

The Effectiveness Recognition and Liability Regulation of the Declaration Letter of Small and Medium-Sized Enterprises

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Abstract: This article focuses on the No. 35 Guiding Case of Government Procurement issued by the Ministry of Finance, conducting targeted research aimed at in-depth analysis of the actual applicability of small and medium-sized enterprise (SME) declaration letters in government procurement activities. It specifically explores the controversies surrounding the determination of the legal effect of this document, while systematically reviewing the nature and regulatory mechanisms of liabilities for suppliers submitting false SME declaration letters. The article comprehensively examines the full facts, judicial reasoning, and outcomes of the case, and integrates this with research and analysis of current laws and regulations related to government procurement. It further clarifies the statutory legal status of SME declaration letters and the standards for determining their effect in judicial and administrative contexts, thoroughly elucidating the legal consequences corresponding to suppliers deliberately concealing their actual size or providing false declaration materials. The study aims to provide practical references for government procurement regulatory authorities, procurement entities, and market participants in handling similar disputes, effectively standardize the competition order in government procurement, ensure that procurement activities are conducted fairly, justly, and lawfully, truly implement policies supporting SMEs, and contribute to the sustained, healthy, and stable development of small and micro enterprises.

Keywords: Declaration Letter for Small and Medium-Sized Enterprises; Effectiveness Recognition; Responsibility Regulation; Government Procurement

1. Introduction

Government procurement, as an important

component of the national economy, has a profound impact on economic growth and social development. Supporting the development of small and medium-sized enterprises not only stimulates market vitality, but also has significant implications in increasing employment and stimulating innovation [1]. In this context, the declaration letter for small and medium-sized enterprises has become a key document for implementing support policies for small and medium-sized enterprises. Whether its effectiveness can be accurately determined and whether the relevant responsibility regulations are strict directly affects whether the policy is effectively implemented and whether the government procurement market order can be effectively maintained [2,3].

2. Case Overview

2.1 Background of the Case

Y unit entrusted agency Z company to conduct a public bidding for the "main and auxiliary food procurement project". The bidding documents clearly stipulate that "small and micro enterprises can enjoy a 6% price deduction from their quotations, and participate in the evaluation based on the deducted price". This rule provides a clear and specific basis for small and medium-sized enterprises to participate in procurement and enjoy policy benefits, and has also become the core policy background for subsequent disputes [4].

2.2 Case Process

From June to July 2022, the bidding process will be carried out in sequence: the bidding announcement will be issued on June 22, 2022, the bid opening and evaluation will be conducted on July 13, and the winning bid announcement will be issued on July 26, with the winning supplier being Company C. However, on July 27th, supplier D company raised doubts, and on August 10th, agency Z company provided a response. On August 26th,

Company D filed a complaint with the Ministry of Finance due to dissatisfaction with the response. The complaint was that Company C, which won the bid, cannot be recognized as a small enterprise and should not enjoy preferential policies. The investigation by the Ministry of Finance found that Y unit and Z company claimed that C company had submitted a "Small and Medium sized Enterprise Declaration Letter" (declaring itself as a small enterprise) and required a letter from the finance department in order for the industry and information technology department to recognize the type of enterprise; C Company argues that as a medium-sized enterprise, it still meets the preferential conditions. After verification by the Ministry of Finance with the G Industry and Information Technology Committee, it has been confirmed that Company C is a medium-sized enterprise and does not match the content of its declaration letter [5].

2.3 Processing Result

According to the relevant provisions of the "Measures for Doubts and Complaints in Government Procurement", the Ministry of Finance has determined that D Company's complaint is valid and C Company's winning bid result is invalid; At the same time, in response to C Company's false filling of declaration letters, administrative penalties have been imposed on it in accordance with the Government Procurement Law of the People's Republic of China, and the relevant parties have not applied for reconsideration or filed a lawsuit within the statutory time limit [6].

