

Content

Title :	Regulations Governing Procurements for Scientific and Technological Research and Development
Date :	2020.08.07
Legislative :	<p>1.Enacted and promulgated on December 5, 2003 by National Science Council Order No. Tai-Hui-Gui-0920061194-1</p> <p>2.Amended on July 25, 2005 by National Science Council Order No. Tai-Hui-Gui-0940047780-1</p> <p>3.Amended and re-titled on May 7, 2012 by National Science Council Order No. Tai-Hui-Qi-1010027188A.(Original title: Regulations Governing Government-Subsidized Procurement for Scientific and Technological Research and Development)</p> <p>4.Articles 3,6,and 8 amended on September 21, 2017 by Ministry of Science and Technology.</p> <p>5.Articles 8 amended on August 7, 2020 by Ministry of Science and Technology.</p>
Content :	<p><b>Article 1</b></p> <p>These Regulations are enacted in accordance with the provisions of Article 6, Paragraph 4 of the Fundamental Science and Technology Act (“the Act” hereafter).</p> <p><b>Article 2</b></p> <p>A government subsidy as referred to in Article 6, Paragraph 1 of the Act shall mean an award, grant, or other monetary payment provided by the government through laws or regulations to a public school, public research institute (organization), or juristic person or entity, for the purpose of promoting scientific and technological research and development.</p> <p>A scientific and technological research and development procurement (“scientific research procurement” hereafter) referred to in these Regulations shall mean a procurement performed by a public school, public research institute (organization), or juristic person or entity as described in Article 6, Paragraphs 1 and 4 of the Act, for a project that is conducted under subsidy or commission from the government, or under a scientific and technological research and development budget prepared by a public research institute (organization) in accordance with law.</p> <p><b>Article 3</b></p> <p>Unless otherwise prescribed by any treaty or agreement to which this nation is a party, these Regulations shall apply to any public school, public research institute (organization), or juristic person or entity performing a scientific research procurement.</p> <p>These Regulations shall apply mutatis mutandis to any public schools, public research institutions (organization) when implementing the Scientific and Technology Research and Development Projects conducted under subsidy or commission from the government, or by the competent authorities, and the budgets including the Technology Research and Development Budget and matching grants</p>

from industry.

These Regulations shall not apply to a juristic person or entity receiving government subsidy to perform a procurement, where the subsidy amount is less than half the procurement value, or less than the threshold for publication as stipulated in the Government Procurement Act.

#### Article 4

For the purpose of performing supervisory duties over a scientific research procurement, the subsidizing, commissioning or competent agency may audit the public school, public research institute (organization), or juristic person or entity, and inspect documents, websites, or other relevant information or materials pertaining to the scientific research procurement. The agency may also dispatch personnel to perform such inspections and the public school, public research institute (organization), or juristic person or entity shall offer its cooperation.

#### Article 5

In regards to a scientific research procurement performed for a scientific and technological research and development project that is subsidized or commissioned by the government and conducted by a public school, public research institute (organization), or juristic person or entity, the subsidy or commission contract shall clearly prescribe all terms of compliance, namely, the terms stipulated by these Regulations and by the subsidizing or commissioning agency, as well as the liabilities for breach of contract. The contract may also stipulate the means of conducting the scientific research procurement.

#### Article 6

A scientific research procurement shall be conducted in accordance with the principles of promoting scientific and technological research and development, the innovation and application of the research and development result, and protecting public interest.

If performing a scientific research procurement valued at NT\$ 1 million or above, the public school, public research institute (organization), or juristic person or entity, shall, in view of the specific nature and actual requirements of the procurement, evaluate the supplier's technologies, management, commercial terms, past contract performance, construction work, property or service quality, capability, price, or related matters. Such an evaluation shall be recorded in written form and filed for inspection purposes. However, in order to encourage the participation of startup companies, the review items in the preceding paragraph may be adjusted to increase the fair competition opportunities for startup companies.

#### Article 7

A public school, public research institute (organization), or juristic person or entity performing a scientific research procurement may, if necessary, conduct negotiations with a supplier before entering a procurement contract to discuss procurement terms such as construction work, property specifications, service

requirements, etc.

Negotiations not conducted in writing shall be documented in written form, specifying the contact person, time, location, and contents negotiated.

