
COMMONWEALTH OF PUERTO RICO
GENERAL SERVICES ADMINISTRATION

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REGULATION NUMBER 5 Assistant Secretary of State

OF THE

GENERAL SERVICES ADMINISTRATION

"FORMAL BIDS REGULATIONS"

1979

COMMONWEALTH OF PUERTO RICO
GENERAL SERVICES ADMINISTRATION

REGULATION NUMBER 5

TO establish the procedure to be followed in the government in all formal bids for acquisition or disposal of its property to establish the bodies that will make the transactions of said procedure; to delegate some of the functions of the General Services Administrator; to the derogate Section I; subsections E,F, and J of Section IV; subsection A, paragraphs 1, 2, 4 and 5 of subsection B and subsection C, D, E, and I of Section V; and Sections X, XII and XIII of Regulations Number 2 of the General Services Administration, "For the Control of Purchases under Public Law 96 of June 29, 1954" the "Bids Procedure of February 1st, 1976, for the Construction and Conservation of Public Buildings Area of the General Services Administration; the Regulations of January 39, 1963 "For the Control of the Functions of the Board of Bids of the Transportation Office"; the "General Services Administrator Procedure for Bids Publication" of June 12, 1973; the Administrative Bulletin No. 1902 "Executive Order for the Establishment of Uniform Publication Procedure for Press Bid Notices; and any other Regulations, Circular Letters, or Instructions conflicting with the provisions of these regulations or in effect prior to the approval of these regulations.

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PART I: GENERAL RULES

SECTION A: INTRODUCTION

ARTICLE 1: REFERENCE TITLE

These regulations shall be known as the "Board of Bids Regulations of the General Services Administration".

ARTICLE 2: SOURCES OF THE LAW

The General Services Administration promulgates these regulations in accordance with the power conferred upon him by sections h, j and p of article 14, subsection 1 of section a of article 18, section a of article 19, articles 20 and 21 of Public Law Number 164 of July 23rd, 1974, as amended; Section 4 of Public Law Number 96 of June 29, 1954, as amended; section b of article 4 of Public Law Number 5 of December 8th, 1955, as amended; and the power inherent to his position.

ARTICLE 3: PURPOSE

The main function of the General Services Administration is to facilitate the work of the Executive Branch agencies through the rendering of auxiliary services. These auxiliary services are organized by programs according to their type; they are: Purchases, Services, and Supplies; Printing and Reproduction Centers; Surplus Property Administration; Construction, Conservation and Maintenance of Public Buildings; Transportation, Maintenance, and Administration of the Government Fleet; Public Documents Administration; Electronic Data Processing; and Space Utilization Counseling.

In order to execute all these programs, at any time, it shall be necessary to acquire or dispose of chattels or services for the Administration as well as for the agencies who must make use of the services rendered by the Administration.

In order to safeguard Government interests and in compliance with the provisions of our laws, all acquisitions or disposals executed, shall be made through a public bid, in order to ensure more effective competition beneficial to the Government.

These regulations are adopted for the purpose of establishing a procedure to be followed in every public bid for acquisition or disposal carried-out by the Administration or by any agency in which said Administration has delegated; of creating the organisms that shall be in charge of administrating said procedures; of delegating some of the functions of the Administrator that must be delegated for a more effective administration of the procedures; and for other purposes inherent to the functions established by these regulations.

ARTICLE 4: SCOPE

The provisions of these regulations shall be aplicable to all employees or officials of the General Services Administration; to any person directly or indirectly intervening in bids held by the Administration; to all employees or officials of any governmental entity utilizing the services of the Administration by virtue of a law, or as a consequence of voluntary utilization of the Administration's services or by having been delegated acquisition functions.

ARTICLE 5: INTERRELATION WITH OTHER RULES AND REGULATIONS

Provisions of these regulations are aplicable exclusively to the acquisition of goods, works, or services or to the sale of goods through the formal bid procedure; but shall not be interpreted solely by themselves. Steps prior to and subsequent to said

procedure, the criteria for determining the use or non-use of the procedure herein established and all other aspects related to the acquisition of goods, works, and services or sale of goods in the Government, shall be regulated by the rules established or to be established by the Administrator in the following regulations:

1. Government Acquisition Regulations
2. State Surplus Property Regulations
3. Board of Review Regulations
4. Delegate Buyers Regulations
5. Official Receivers Regulations
6. Any other rule the Administrator may adopt concerning these subjects.

