

No. 2517

Date: June 22, 1979 10:30 AM

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Secretary of State

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COMMONWEALTH OF PUERTO RICO  
GENERAL SERVICES ADMINISTRATION

REGULATIONS NUMBER 1

of the

General Services Administration

BOARD OF REVIEW REGULATIONS

1979

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Section 1. Legal Basis

These regulations are approved by virtue of the power conferred upon the Administrator by Title II, Article 14, Sections h and j of Public Law Number 164 of July 23rd. 1974, as amended.

Section 2. Purpose

By means of Regulations No. 5 of the "General Services Administration", there is a new Board of Bids created in the Administration, with seat at each of the following Areas of the Administration, Purchases and Supplies Construction and Conservation of Public Buildings and Transportation and Maintenance of Vehicles. As a consequence all the Boards Existing at the Administration as the approval of these regulations are hereby dissolved.

Said Regulations establish a new formal bid procedure to be enforced after its approval. It much be clearly stalted that the Board of Review also has jurisdiction over the decisions and awards of away Board of Bids at any of the agencies under the jurisdiction of the Administration.

The Board of Review of the Administration, at present has jurisdiction over the existing Boards of Bids which have operated under the actual procedure this Board of Review shall maintain it over any decision or award taken or granted by the new Board of Bids of the Administration in any of its Areas, and under the new procedure.

These regulations Number 1 of the Administration are reviewed with the purpose of amending some of its provisions, so that they be in agreement with the provisions of the new approach in the Government purchase system and the new formal Bids procedure.

Section 3. Definition of Terms

A. Administrator - The Administrator of the General Services Administration.

B. Assistant Administrator - Anyone of the Assistant Administrators of the General Services Administration. When the purchasing function has been delegated in an agency, the head of said agency will substitute the General Services Administration.

C. Board - The Board of Review of the General Services Administration created by these regulations.

D. Board of Bids - The Board of Bids in any of the Areas of the General Services Administration, or of any agency for which the Administrator has designated a Board of Bids.

E. Impugnation - Petition before the Assistant Administrator for the review of specifications and conditions contained in any Bid Call Documents.

F. Review - Petition filed with the Board of Review requesting a reevaluation of any decision given by the Board of Awards or by the Assistant Administrator or by the head of any agency to which purchasing functions have been delegated.

G. Interested Party - Any petitionary agency or bidder whose interested may be affected as a result of an impugnation or review, and that if he is thus interested, upon prior justification of the damage suffered or to be suffered, he may join in any recourse, of those provided in these regulations, filed by the other party.

H. Appellant - The party filing one of the actions allowed by these regulations.

I. Appellee - In impugnation procedures, the Assistant Administrator concerned; in award reviews, the Board of Bids.

J. Decision - Opinion issued by the Assistant Administrator.

K. Resolution - Final opinion issued by the Board.

L. Day - Any Natural day of the week. For the purpose of computing terms, if they end on a holiday, Saturday or Sunday, the term shall be extended up to the next working day. Half a holiday shall be considered a total holiday.

LL. Agreement - Any decision taken by the Board, concerning any appeal before its consideration, which does not entail the final disposition of said appeal.

M. Registered Bidder - Any person registered in the "Bidders Registry of the General Services Administration", available and interested in contracting and attending Government bids.

Section 4. -- The Board of Review ✓

The Board of Review shall consist of as many members as the Administrator deems necessary but never of less than three (3). The Administrator shall appoint the President and the Secretary of the Board as well as the other members and he may appoint substitutes to cover for absences of any of the regular members.

Section 5. -- Meetings ✓

The Board of Review shall meet as many times as it may determine necessary for the consideration of matters submitted thereto or when the Administrator request the Board to convene in order to consider matters referred by him. The members shall attend the meeting personally and a majority of the members shall constitute quorum. The decisions shall be reached by majority vote of the members present at the meeting.

Section 6. -- Board of Review Jurisdiction ✓

The Board shall have jurisdiction over the following matters:

A.- Decisions issued by the Assistant Administrator with respect to Bid Call Impugnations; except, that no review may be requested on model specifications approved by the Regulatory Board of the Administration.

B.- Awards made by the Board of Bids.

C.- Investigations about complaints presented by bidders, or any other matter which the Administrator wishes to submit to the Board for consideration.

Section 7. -- Actions that may be filed before the Board of Review

A.- Review of Decisions

Any bidder not agreeing with the term, specification, or condition of a particular Bid Call may impugned said Call before the corresponding Assistant Administrator, and if he is not satisfied with the decision of said Administrator, he may file a review proceeding of his decision before the Board.

B.- Review of Awards

Any bidder having participated in a bid may file at the Board review action of the award made by the Board of Bids.

Section 8. -- Impugnation Action Procedure Before the Assistant Administrator

A.- Term

All Bid Call Impugnations shall be filed before the Assistant Administrator, within ten (10) days following the date the Bid Call was mailed, or within five (5) days of having received the Bid Call Documents by hand, depending on the type of Bid Call conducted.