The documents pertaining to negotiations mentioned in the two preceding Paragraphs shall be filed for inspection purposes.

#### Article 8

Personnel of the public school, public research institute (organization), or juristic person or entity connected with a scientific research procurement shall recuse themselves from the procurement and all related matters if they themselves, their spouses, or relatives within the second degree of kinship have interests involved therein.

A responsible person, partner, or representative of the public school, public research institute (organization), or juristic person or entity performing the scientific research procurement may not serve as a responsible person, partner, or representative of the supplier, unless they are the representatives appointed or selected by the government entities or state-owned shareholders or retained by the government entities.

The supplier and the juristic person or entity performing the scientific research procurement may not at the same time be affiliated with each other, or affiliated to the same other enterprise.

When the enforcement of the requirements in the three preceding Paragraphs impairs the development of scientific and technological research, the innovation and application of the research and development result, fair competition or public interest, such requirements may be waived provided that the public school, public research institute (organization), or juristic person or entity has obtained the approval of the subsidizing, commissioning or competent agency.

According to the preceding Paragraphs exempting the enforcement of the requirements in the first to the third Paragraphs, the public school, public research institute (organization), or juristic person or entity performing the scientific research procurement shall disclose the relationship between the person who shall be recused from the procurement and the supplier, and the reasons of the exemption.

#### Article 9

In compliance with relevant regulations, the subsidizing or commissioning agency shall make openly available information that it possesses concerning the scientific research procurement performed by the public school, public research institute (organization), or juristic person or entity.

Likewise, the public school, public research institute (organization), or juristic person or entity performing scientific research procurement under subsidy or commission from the government shall, in compliance with relevant regulations, make openly available information concerning the procurement.

#### Article 10

Equipment acquired through scientific research procurement shall be used in the

appropriate manner; in the case of equipment valued at NT\$1 million or above, written records describing the status of equipment usage shall be kept for inspection purposes.

For as long as the subsidization or commissioning relationship continues to exist, the equipment mentioned in the preceding Paragraph may not be disposed of, nor may encumbrance be created on it, except where other laws or regulations permit such disposal or creation of encumbrance, or where the subsidizing or commissioning agency has granted consent.

#### Article 11

Any public school, public research institute (organization), or juristic person or entity that has received a subsidy, or any public school or public research institute (organization) that has been commissioned, shall, in accordance with law, complete the necessary procedures to discontinue receiving public funding.

#### Article 12

The government agency shall clearly stipulate within the subsidy or commission contract that the subsidizing or commissioning agency may reduce the subsidy or commission amount or terminate monetary appropriations to the subsidized or commissioned public school or public research institute (organization), or the subsidized juristic person or entity performing the scientific research procurement, if such recipient falls into one of the following circumstances. In the more severe cases, the subsidizing or commissioning agency may terminate or rescind the contract and recover the funds already appropriated:

1. Where the recipient has procured items inconsistent with the subsidy or commission purpose;
2. Breached the stipulation of Article 4 by resisting, obstructing, or evading inspections or examinations conducted by the subsidizing or commissioning agency;
3. Violated the fundamental procurement principles of Article 6, Paragraph 1 when performing procurement;
4. Breached the stipulation of Article 7, Paragraph 2 or Paragraph 3 by failing to file procurement negotiation documents for inspection or failing to record procurement negotiations in written form, and has not rectified such situation within a specified time after being notified by the subsidizing or commissioning agency;
5. Breached the stipulation of Article 8, Paragraph 1, Paragraph 2, or Paragraph 3 by failing to exercise recusal for any cause of recusal prescribed therein;
6. Breached the stipulation of Article 10, Paragraph 1 by failing to create a written record describing the status of the equipment's usage, and has not rectified such situation within a specified time after being notified by the subsidizing or commissioning agency;
7. Breached the stipulation of Article 10, Paragraph 2 during the term of an existing subsidization or commissioning relationship by disposing of or creating encumbrance on equipment procured through government subsidy or commission, where such disposal or creation of encumbrance has neither been permitted by laws or regulations nor approved by the subsidizing or commissioning agency;

8. Breached the stipulation of the preceding Article by failing to complete procedures to discontinue receiving public subsidies or commissions, and has not rectified such situation within a specified time after being notified by the subsidizing or commissioning agency.

#### Article 13

These Regulations shall come into force on the date of promulgation.

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