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## EVALUATES THE ROLE INSTRUCTIONS AN IMPLEMENTATION STATE CONTRACTS IN REDUCING THE PHENOMENON OF FINANCIAL CORRUPTION IN IRAQ

**Abstract.** The article describes the provisions of the state implementation instructions of contracts issued by the Coalition Provisional Administration of the Government of Iraq. Because the instructions are presented in several versions, the article analyzes the differences between them, the most important shortcomings of the procedures for the contracts execution presented in the instructions are indicated. Part of the identified shortcomings could open access to financial corruption in the country, which is why the article proposes measures to eliminate them.

**Key words:** Instructions for implementing government contracts, comparative, efficiency.

**Аннотация.** В статье рассмотрены положения инструкций по выполнению государственных контрактов, выпущенных Коалиционной временной администрацией Правительства Республики Ирак. Поскольку инструкции представлены в нескольких версиях, в статье проанализированы различия между ними, обозначены наиболее важные недостатки представленных в инструкциях процедур по выполнению контрактов. Часть выявленных недостатков могли открыть доступ к финансовой коррупции в стране, в связи с чем в статье предложены мероприятия по их устранению.

**Ключевые слова:** инструкции по выполнению государственных контрактов, эффективность.

**Introduction.** The political and economic conditions that Iraq has undergone over the past few years have contributed to the complexity of the government functions in managing the interests of society. This has affected the priorities of state jobs between providing security and economic development. The change of governance in Iraq has contributed to change the laws and instructions for the implementation of the general budget and the organization of work in government units [1]. This period also witnessed an increase in the volume of projects and investment programs in the state budget, the most important of which were reconstruction pro-

jects, regional development projects and provincial councils. At the same time witnessed the spread of the phenomenon of financial corruption, especially in the implementation of investment budget projects and programs, which regardless of its various components and causes, has only one outcome: the economic waste of the material and financial resources of society [2]. Iraq ranks tenth among the most corrupt countries in the world, according to Transparency International's 2016 report. Transparency International stressed that political parties in Iraq are the most corrupt institutions, followed by the Parliament, the judiciary and the military establishment [3]. That the Iraqi citizen is not ready to engage in the fight against corruption and to report their cases because of his lack of confidence in the government and the judiciary, where the citizens believe that if they reported corruption, they may be retaliated or that in case of reporting cases of corruption will not be held accountable for the corrupt.

**Comparative analysis between the modern and old version of the instructions for the implementation of government contracts.** The final version of the Instructions for the Implementation of Government Contracts No. 1 of 2014 was issued by the Ministry of Planning [4], based on Article 1 of Section 14 of CPA Order No. 87 in 2004 to replace the Instructions for Implementing Governmental Contracts No. (1) Projects and programs of the investment budget in Iraqi government units and differ from the following:

1. Provisions on the validity the instructions came more clearly through the designation the contractual bodies involved in the implementation of these instructions.

2. Application rather than reference to its provisions in the absence of a provision prevent their application in the Convention on Projects and Contracts financed by States, international and regional organizations and non-governmental organizations.

3. The new instructions have been excluded from their entry into public companies when contracting with government agencies. They have been granted the choice of methods of contracting, negotiating and approving powers according to their regulations and laws.

4. No amount has been set for the adoption of the public tender method and the limited tender (50 million dinars in the previous instructions, which is equivalent to approximately \$ 40,000) and left the financial ceilings for the budget instructions.

5. The new instructions explained that the limited tender method is followed when the goods or services subject to the tender are available to a limited number of companies and that after evaluating the qualifications of the legal, technical and financial companies; at least three companies are selected to offer their technical and commercial offers.

6. Another method in public tenders called the public tender in the form of technical qualification, which is to receive technical and commercial offers in two separate cases. The technical offers are opened first and then the commercial offers of the accepted companies are opened, after which the referral to the tender for that entity.

7. It provides for the formation of a central committee for the review and approval of the referral to review the procedures of tendering and amendment of the tender.