The provisions of the "General Conditions for the Contracting of Public Work and other Related Documents" shall prevail over any Administration provision in the contracting of public works, until the Administrator provides otherwise.

ARTICLE 6: INTERPRETATION OF WORDS AND PHRASES

1. In General

The words and phrases used in these regulations are to be interpreted according to their context and meaning, sanctioned by common and current usage.

Terms used in these regulations in the present tense also include the future; those used in the masculine gender include the feminine and neuter genders; except in those cases where such interpretation would be absurd; the singular includes the plural and the plural includes the singular.

2. In Particular

The following words used in these regulations are abbreviated terms or definitions of the phrases indicated below:

- 1) Administration- General Services Administration.
- 2) Administrator- The Administrator of the General Services Administration.
- 3) Assistant Administrator-The Assistant Administrators for the different Areas of the Administration. Unless otherwise specifically indicated, the functions of said Administrators may not be delegated.
- 4) Petitioning Agency- Any Government agency legally obligated to use the services of the Administration or those agencies that although, not legally obligated to said use, shall voluntarily request such services; in which case, they shall be subject to the regulations and controls established by the Administration. The Administration shall be considered as another petitioning agency.
- 5) Areas- Any of the Administration Areas which are: the Administration Area; Purchases, Services and Supplies Area; Conservation and Construction of Public Buildings Area; and the Transportation and Motor Vehicle Maintenance Area.
- 6) Day- Natural day.
- 7) Government- The Executive Branch of the Commonwealth of Puerto Rico excluding public corporations, municipalities, and any agency legally exempt from abiding by the rules established by the Administrator.

- 8) Board- Board of Bids of the Administration which is the organism in each of the Administrations areas that has the obligation of enforcing these Regulations and is responsible for conducting and awarding formal bids.
- 9) Regulatory Board- Consultative body of the Administrator on Specifications.
- 10) Bidder- Any person natural or juridical interested in participating or participating in bids held by the Administration.
- 11) Work- Any construction work including among other improvements, repairs, additions and maintenance.
- 12) Office- The Purchases and Contracts Office of the Administration which is the unit in each one of the Areas of the Administration in charge of implementing the "Acquisition Regulations", as well as initiating the steps that facilitate the award of bids and those that and the acquisition procedures in the Government.
- 13) Item- Breakdown of each one the goods, works, or services requested on a bid.
- 14) Unreasonable Price- Price shall be considered unreasonable when the price quoted by a bidder is greater than that offered under the same conditions by another firm dedicated to the same kind of business but who did not bid. The Board shall adopt the necessary mechanisms for confirming this, using as a guide rules established to such effect by the "Accounting Act of the Government of Puerto Rico" and the rules established by the Secretary of the Treasury.

- 15) President- The person named in each of the Areas in charge of directing the Board members of said Area.
- 16) Registry- The Bidders Registry.
- 17) Official Receivers- The officer designated by the Secretary of Treasury authorized to accept values in representation of the Government.
- 18) Category- Group of items based on general characteristics or descriptions. Each category may be broken down in items based on specific and similar descriptions.
- 19) Secretary- Each of the Secretaries of the Board in each Area. Unless otherwise specifically indicated, the Secretary shall personally perform his functions.

SECTION B: BIDDERS

ARTICLE 7: BIDDERS REGISTRY

The Administration shall maintain an up-to-date Bidders Registry divided according to the good, work, or service offered by each bidder.

The Assistant Administrators shall be responsible of preparing said Registry.

1. Registry-Use and Purpose

The Registry is adopted for various purposes:

- a. To lower the costs of public bids, establishing in as much as possible the call by invitation system instead of the call by newspaper notices; guaranteeing publicity by means of an annual call to bidders for their inclusion in the Registry.
- b. To evaluate the persons who will possibly enter into contract with the Government, to make sure that said persons are morally and economically solvent, and can faithfully comply with the terms of the contract, when the time comes.
- c. To ensure that all bidders meet the same requirements for bidding; thus, avoiding discrimination and favoritism.
- d. To see that each bidder truly and effectively complies with the requirements necessary for valid contracting in the Government, so that one bidder is not required, at various times during the same period, compliance with formal requisities.
- e. Publish, and enforce formal procedures, requirements, and obligations established by the Administrator concerning the

bidders, guaranteeing that the Government shall contract only with those bidders who have fulfilled the requirements established by the Administrator.