2.4 Key Issue in Dispute

The core dispute in this case lies in the determination of the validity of the "Declaration Letter for Small and Medium sized Enterprises", that is, how to determine whether the declaration letter submitted by Company C is true and valid when it is inconsistent with the verification results of the industry and information technology department. Secondly, there are criteria for small and medium-sized enterprises to judge when enjoying government procurement preferential policies, as well as legal consequences for providing false statements.

3. Analysis of Legal and Policy Framework

3.1 Analysis of Policies Supporting Small and Medium sized Enterprises in Government Procurement

The policies supporting small and medium-sized enterprises in government procurement mainly aim to enhance their participation and competitiveness in the government procurement market by reserving procurement quotas or providing price evaluation discounts. The policy specifies the reserved ratio and implementation method to ensure that suitable projects can be specifically procured for small and medium-sized enterprises; at the same time, discounts will be given to small and micro enterprises to enhance their price competitiveness. In policy implementation, particular emphasis is placed on the requirements of declaration letters and qualification review mechanisms, supplemented by information disclosure and complaint handling mechanisms, to ensure fairness and transparency. These measures have effectively promoted the development of small and medium-sized enterprises, stimulated market vitality, and are of great significance in promoting economic growth.

3.2 The Legal Basis and Function of the Small and Medium sized Enterprise Declaration Letter

The "Declaration Letter for Small and Medium sized Enterprises" has a solid legal basis and important role in the field of government procurement. The Management Measures for Promoting the Development of Small and Medium sized Enterprises through Government Procurement stipulate that when small and medium-sized enterprises participate in government procurement activities, they need to provide this declaration letter in order to enjoy support policies, which is also the core basis for suppliers to obtain policy support. This method not only clarifies that the declaration letter should include key information such as the size of the enterprise, employees, and operating income, but also emphasizes that no unit or individual shall require suppliers to provide additional proof materials beyond the declaration letter, thereby simplifying the process for small and medium-sized enterprises to participate in government procurement. In practice, suppliers who truthfully fill out the declaration letter can enjoy preferential policies based on the content they have filled in [7,8].

3.3 Legal Provisions and Liability Regulations Involved

Article 77 of the Government Procurement Law of the People's Republic of China stipulates that suppliers who provide false materials to win bids will face legal responsibilities such as fines, inclusion in the list of bad behavior records, and being prohibited from participating in government procurement activities for 1-3 years. The legal provisions directly target the behavior of suppliers providing false information in declaration letters, ensuring the fairness and good faith principles of government procurement. Article 32 of the "Measures for Doubts and Complaints in Government Procurement" also clarifies the provisions on the results of complaint handling, providing specific operational guidelines for the finance department in handling supplier doubts and complaints. These legal provisions together constitute a legal guarantee for the authenticity and legality of the "Declaration Letter for Small and Medium sized Enterprises", which not only regulates the behavior of suppliers, but also protects the orderly conduct of government procurement activities, and is of great significance for maintaining market order and a fair competition environment [9].

4. Analysis of the Criteria for Determining the Validity of Declaration Letters for Small and Medium sized Enterprises

4.1 Theoretical Basis for the Effectiveness of Declaration Letters

The declaration letter for small and medium-sized enterprises, as a unilateral commitment from suppliers to their own enterprise type, has a clear legal nature and source of effectiveness. In the process of signing government procurement contracts, a declaration letter is not only a necessary condition for suppliers to participate in procurement activities, but also a self-declaration of the authenticity and legality of their corporate identity. Once the supplier submits a declaration letter, it is deemed that they have accepted the relevant terms in the government procurement documents and promised to comply with the designated standards for small and medium-sized enterprises. The relevant provisions of the "Management Measures for Promoting the

Development of Small and Medium sized Enterprises through Government Procurement" also clarify that small and medium-sized enterprises participating in government procurement activities must provide a "Declaration Letter for Small and Medium sized Enterprises" that meets the regulations, otherwise they cannot enjoy relevant support policies, further strengthening the legal status and effectiveness of the declaration letter in government procurement activities.