All impugnations mailed to or filed before the Assistant Administrator, after said term, shall be rejected.

B.- Content

The Bid Call Impugnation petition shall have to contain the following:

1. A detailed report indicating the specific parts, specifications, or conditions whose terms are being impugned.
2. The reasons and specific arguments on which the impugnation is based, including the necessary documentary evidence which show and prove that the allegations made to impugn the invitation to bid are valid and true.
3. A clear indication of the remedy or action requested.
4. The signature of the appellant or his authorized representative.

C. Form

Said petition must be typewriter or hand-printed, in original and two (2) copies which must be delivered or mailed to the Assistant Administrator. The impugnation must contain a cover sheet to read as follows:

Commonwealth of Puerto Rico  
GENERAL SERVICES ADMINISTRATION

Petitioner	CASE NO. _____
Address	BID NO. _____

Impugnation Bid Coll

\_\_\_\_\_  
Assistant Administrator

Section 9. Decisions on Impugnations

- A. The Assistant Administrator will determine the validity of the impugnation and decide on its merits.
- B. The Assistant Administrator shall have to issue his decision in writing, within five (5) days following the date of impugnation receipt.

C.- The decision issued by the Assistant Administrator shall be simultaneously notified, in writing, to the invited bidders, making sure to indicate in said notification the right to petition a review by the Board, within ten (10) day term, counting from the date the decision is mailed.

Section 10. -- Procedure for Review Petitioning

A.- Filing and Notification

The appellant who wishes to file before the Board any action allowed in these regulations, shall have to do so by filing a review petition, in the original and two (2) copies, before the Office of the Secretary of the Board, at its offices in the General Services Administration, within ten (10) days following the date the Assistant Administrator's or the Board of Bids' decision was mailed, notifying the appellee and the successful bidder by sending them a copy of said review petition. The appellant at the moment of filing or mailing the review petition shall notify his action to the Assistant Administrator or to the Board of Bids, personally or by telegraph.

Failure to notify the appellee and the successful bidder shall be sufficient cause to deny his petition.

The Board shall have to resolve the review petition as soon as possible.

B.- Exceptions

Petitions permitted under this section shall not be considered if one or more of the following conditions prevail:

1. The term to file the petition has expired.
2. The arguments used to support the petition for review constitute in essence, an impugnation to the Invitation to Bid.
3. The petition filed challenges any requisities and dispositions established by law and/or regulations.
4. The petitioner has not appeared previously in the procedure.

C. Petition Form

The petition shall have to be typewritten or printed and shall be prepared in the following manner:

1. A cover with the following inscription:

Commonwealth of Puerto Rico  
GENERAL SERVICES ADMINISTRATION  
BOARD OF REVIEW

_____	REGISTER NO. _____
Petitioner	BID. NO. _____
_____	AREA: _____
Address	

2. The inside pages shall contain the following:
  - a. Basis for claiming recognition as an interested party.
  - b. A detailed and clear statement of all facts concerning the case, the allegations and reasonings on which the appellant bases his petition, and pertinent documentary evidence.

- c. When a petition of review of award is filed, it must indicate the item or specific items for which revision is requested.
- d. A clear indication of the remedial or specific action requested from the Board.
- e. A certification to the effect that a copy of the petition has been sent to the appellee and to the successful bidder.
- f. Signature of the appellant at the end of the petition. If the appellant is a partnership, the managing partner shall have to sign; if it is a corporation, one of its authorized officials. If it's filed by its legal representative the signature of said representative shall suffice.

Section 11. -- Special Bonds

A.- The Board may require from the appellant, the interested party or from both the posting of a guarantee consisting of a bond issued by an insurance company, authorized to do business in the Commonwealth of Puerto Rico, a certified check or a money order, payable to the Secretary of the Treasury.

The General Services Administration Official Collector shall be the receiver of these bonds. Said bonds shall answer for any cost increase the Government shall have to pay in the following cases:

1. If due to having stopped the handling and/or conclusion of the purchase, the Government should suffer any damage.

2. If the Board determines that the action was filed for frivolous reasons.

Section 12. -- The Right to Join in the Actions

All interested parties may petition the Board to join in an action filed before it, so as to establish its position concerning the review action, at issue. If the Board understands that the party petitioning to join in an action would have its rights affected by the resolution of the action, he shall allow it to join in the action. The Board shall order the affected party to file his plea, within the period set for it by the Board. Said party shall comply with all the provisions established in Section 10 (C) of these regulations.

Section 13. -- Board of Bids or Assistant Administrator's Obligations

The Board of Bids or the Assistant Administrator, whose final decision is being appealed before the Board, shall have ten (10) days, starting on the date of the petition review filing, to file before the Board its reply stating its arguments and points of view concerning the propositions contained in the review petition. The appellee shall have to send a copy of his reply to the appellant and to the successful bidder.

Section 14. -- Power and Duties of the Board of Review

A.- Register of Petition of Review

The Board shall keep a Register of Reviews where the appeals filed with the Board are entered following the order of receipt, and shall assign a register number to each one of them. Each case shall be identified by this register number from its inception to its final disposition.