2. Call for Registry Preparation

According to the needs of the moment, and subsequent to the Assistant Administrators, authorization each Secretary shall draft and conduct the publication of the Registry Call. It shall be published once a week during three (3) consecutive weeks in different newspapers of general circulation in English and Spanish. Such a Call shall be directed towards all possible bidders interested in participating in bids sponsored by the Administration and shall be published identifying each Area once a year under the written approval of the Administrator.

In addition, not in substitution to the Call and if he deems it necessary, the Assistant Administrator shall order the Secretary to utilize other means of communication.

a. Call Content

The Call shall indicate that all necessary documents are available to those interested.

3. Registry Content

The Registry shall contain the following information:

- a. Name of Business;
- b. Name of Owner;
- c. Social Security Number;
- d. Representatives authorized to appear on his behalf at the bids as well as any other transactions with the Administration;

- e. Title of said Representative ;
- f. Postal address and physical location of the business;
- g. Goods, works, or services offered, performed, rendered, or interested in;
- h. Where applicable, the type of bid based on amount. The bidder shall make it known if he is interested in being included in only those bids in which cost estimate exceeds the amount set by him. Failure to provide this information shall indicate that said bidder is interested in being invited to all bids, regardless of the amount or volume involved or projected.

4. Requirements for Inclusion in Registry

In order to be included in the Registry, the interested bidder shall demonstrate his economic solvency and his ability to comply with his proposal. Thus, when applicable, he shall submit the following information:

- a. Financial Report: If he deems it necessary, the Assistant Administrator shall in addition request that said report be prepared by a Certified Public Accountant;
- b. At least two banking and business references including the term and type of relationship with the entity;
- c. If it has tax exemption, copy of the Decree;
- d. In cases of corporations or societies, certifications by the Department of State of their legal standing and to the effect that at the time of application they are complying with all the provisions of the "General Corporations Act".

In the case of a foreign corporation, it shall also submit Department of State Certification to the effect that said corporation is authorized to conduct business in Puerto Rico and has complied with all legal provisions to such effect; as well as, the name and address of its resident agent.

Whether it is foreign or not, the corporation shall notify the names of the members of its Board of Directors and their address and if it has been convicted of violating any laws;

- e. The list of the contracts entered into with state or municipal Government during the last five (5) years;
- f. A list of the contracts it has had in the last two (2) years with private industries;
- g. Certification under oath that it has not had to answer for breach of contracts on its part in the last five (5) years, be it through administrative decision or court order, or application of the "General Conditions for the Contracting of Public Works Regulations";
- h. If the person wishes that the "Preference Act" be applied to his offers he must supply a copy of the Board of Preference Certification, in accordance with the provisions of Public Law Number 103 of June 24, 1977, as amended and the regulations adopted under it;
- i. Detailed description of the goods, works, or services offered or interested in;
- j. Experience and years of being established;

- k. Copy of the licenses, permits, and authorizations held for operating the business and necessary for the sale of its products, presentation of its services or work performance;
- l. Insurance policies in effect and their coverage;
- m. The Federal and State Health Department Certificates, when applicable;
- n. The Assistant Administrator may, request additional information if he deems it necessary.

5. Entry in Registry

The entry in the Registry is not automatic, it shall depend on the evaluation and determination made by the Assistant Administrator.

a. Procedure

1) Application: Remittance and Receival

Applications shall be distributed personally in the Office of the Secretary of the Board, to those interested or by mail to those who so request it. All applications shall be presented to the Office of the Secretary of the Board.

It shall be the obligation of the Secretary, or his authorized representative, to verify that the application received is properly and correctly filled out and accompanied by the additional documents required. In case these are not included, the Secretary shall communicate with the person interested, by the most rapid means at his disposal, and shall solicit the information or documents missing.

2) Remittance to the Assistant Administrator

When the application submitted by the interested bidder to the Office of the Secretary has been fully filled out and accompanied by the corresponding complementary documents, the Secretary shall refer the record of said application to the Assistant Administrator.

3) Decision

a) Each Administrator shall determine the system he shall utilize in evaluating the applications before him, but the system established shall apply to all applications.

b) Term

The Assistant Administrator shall make his decision of inclusion of the bidder in the Registry within thirty (30) days after the receipt of the application record file.

c) Notice to the Secretary

The Assistant Administrator shall return the record file mentioned above to the Secretary, indicating in the proper form thus provided, his decision which shall consist of the following:

(1) Acceptance

If the inclusion of the bidder in the Registry is ordered, the specific categories in the Registry under which that inclusion is to be made, shall be indicated.