4.2 The Key Factors Determining the Effectiveness of the Declaration Letter in This Case

The authenticity of the statement: In this case, Company C declared in the "Small and Medium sized Enterprise Declaration Letter" that it is a small enterprise, but in the actual investigation, there were discrepancies in the results, indicating that the authenticity of the content is a prerequisite for the validity of the declaration letter.

Supplier's obligation to truthfully respond: Suppliers have an obligation to truthfully respond to the requirements of procurement documents in government procurement, including truthfully filling out declaration letters. If Company C fails to fulfill this obligation, it will affect the validity of its declaration letter.

The recognition basis of relevant departments: As the competent department for small and medium-sized enterprises, the G Industry and Information Technology Committee has authoritative and professional recognition of enterprise types, and its response results are an important basis for determining the enterprise type of Company C.

4.3 The Impact of Effectiveness Recognition on the Government Procurement Process

After the declaration letter from Company C in the case was deemed invalid, its impact on the government procurement process of this project was enormous. This includes the handling of invalid bid results, qualified suppliers meeting the statutory quantity (determining the winning supplier separately or resuming procurement activities), and the impact on the fairness and impartiality of government procurement.

5. Analysis of Responsibility Regulations for Providing False Declaration Letters

In government procurement activities, the legal

liability for suppliers providing false "SME Declaration Letters" must meet the following clear requirements. Firstly, the supplier must have subjective intent or negligence and objectively committed the act of providing false materials, and the false materials have a direct causal relationship with the winning bid result. Secondly, in the process of determining responsibility, it is necessary to carefully verify the authenticity of the content of the declaration letter. By reviewing bidding records, communication evidence with manufacturers, and other materials, a comprehensive judgment can be made on whether the supplier has a subjective intention to intentionally conceal or fabricate information, and the actual impact on the procurement results can be evaluated. Once it is determined that the supplier is responsible for providing false declaration letters, the Ministry of Finance and relevant departments will take severe administrative penalties and publish relevant information on designated media such as the China Government Procurement Network through the information disclosure mechanism, accepting social supervision. These measures effectively deter and regulate potential illegal activities, maintaining the fairness and impartiality of the government procurement market.

The implementation of responsibility regulation measures not only curbed the provision of false declaration letters, but also promoted the healthy development of small and medium-sized enterprises and optimized the business environment for government procurement. By establishing a sound long-term regulatory mechanism, strengthening the review of supplier bidding documents and handling doubts and complaints, we ensure the strict implementation of government procurement policies. These efforts have jointly built an honest, transparent, and fair government procurement market order, providing strong guarantees for the growth of small and medium-sized enterprises [10].

6. Case Insights and Countermeasures Suggestions

6.1 For Suppliers

Strictly abide by laws and regulations to ensure the authenticity and effectiveness of the declaration letter: Suppliers must strictly comply with the "Management Measures for Promoting the Development of Small and Medium sized

Enterprises through Government Procurement" and relevant laws and regulations when participating in government procurement activities, to ensure that the content of the submitted "Declaration Letter for Small and Medium sized Enterprises" is true, accurate, and complete. The declaration letter is not only an important basis for suppliers to enjoy preferential policies for small and medium-sized enterprises, but also a direct manifestation of their honest participation in government procurement activities. Any false statements or misleading information may result in suppliers being prohibited from participating in subsequent government procurement activities and bearing corresponding legal responsibilities. In practice, there are many cases of being punished for providing false materials to win bids. Suppliers should learn from this, adhere to the principle of honesty and credit, and prevent fraudulent behavior.

Carefully check the content of the declaration letter to avoid format or information errors: When filling out the Small and Medium sized Enterprise Declaration Letter, suppliers need to carefully check each item to ensure standardized format and accurate information. Specifically, the manufacturer information of the procurement target should be listed in detail, including key data such as manufacturer name, number of employees, operating income, and total assets, and the enterprise type should be accurately filled in. These pieces of information are important criteria for determining whether suppliers meet the standards of small and medium-sized enterprises. Any minor errors or omissions can lead to doubts and complaints, which in turn can affect the winning bid results. Therefore, suppliers must carefully check before submitting the declaration letter to ensure that everything is foolproof.

