

LICENCE III – ANGLAIS JURIDIQUE
2^e Semestre – Partie II
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Administrative Contracts in Egypt

Introduction:

The Egyptian political system has 3 authorities:

- Legislative authority.
- Judicial authority.
- Executive authority (government + administrative bodies).

The main goal of the executive authority is to fulfill citizens' needs by:

- Establishing public policy (creating public security).
- Providing services (establishing public utilities).

The main goal of the administration is to keep public utilities continuously & smoothly running by:

- Issuing administrative decisions.
- Concluding private or administrative contracts.

A contract is considered administrative if:

1. The administration is a party.
2. The contract is related to a public utility.
3. The contract includes exceptional clauses that has no equivalent in civil law.

Administrative Contracting Methods:

1. Contracting through sealed bidding (tenders):

1.1 Public tender principles:

- 1.1.1 Publicity,
- 1.1.2 Freedom of competition, and
- 1.1.3 Equality.

1.2 Limited tenders.

1.3 Local tenders.

2. Contracting through negotiation (practice):

2.1 Public negotiation principles:

- 2.1.1 Publicity,
- 2.1.2 Freedom of competition, and
- 2.1.3 Equality.

2.2 Limited negotiation.

3. Contracting through direct agreement

3.1 Urgent cases.

3.2 Emergency cases.

3.3 Restrictions when resorting to direct agreement.

Contracting Procedures Under the Egyptian Law of Bids and Tenders:

1. Preliminary procedures:

- 1.1 Making sure of the existence of the appropriated funds.
- 1.2 Performing obligatory consultations, permissions and consents,
- 1.3 Printing the book of financial and technical conditions,
- 1.4 Publicizing contracting action (preparing and publishing the invitation for bids), and

2. Bids submission (offer).

2.1 The Bid bond (bid guarantee):

- 2.1.1 Value.
- 2.1.2 Ways of payment.

2.2 Bidders' reservations (special remarks):

- 2.2.1 Technical, financial, work conditions, etc.
- 2.2.2 Administration right to reject bidders' lacking essential conditions.

2.3 Bidders right to modify their bid or withdraw and consequences.

2.4 Late bids submissions consequences.

2.5 Selection of bidders (acceptance).

- 2.5.1 Bid opening Committee.
- 2.5.2 The award committee.

2.6 The Performance bond:

- 2.6.1 Value.
- 2.6.2 Ways of payment.

Privileges of the Administration During the Pre-contractual Stage:

1. Cancellation of the solicitation (call for tender):

- 1.1 Cancellation of the solicitation (call for tender) before opening the bids.
- 1.2 Cancellation of the solicitation (call for tender) after opening the bids.

2. Banning and suspension of contractors.

3. The bidder is bound by his bid.

4. Contract revision by the state council.

Privileges of the Administration During the Contract Performance:

- 1. The Administration's right to observe, guide, and supervise.**
- 2. The Administration's right to unilaterally change orders:**
 - 2.1 Approvals.
 - 2.2 Financial appropriation.
 - 2.3 Validity period.
 - 2.4 Precedence of contractor's bid.
- 3. The Administration's right to impose penalties:**
 - 3.1 Delay fine.
 - 3.2 Confiscation of performance bond:
 - 3.2.1 Confiscating the performance bond as a penalty.
 - 3.2.2 Confiscation of performance bond as a termination procedure.
- 4. Withdrawing the job from the contractor, executing the contract upon contractor's expenses and collecting excess costs for re-procurement.**
- 5. Termination for default.**

Termination of Administrative Contracts Under the Egyptian Law:

- 1. Contract Performance:**
- 2. Agreement to discharge or vary a contract:**
- 3. Frustration:**
 - 3.1 Impossible.
 - 3.2 Illegal.
 - 3.3 Radically different obligation.
- 4. Breach.**
- 5. Termination for default:**
 - 5.1 Obligatory termination of administrative contract.
 - 5.2 Optional termination of administrative contract.
- 6. Termination for Convenience:**
 - 6.1 Public policy right.
 - 6.2 Justifiable reasons.
 - 6.3 Unjustifiable reasons.