(2) Rejection

If the application is rejected, reasons for the rejection shall be indicated.

d) Bidder Notification

The Secretary shall notify the interested bidder the decision of the Assistant Administrator, within five (5) days after receiving such decision.

(1) Inclusion

The notification of inclusion shall contain the following information:

- (a) Date of effectiveness of inclusion in the Registry.
- (b) Registered Bidder's responsibilities and
- (c) Rights

(2) Rejection

The notification of rejection must quote the reasons indicated by the Assistant Administrator for his decision.

6. Appeal in Case of Rejection

When the Assistant Administrator refuses the entry of any bidder in the Registry, he may request reconsideration of his case before the Administrator, within ten (10) days after the receive of said notification.

7. Obligations of Persons Included in the Registry

The bidders included in the Registry shall have the following obligations:

- a. Maintain up-to-date the information supplied for the consideration of their inclusion in the Registry.
- b. Maintain in effect a bid bond according to the subject matter of the bids in which he is interested in participating for the amount the Administrator may set, except that when construction works or services related to them are involved, the amount shall be that established by the "General Conditions for the Contracting of Public Works and Other Related Documents".
 - 1) Said bond may be waived if in its place the person selected to pay an individual bid bond for each bid in which he participates.
- c. Maintain in effect a public liability insurance policy for the amount set by the Administrator, except in the case of construction works or services related to them where the amounts stipulated in the "General Conditions for Contracting of Public Works and Other Related Documents" shall prevail.

8. Rights of Persons Included in the Registry

All registered bidders shall have a right to the following:

- a. To be invited to every Bid Call concerning the category for which he is registered.
- b. To have his name included in the Official Bidders Registry the Administrator shall circulate in the Government.
- c. To be invited to every seminar, conference, or special training offered by the Administration, related to purchases and bids, when applicable; provided, that the bidder covers the expense.

- d. To be sent a copy of all Regulations, Circulars Letters, Orders, or Instructions issued, concerning purchases and bids; provided, the bidder covers the cost proportionate to the printing and mailing.
- e. To be sent the Administration's Informative Bulletin of Purchases and Bids.

9. Bidder's Record

In the Office of the Secretary of the Board in each Area a record of the bidder shall be kept, consisting of the followings:

- a. Number of bids to which he has been invited during each year or period including:
 - 1) Bid number;
 - 2) Bid subject matter;
 - 3) Date of bid
- b. Number of bids attended, indicating their identification number;
- c. Number of bids awarded, indicating each bid number;
- d. Amount of contracts in effect each year, and if he complied or not with these;
- e. The Administrator may order additional information to be included in said record.

10. Use and Control Systems

The Assistant Administrator shall establish the system of use and control of the Registry in his Area, as well as

the means for maintaining it and shall make recommendations to mechanize.

11. Periodic Registry Evaluacion

The Assistant Administrators shall meet at least once a year to evaluate the Registry and decide which aspects of it need updating. All decisions concerning the Registry shall be notified to the Administrator for his approval.

Any modification, revision, or change in said Registry shall be made by means of an Administrative Order of the Administrator.

12. Administration Obligation

a. Publication of Lists

At the beginning of each year and after establishing the Registry, the Administrator shall publish the lists of Registered Bidders in each Area, by category, or update said lists, and distribute them among the petitioning agencies of the Government.

13. Agencies Obligation

Any agency upon which the Administrator has delegated the transaction and execution of bids is obligated to invite the corresponding bidders included in the official lists.

14. Buyer Obligation

Each Buyer or Subdelegate Buyer issuing purchase orders as a consequence of an informal bid, open market, or emergency purchases or any other acquisition procedure may only issue these orders to registered bidders in the official lists.

15. Absence of Registered Bidder

When a Call to bid is issued for categories where there are no bidders registered, a public Call to bid shall be issued through the newspapers. In the bid documents instructions bidders shall be advised as to the requirements they shall have to meet in order to have their bids considered. Said bidders shall have to comply with the requirements that the Administrator establishes as obligatory for all Government bidders.

16. Unregistered Bidders

When an unregistered bidder quotes the Board can not reject his offer on that basis. The Board shall request said bidder to provide evidence that complies with the requirements of the Government Contractors within the three (3) days provided by this regulations for the secretary of the Board to send the bid documents to the Office.