8. Exemption the public companies from providing primary insurance and letters of guarantee of good execution.

**The efficiency of the instructions for the implementation of government contracts no. (1) For the year 2008 in reducing the phenomenon of financial corruption in the implementation of investment budget projects and programs.**

The last version issued instructions for the implementation of government contracts No. (1) For the year 2008 at the Ministry of Planning based on Article 1 of Section fourteenth of the Coalition Provisional Authority (CPA) Order No. 87 of 2004. These instructions have been updated in 2014 to regulate the procedures [5], for the implementation of investment budget projects and programs in Iraqi government units, and include a number of measure that contribute effectively to reduce financial corruption in the implementation of government contracts.

It is noted that the instructions for the implementation of government contracts include many aspects that contribute to reducing financial corruption in the implementation of government investment projects, but it is not free of some flexible aspects can contribute to the emergence of financial corruption if it exploited by corrupt managers, including:

1-Determine the method of execution of the tender and the amount of the assignment, which depends heavily on the specifications of the investment project and the announcement of the results of the tender as well as the estimated cost of the project. Here are the following weaknesses:

- Some departments of government units may specify special specifications for the investment project to convert the tender from the general tender method to the limited tender method or the tendency for one tender.

The limited tender is to declare general call from the point contracting to all who wish to participate in the implementation contracts of various kinds who meet the conditions of participation and amounts not less than fifty million Iraqi dinars (\$40000) or any other amount determined by the concerned parties and be in two stages:

The first stage: The submission of documents for the technical and financial rehabilitation of the participants in the tender and in accordance with the relevant legal legislation to be evaluated by a specialized committee in the contractual bodies to reach the selection of qualified to participate in the second phase.

Stage 2: Direct invitation to qualified to participate in the tender to submit technical and commercial bids (financial) and legal conditions of participation to be not less than (6) six invitations.

The one bid method (the only offer) is directed by a single bidder in respect of contracts of a specialized monopolistic nature or maintenance for the execution of consulting services or manufacturing, or the existence of justifiable reasons.

- The government unit may announce the tender in newspapers that are widespread, but it is not within the interest of construction companies and for the minimum period prescribed for the announcement of the tender which leads to

the lack of knowledge of many contractors on the announcement or lack of sufficient time to study the possibility of entering the tender and determining the amount of the tender. On the other hand, the contractor targeted by the corrupt government administration is fully informed of the details of the contract even before it is announced.

- If the estimated cost of the contract is not suitable for the target contractor by the corrupt government administration, it is possible that this administration will use the instructions to implement the government contracts for re-advertising for increasing the amount of the assignment to a percentage exceeding the cost of the valuation by 30%.

- Determine the amount of the bid bond for the entry of the tender at 1% of the amount of the bid. The contractor can identify the bids submitted by other contractors through the bank that deal of the government unit.

- No ceilings have been set for the Central Committee for review and approve the submission of the tender acceptance of the bid amount of the higher assignment price of the estimated cost of the project and a minimum acceptance of the lower price of the assignment than the estimated cost. The existence of these limits fortifies the members of the Committee against the imposition of high-priced transfers for reasons of flimsy and it removes the fear among the members of the Committee of the non-referral cheaper price even if it is reasonable. As referrals were cheaper prices a key reason for the lack of implementation of projects and contracts in the past.

- Exemption of "sobriety companies" from submitting initial letters of guarantee required to participate in tenders on the basis of controls set by the Ministry of Planning constitutes another entry to corrupt members of committees and employees by the conduct of "standards of sobriety", especially for general materials such as basic foodstuffs, which are frequently supplied.

2-The opening and analyzing of bids can be taken as the following weaknesses:

- Failure to refer to the judgment and cancellation in the tender Or the occurrence of open cases for tenders and the request of the providers to complete the deficiencies and re-enter them within the tenders that meet the conditions stipulated in the instructions or not register the deficiencies and reservations in the opening form.

- Accepting unsatisfied bids for the required conditions (bank guarantee, similar works, tax fee, etc.).

- Modifying and manipulating the terms, specifications, maps and quantities, schedules to suit selected tenders.