Strengthen internal management and enhance compliance awareness: Suppliers should establish and improve internal management systems, strengthen learning and training on government procurement policies, and enhance employees' compliance awareness. For example, regularly organizing policy interpretation meetings, case analysis meetings, and other forms to enable employees to fully understand the laws, regulations, and operational processes of government procurement activities, ensuring strict compliance with relevant regulations when participating in government procurement

activities. At the same time, an internal audit mechanism should be established to strictly control the submitted declaration letters and other documents, in order to avoid compliance risks caused by internal management omissions.

6.2 For Purchasers and Agencies

Strengthen the review of documents submitted by suppliers: During the government procurement process, purchasers and agencies should fulfill their audit responsibilities and strengthen the review of documents submitted by suppliers. Especially for the review of the "Declaration Letter for Small and Medium sized Enterprises", the accuracy of information and data should be checked one by one to ensure the authenticity of the supplier's identity.

Improve the preparation of procurement documents and clarify procurement requirements: When preparing procurement documents, the purchaser and agency should clearly indicate the industry to which the corresponding small and medium-sized enterprise classification standards belong, and list them in detail in the document. This helps suppliers accurately understand procurement needs and fill out the "Small and Medium sized Enterprise Declaration Letter" reasonably. At the same time, the procurement documents should also specify the specific content and applicable conditions of support policies such as price evaluation discounts, to ensure that suppliers can fully understand and enjoy relevant policy discounts when participating in government procurement activities.

6.3 For Regulatory Authorities

Improve management system, strengthen guidance and training: Regulatory authorities should further improve the management system of the "Declaration Letter for Small and Medium sized Enterprises", clarify the filling standards and requirements, and strengthen guidance and training for practitioners. By developing detailed guidelines and operational procedures, we aim to assist all parties in accurately understanding and implementing relevant policies. At the same time, regularly organize training activities to enhance the awareness and ability of all parties to fill out the declaration letter. In addition, a Q&A communication platform can be established to promptly answer any questions and confusion encountered by all parties during the filling and

review process.

Intensify the investigation and establish a credit punishment mechanism: Regulatory authorities should increase the investigation and punishment of providing false declaration letters and establish a credit punishment mechanism. For verified false statements, suppliers should be held legally responsible and included in the list of records of misconduct. By increasing the cost of illegal activities, effective deterrence can be formed to maintain a good order in the government procurement market. For suppliers who have repeatedly violated regulations or committed serious offenses, strict measures such as restricting their participation in government procurement activities will be taken. In addition, typical cases and investigation results should be regularly announced to enhance social supervision and transparency.

Strengthen supervision and evaluation, continuously optimize policy environment: Regulatory authorities should strengthen supervision and evaluation of government procurement activities, and regularly inspect and evaluate the implementation of support policies for small and medium-sized enterprises. By collecting and analyzing feedback and data from all parties, timely identify problems and deficiencies in the policy implementation process, and propose targeted improvement measures and suggestions. At the same time, based on the economic and social development situation and changes in the government procurement market, we will adjust and improve the policy system for supporting small and medium-sized enterprises in a timely manner, creating a more fair, just, and transparent competitive environment for them. In addition, strengthen communication and cooperation with industry associations, experts and scholars, and other social forces to jointly promote innovation and development of the government procurement system.

7. Summary

The declaration letter for small and medium-sized enterprises is not only a key credential for government procurement to enjoy policy support, but also reflects the government's preferential treatment and support for the development of small and medium-sized enterprises. Through an effective system of small and medium-sized enterprise declaration letters, government procurement activities can

achieve precise support for small and medium-sized enterprises and promote fair competition in the market. However, the determination of the validity of the declaration letter and the legal consequences of false materials have become the core focus in procurement practice. In practice, enterprises must ensure that the content of the declaration letter they fill out is true and accurate, otherwise they will face serious legal consequences and damage the fairness and legality of procurement activities. Therefore, regulatory authorities must strengthen their scrutiny and supervision to ensure the compliance of the declaration letter and provide a more transparent and fair competitive environment for small and medium-sized enterprises.

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