17. Present Bidders

a. Reevaluation and Automatic Registry

Those bidders already included in the Registry on the date these regulations become effective, that according to the Assistant Administrator based on the experience in transactions with them, have demonstrated their total responsibility fulfilling all contracts awarded them, shall be able to automatically enter in the Registry without needing to submit themselves to the formal evaluation procedure established by the Assistant Administrator provided that they comply with the requirements established in these regulations.

b. Automatic Inclusion Notification

The Assistant Administratos shall notify the bidders, by means he deems most convenient, that he is going to order

their automatic inclusion in the Registry. Said notification must have the following information:

- 1) Adoption of new regulations,
- 2) Adoption of a new Bidders Registry.
- 3) The decision to automatically include said bidders based on the satisfactory experience with them.
- 4) Inclusion of an official application form to be filled out for the record file.
- 5) Request for the submittal of the additional documents required for the record file. If the same were to be already part of his record, update them, if applicable. This provision shall refer to the documents mentioned in Section 4, Subsection a, c, d, h, k, l, and m, of this Article.
- 6) Obligations and responsibilities upon being included in the Registry.
- 7) Rights granted upon being in the Registry.
- 8) Warning to the effect that the decision to include them automatically is subject to the submittal, on their part, of the necessary documents for the record file and that if within thirty (30) days subsequent to their automatic inclusion notification, they do not answer not submit the required documents to the Office of the Secretary of the Board, it shall be understood that they are not interested in being included in the new Registry.

c. Coordination with the Office of the Secretary

The Assistant Administrator shall send a copy of each automatic inclusion notification to the Office of the Secretary of the Board, so it may proceed with the opening of the corresponding record file and subsequent transactions.

d. Assistant Administrator Responsibility

The Assistant Administrator shall be solely responsible for the decision made as to the automatic inclusion of a bidder in the Registry, therefore, he should evaluate them diligently.

e. Exclusion Decision

If upon evaluating the record of a presently registered bidder, the Administrator determines not to order his automatic inclusion in the Registry, he must proceed with the following notification:

- 1) Adoption of new regulations.
- 2) Adoption of new Bidders Registry.
- 3) Creation of only one Board of Bids and its headquarters.
- 4) Remittance copy of the application form and instructions on how to complete it.
- 5) Warning to the effect that he shall not be considered registered unless he submits the application completely filled-out for evaluation according to the new rules.

18. Temporary Registry

The present Registry shall continue in operation during the first six (6) months subsequent to the effective date of these

regulations. During said period each Assistant Administrator shall have to proceed according to this Article, so that once said six (6) months have passed, a new Registry is formally adopted and the present lists totally discarded.

The Assistant Administrator shall nevertheless start adopting and integrating the present Registry with the new one by categories, at a prior time, subject to the work plan established in his Area.

ARTICLE 8: PENALTIES

Any person interested in being included in the Bidders Registry who supplies fraudulent, false or negligent information, or any official or employee that upon evaluating the application knowingly and willfully admits fraudulent or false information, the fact proven by prior hearing to such effect, shall have incurred in violations of these regulations and shall have one or several of the following penalties imposed on him, as the case may be:

1. Bidder disqualified from participating in bids for a period no less than two (2) years nor greater than ten (10) years at the discretion of the Board;
2. Have Bid Bond executed;
3. Have the case submitted to the Department of Justice for its criminal processal or civil claim, as the case may be;
4. In the case of employees or officials of the Government, a report shall be submitted to the corresponding agency head for the appropriate sanction, in accordance with the provisions of the "Public Service Personnel Act of Puerto Rico", Act Number 5 of October 14, 1975, as ammended.

PART II: BOARD OF BIDS

ARTICLE 9: CREATION

The Board of Bids is hereby created in the Administration with the powers and duties stipulated in these regulations.

ARTICLE 10: JURISDICTION

The Board of Bids shall have jurisdiction over the awarding of all bids conducted by the Government.

ARTICLE 11: SEAT

The Board shall have seat in each Area and its location shall be made known by means of a notice in a general circulation newspaper or and by any other means provided by the Administrator.

ARTICLE 12: COMPOSITION

The Board shall be composed of three (3) regular members in each Area appointed by the Administrator. None of these care deal directly a indirectly with acquisition or sales proceeding in the Government.

1. Kinds of Members

The members of the Board shall ve divided in three (3) kinds: Regular members, Substitute and "Ad Honorem" members.

a. Regular Members

Regular members shall be of two (2) kinds: permanent and alternate, substitute and "Ad Honorem".

1) Permanent Members

There shall be three (3) permanent members in each Area or Program appointed by the Administrator with the righ to voice and vote always and designated in the following manner: A President, and two (2) additional members. Said members shall attend all Board Award Meetings.