B.- Hearings

1. The Board may hold hearings and receive and consider any oral or written testimony and other evidence it may deem pertinent. The absence of a member of the Board from a hearing does not prevent him from participating in the discussions and resolution by the Board of the case object of that particular hearing.
2. The presentation of testimonies and the admission of evidence during the hearing shall be governed by the rules established by the Board in each case. The rules of procedure and of evidence that are followed in the courts of justice shall not be applicable to the hearings and procedures of the Board. Nevertheless, the Board, at its discretion, may be guided or may apply such rules in specific cases where their application may result in the benefit of public interest.

C.- Technical Advice

In order to obtain all the necessary elements of judgement as well as proper advice to fully fulfill its functions, the Board may request the advice, aid and cooperation of departments, agencies, laboratory services and governmental or private technicians.

D.- Resolutions

1. The Board shall express in its resolutions all the factual and legal conclusions that sustain the resolution. The resolutions of the Board shall be final.

2. The Board shall keep in its files the original text of its resolutions, and shall mail a copy to each one of the affected parties.
3. The final resolutions issued by the Board on any action will affect only the case under its consideration and shall not constitute, for the purpose of the parties, precedent for future resolutions.

E. - Notifications

The resolutions of the Board of Review shall be notified as soon as possible to the parties that have formally appeared before it.

Section 15. -- Actions - Effect

The actions presented according to these regulations shall stay the effect of the decision impugned or to be reviewed, paralyzing all procedures related with the bid, until the final resolution of the matter before its consideration is adopted.

In case an emergency situation should arise, in which the General Services Administrator considers that a Government program or service could be affected, and subsequent to justification by a Governmental organism, and recommendation by the General Services Administrator, the Board of Review, exclusively, shall have the power to authorize award of the corresponding contract, for the period that it might take said Board to finally resolve the case.

Section 16. -- Violations and Penalties

A.- Violations

The Board shall determine those cases in which the action filed is considered frivolous or unjustified.

Any person, employee or not of the Government, supplying information about actions at Board level, or who intervenes with documents of the Board, or being a Government employee collaborates, helps, or prepares an action brief for a bidder, or supplies him information or official Government documents for said action, or any appellant who is not disposed to or in condition for standing by the proposal he presented at the Bid, during the whole proceeding, shall be susceptible to have sanctions provided in these regulations applied to him.

B.- Penalties

If subsequent to a hearing to such effect, the Board determines that any of the violations herein stipulated have occurred, it may impose any of the following penalties:

1. If the person responsible for the violation is a Government employee, he may present the matter to the Head of the agency for its consideration, so he may proceed with any of the actions provided in the "Public Service Personnel Act".
2. If he is a bidder, the Board may order the execution of his bond; or that his name be withdrawn from the General Services Administration Bidders Registry, established by the Board of Bids Regulations, for a period no less than six (6) months, nor greater than two (2) years.
3. If the violation entails the commission of a crime, or if in the judgement of the Board the violation of these regulations so warrants it, the matter shall be submitted to the Department of Justice, so it may proceed in accordance

with the provisions of Article 32 of Public Law Number 164 of July 23<sup>rd</sup>, 1974, as amended, providing that any person violating any of the provisions of the regulations issued under said law shall have incurred in a misdemeanor and, if convicted, shall be sentenced to pay a fine of no less than fifty (\$50.00) dollars, nor greater than two-hundred and fifty (\$250.00) dollars or imprisonment for a term of no less than one (1) month, nor greater than six (6) months, or both penalties, at the discretion of the Court.

The referral of the case to the Justice Department for criminal action does not prevent the imposition of the civil and administrative sanctions herein provided.

Section 17. -- Derogation

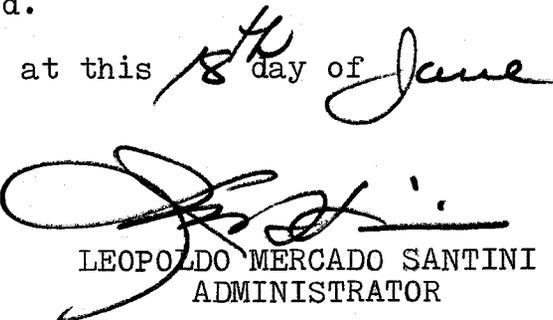
This Regulation supersedes Regulation Number 1 of May 31st, 1973 of the Board of Review.

However, all petitions for impugnation or review filed prior to the effective date of this Regulation shall continue to be governed by the previous Regulation.

Section 18. -- Effective Date

This Regulation, as amended, shall take effect thirty (30) days after its filing with the State Department of the Commonwealth of Puerto Rico in accordance with the provisions of Act Number 112 of June 30, 1957, as amended.

San Juan, Puerto Rico at this <sup>18<sup>th</sup></sup> day of *June* of 19

  
LEOPOLDO MERCADO SANTINI  
ADMINISTRATOR