order
5769-2009

42B. (a) (1) The members of a tender committee, the members of a ministerial exemption committee and the members of a central exemption committee shall be persons who have undergone training according to a plan approved by the Accountant General, unless the Accountant General has confirmed that a particular member is exempt from such training, for reasons to be recorded.

(2) A member of a tender committee who was not exempted by the Accountant General from training as stated, shall be dismissed from his office at the end of a year from the date of his appointment, if he has not undergone training as stated by then.

(b) Subregulation (a)(1) shall apply, *mutatis mutandis*, to a public body which is not

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a ministry. In this regard, wherever the term "Accountant General" appears, it shall read "director general of the public body."

Confidentiality

43. A person may not convey any information regarding a tender that is due to be or has been published, that reached him by virtue of his function, other than to someone who is entitled to receive such information.

International Treaty

44. These Regulations shall apply insofar as they do not conflict with an undertaking of the State in an international treaty.

Saving of Laws

45. These Regulations are intended to add to the provisions of any law and not to detract from them.

Effective Date and Application

46. (a) The effective date of these Regulations is the effective date of the Law.

Regulations 5753-1993

(b) Regulation 3(23) shall apply up to the end of a year from the effective date of the Law.

Regulations 5753-1993

(c) Regulation 3(26) shall apply up to the end of two years from the effective date of the Law.

Regulations 5763-2003

(d) (Repealed).

May 13, 1993 (22 Nissan 5753)

Avraham (Baiga) Shohat
Minister of Finance