2) Alternate Members

There shall be one (1) alternate member for each one of the Programs or specialized units of the Areas. Alternate members shall be appointed by the Administrator, subsequent to consultation with each one of the Assistant Administrators for the respective Areas. They must attend working sessions of the Board in which their program's matters are discussed, exercising their right to be heard and to vote at such sessions. Notwithstanding what is herein stipulated, said members shall be able to attend other Programs meeting at the discretion of the Assistant Administrator but shall not have the right to vote.

b. Substitute Members

Shall be those persons appointed by the Administrator when recommend by the Assistant Administrator to substitute any alternate or permanent member not able to attend a meeting for whatever reason.

c. Members "Ad Honorem"

Shall be those appointment by the Administrator at his discretion, to represent the interests of the petitioning agency who requests it. These members shall have the right to be heard but not the right to vote and must be called to all the proposal evaluation meetings of the Board, related to their agencies.

2. Officialss

The Board shall have following administrative officials: one Secretary in each Area, one Alternate Secretary in each Area, and a Collector appointed by the Secretary of the Treasury.

They shall execute their functions whenever necessary and shall not count for quorum, nor shall they have the right to participate in the deliberations of the Board or to vote, and will hold office when needed.

3. Board Delegation

When the Administrator delegates in a petitioning agency the authority to carry out bids, said agency shall appoint a Board of Bids whose composition and structure shall be approved by the Administrator and its members appointed by the Administrator.

ARTICLE 13: BOARD OFFICERS APPOINTMENTS AND ASSIGNMENTS OF FUNCTIONS

Upon making the appointments to the Board of Bids, the Administrator shall designate the President of each Area. Subsequent to the Finance Director-s recommendation, the Administrator shall submit to the Secretary of the Treasury as many candidates for Assistant Collector as he may deem necessary, which shall be decided, if the Official Collector of the Administration cannot render the service to all the Areas.

ARTICLE 14: TERM

Members of the Board shall discharge their duties and occupy their positions until their successors are appointed and take office.

ARTICLE 15: VACANCIES

1. Causes

Vacancies in the composition of the Board may arise for different reasons:

- a. The naming of a successor;
- b. By death or disability;
- c. Dismissal from office as a result of:

- 1) absences, as stipulated in these regulations;
- 2) or negligence in the discharge of duty
- d) Resignation;
- 3) Revocation of appointment due to any cause deem reasonable by the Administrator.

- 1) In the case of Delegate Boards revocation may also be effected subsequent to a justified request by the agency Head.

2. Vacancy Statement

Only the Administrator shall be able to officially declare a vacancy in any of the Board of Bids appointed by virtue of these regulations.

ARTICLE 16: BOARD OPERATIONS

The Administrator shall provide the proper mechanisms to facilitate the operations of the Board in each Area, including personnel, equipment and space resources, except in the delegated Boards of the Agencies, in which case, the agency Head shall be obligated to do so.

1. Budget

The Administrator shall provide the necessary funds for the functioning of the Board and they shall be directly administered through each Area.

2. Personnel

Each president shall determine personnel needs such as secretaries, technicians, office clerks, messenger and others. These shall notify their personnel needs to the Assistant Administrators so they may be assigned some personnel, from the Administration or recruitment of the necessary personnel,

be made according to the rules established by the "Personnel and Public Service Act of Puerto Rico", as ammended (Public Law Number 5, October 14, 1975).

ARTICLE 17: SESSIONS, QUORUM, ATTENDANCE AND DOCUMENTS

1. Meetings

There shall be two (2) kinds of Board meetings: regular and extraordinary.

a. Regular

All regular meeting shall always take place on dates previously indicated and shall be held for one of the following purposes:

1) Award

Regular award meetings shall take place to evaluate proposals and award bids.

2) Other Business

Regular meetings for other business shall take place for the purpose of discussing any business not related with the evaluation or awarding of bids. Whenever necessary all the Area's Board members or a representative from each area maymeet.

b. Extraordinary

Shall be those of any kind, for any purpose, set for a special date or on emergency basis.

2. Hearings

Board hearings shall be held in those cases stipulated in these regulations.

3. Quorum

Minimum required quorum for each type of meeting shall be the

same as required for the validity of the decisions made at said meetings.

Quorum required for each type of meeting shall conform to what is herein stipulated.

a. Regular Award Meetings

At regular award meetings all the permanent members shall have the voice and vote right.