- Recommending that the work be referring to a bid higher than the lowest bid, on the basic that the department is not obliged to accept the lower bids, although the lowest bid meets all the conditions.

- The analysis committee shall allow the bidder to submit technical specifications, new conditions and set prices without allowing the other bidders to do that. This means unequal pricing opportunities for contractors or in cases of modification of specifications.

- The Committee recommended giving the tender to a single bidder without giving a recommendation to re-advertise again and wider for obtaining other offers.

3-When implementing a contract, weaknesses in this area are as follows:

- Estimate the value of the work performed in excess of its real value by the evaluation engineer or the supervisory committee.
- Ignore the implementation of some works of quality required or acceptance of the use of low quality materials in the implementation of the work.
- Increase the duration of the contract works from the period stipulated in the contract through the issuance of administrative orders to stop work or justify the delay of the contractor in the implementation of work and others.

4-Upon receipt of the project from the contractor, there are also forms of financial corruption, including the waiver of some of the mistakes made by the contractor during the implementation or some irregularities to the specifications agreed in the contract.

**Conclusion.** The instructions for the implementation of government contracts are still assigned to Coalition Provisional Authority Order No. 87 of 2004, which is no longer suitable for the new situation. In addition, it is also based on the engineering and accounting aspects to the instructions issued more than 25 years ago. These instructions contribute to reducing the phenomenon of financial corruption in the implementation of projects and programs of the investment budget, in order to include procedures that contribute to the implementation of projects efficiently at each step of implementation as well as flexibility. The majority of the phenomena financial corruption in the implementation of government projects arises from the violation of government units these instructions directly or indirectly through the use flexible aspects in these instructions for personal gain, as well as the failure to associate these instructions with a system of administrative and criminal penalties for the spoilers.

We recommend repeal the Coalition Provisional Authority Order No. 87 of 2004 and issuance of a new law regulating the implementation of government contracts with the issuance of a unified guide to regulate these contracts, including all technical, administrative, engineering and financial aspects, to facilitate the implementation of government contracts and facilitate the task of monitoring by the various regulatory bodies. Government units should be urged to complete all project requirements before they are placed in the plan. These requirements include the study stage of the project, preparing economic feasibility, development of technical specifications, preparing schedules, quantities after the preparation of detailed implementation maps and the cost of the estimated total and annual. Some government agencies announce the projects before the fulfillment of these requirements and thus the studies, economic feasibility, maps, specifications is incomplete and then a lot of changes are made during the implementation phase, especially; technical specifications, designs, maps and other shortcomings are exploited later by many parties. The most important measures that can be taken and which contribute to reducing financial corruption in the implementation of investment budget projects are:

- Announcing the date opening tenders within an appropriate period and accordance with the provisions instructions to enable contractors to study the contract documents and contact with external parties to know prices and see the working conditions. This has a significant impact on contract pricing accurately and properly. We also believe it is preferable to advertise in the most popular media.

- The selection committee members for opening, auditing and analysis, tenders with long experience and are known for their integrity and reputation.
- Selection the committee supervising that execution of the contract, persons who are known for their diligence, experience and integrity to follow up the contractor work. That will be ensured the implementation quality and prevent fraud or manipulation of the technical project specifications.
- Provide the necessary liquidity and expedite the payment of the contractor's dues on the percentage of completion to ensure that the implementation contractor did not delay, as some contractors may lag behind the implementation of the work on the pretext of non-payment of the government unit for their entitlements.

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### HUMAN RESOURCES AND THE DESIGN OF TALENT MANAGEMENT STRATEGIES FOR THE DEVELOPMENT OF INTERCULTURAL LEADERS

**Abstract.** The globalized environment requires top management of international companies, in coordination with human resources managers, to design talent management strategies aligned with strategic business objectives to develop talented leaders capable of managing teams in any part of the world where their companies are installed.

The purpose of this article is to show some of the talent management strategies that human resources managers from international companies have designed in order to promote the development of intercultural skills in their leaders to guarantee efficiency in the management of their teams and the permanence of their best personnel.