Simple majority shall constitute quorum.

b. Regular Meetings for Other Business

At regular meetings for other business, all members of the Board shall have the right to voice and vote. Absolute majority shall constitute quorum.

c. Extraordinary Meetings

At extraordinary meetings the quorum shall be the same as at the regular one, depending on the business at hand.

4. Attendance

The members of the Board are obligated to attend all corresponding meetings. Three (3) consecutive absences or five (5) absences at regular meetings shall be enough for the President to recommend to the Assistant Administrator to request the position be declared vacant. Absences due to sickness, vacations, or authorized by the President shall not be counted to such effect.

a. Attendance Report

Every month the President shall report to the Assistant Administrator the attendance of the members of the Board, and he shall request the Administrator that a position be declared vacant when he deems it correct.

5. Documents

A record of the outcome of Board meetings shall be kept through the following documents:

a. Award

Decisions made by the Board concerning each bid brought to its consideration shall be adopted in a written document entitled "Award".

1) Approval

The awards must be approved by a majority of the members in attendance, with the right to vote in that particular case.

2) Contents

The award shall consist of three (3) parts: summary of proposals, breakdown of each item as it has been awarded or rejected, and the basis for such action.

3) Signature

The award shall be signed by all the members participating in the award and shall be certified by the Secretary. Anyone of the members voting against the award shall be able to include his dissenting vote in the award record file, but said vote shall not form part of the document entitled "Award".

b. Agreement

All decisions reached at Board meetings not related to an award shall be recorded in a document entitled "Agreement".

1) Approval

Agreements shall be approved by simple majority.

2) Contents

The agreement shall contain the following:

- a) Persons attending the meeting;
- b) Date, hour and place of meeting;

- c) Matter discussed;
- d) Brief statement about the agreement;
- e) Signature of attendants approving the agreement;
- f) Signature of attendants not approving the agreement;
- g) Certification by the Secretary.

c. Resolutions

Decisions made at administrative hearings shall be recorded in a document entitled "Board of Bids Resolution" and the Area shall be identified.

1) Approval

These decisions shall be made by the majority of the members of the committee designated to conduct the hearing. The committee shall consist of three (3) permanent Board members selected from each Area and appointed by the Administrator.

2) Content

Board resolutions shall contain the following:

- a) Finding of facts
- b) Applicable law
- c) Decision
- d) Signature of the President
- e) Secretary's certification

3) Form

Resolutions shall be issued in legal size paper shall contain a heading in which the name of those persons appearing before the Board and the affected parties and/or against which action by the Board is requested, the member given, and the matter.

ARTICLE 18: POWERS AND DUTIES

1. The powers and duties of the Board shall be the following:
 - a. Adopt a seal;
 - 1) All the Areas shall operate under the same seal
 - b. Evaluate proposals and award bids;
 - c. Request advice or consultation from Administration employees or from the petitioning agencies
 - d. Adopt rules and procedures for internal functioning;
 - e. Take action concerning breach of contracts;
 - f. Evaluate Bidders Registry with the Assistant Administrator at least once a year.
2. The duties and powers of the President shall be the following:
 - a. Ensure the normal functioning of the Board;
 - b. To see that Board members faithfully discharge the duties of their office;
 - c. Conduct Board proceedings;
 - d. Represent the Board;
 - e. Call and preside over Board meetings;
 - f. Review and adopt as his own the recommendations of Board members;
 - g. Submit to the Assistant Administrator a Monthly Report containing bids awarded and those pending award;
 - h. Submit to the Assistant Administrator the Annual Report of the Board;
 - i. Submit as many additional reports and recommendations as the Assistant Administrator may request from him;
 - j. Make personnel appointment recommendations to the Assistant Administrator.

k. Discharge all functions and duties inherent to his office, or expressly mentioned in other provisions of these regulations.

3. The functions of the Secretary shall be the following:

- a. To have custody of all the information contained in the books, records, files and documents of the Board;
- b. Maintain a record of all correspondence received or dispatched by the Board;
- c. Receive and open all correspondence, dispatch it and ensure its safekeeping;
- d. Receive, keep in custody and ensure the adequate handling of bid record files;
- e. Call Board meetings;
- f. Notify bid awards and Board agreements to interested parties;
- g. Certify Agreements and Awards, whenever these are adopted and any other Board document;
- h. Maintain Alternate Secretary corrently informed on the progress of all Board activities;
- i. Custody of the Board seal;
- j. Attend Board meetings to take the minutes and to make a Formal Record of Proceedings regarding Agreements and Awards;
- k. Write up the Formal Record of Proceedings, Agreements, Awards, Minutes, and Reports for the approval of the President;
- l. Receive applications for the Bidders Registry, cooperate with the Assistant Administrator in Registry preparation;
- m. Prepare the Monthly Report to the Assistant Administrator concerning the status of bids, for the President's signature;

- n. Submit, jointly with the Office, a Report every six (6) months to the Board and to the Assistant Administrator on those bidders invited to bids who have not attend, and the reasons given for their absences, in order that said Board and Administrator may determine if such bidders shall be maintained in the Bidders Registry;
 - ñ. Fulfill all functions and duties inherent to his office or those expressly mentioned in other provisions of these regulations.
4. The Alternate Secretary shall be responsible for the following:
 - a. Substitution of the Secretary in all his functions when he cannot discharge them on account of the following:
 - 1) death
 - 2) sickness
 - 3) vacations
 - 4) absences
 - b. Make sure that he is up-to-date concerning all Board work.
 5. Besides the functions assigned by the Secretary of Treasury, the Collector shall be responsible for the following:
 - a. Collect all Bid Bonds received with the proposals;
 - b. Issue receipts for said bonds received;
 - c. Deposit bonds in the corresponding bank account or in his safety deposit box, as may be the case;
 - d. Prepare a Report to the Board on bonds received from each Bidder at each bid;
 - e. Submit a Report to the Official Disburser of the Administration after the bid award on Bid Bond status;
 - f. Perform other duties related to his designation and comply with the regulations of the Secretary of the Treasury.

PART III: PUBLIC BIDS

SECTION A: PRELIMINARY PROCEDURE

ARTICLE 19: PROCEDURE

The procedure that shall be followed when conducting a public bid in Government, is hereby established.

ARTICLE 20: PUBLIC BID - DEFINITION

The public bid is the means to acquire or sell, utilized by the Government, through which the greatest number of bidders meeting requirements established by the Administrator are requested to offer bids and terms according to established specifications and conditions. Thus, commercial competition is stimulated and as a consequence, the Government is able to acquire the best goods, works, and services at the best prices and conditions possible; or dispose of its excess property at prices beneficial to Government interests.

ARTICLE 21: PROCEDURE INITIATION

The public bid procedure is initiated when the petitionary agency submits its requisition to the Administration.

When any such requisition is received, a record file shall be opened in accordance with the numbering system for requisition record files, established by the Administration.

ARTICLE 22: PETITIONAY AGENCIES - OBLIGATIONS

Upon making the requisition, it shall be the obligation of all petitioning agencies to submit said requisition properly filled out, placing at the Administration's disposal all information necessary for the adequate determination of action to be taken, the proper review of specifications and conditions, and the award of the bid when the time comes.

ARTICLE 23: DEFINITION

1. Definition

The requisition is the document containing an exact description of what is requested be it goods, works, or services; recommended specifications of matter requested and any other condition that the petitioning agency wishes to state concerning the transaction to be executed.

2. Drafting

Requisitions must be prepared by the petitioning agency unit generating it.

3. Contents

The requisition shall contain the following:

- a. An exact description of what is being requested;
- b. Recommended specifications for said matter

- 1) In requisitions for services or equipment related to electronic data processing, microphotography, printing, construction, or agricultural equipment, means of transportation, and services connected with all of these, the agencies shall be exempted from including specifications. Said specifications shall be supplied by the Administration, in coordination with the petitioning agency, and based on the corresponding viability study to be performed according to the rules established by the Administrator.

- c. Standard specifications;
- d. Particular conditions pertaining to matter requisitioned;
- e. Justification concerning program or unit need within the agency to which it is directed;
- f. Use to be given;
- g. Funds certification;
- h. Any other information deemed possibly useful by the petitioning agency.

4. Obligation of the Office

- a. The Office shall have to review requisitions received to make sure they comply with requirements established by the laws and regulations of the Administration and of the Treasury Department, and with any other rule applicable to the type of transaction to be executed.
- b. Office shall submit recommendations to the Assistant Administrator regarding action to be taken.
- c. The Office shall confirm in the cases indicated in Section 3, Sub-section b of this Article, that the corresponding viability study by the Administration has been conducted, the transaction has been authorized by the Assistant Administrator, and the technician specially assigned to it has approved the specifications and conditions.

5. Terms

If subsequent to an Office recommendation the Assistant Administrator determines that the requisition before his consideration must be processed by means of a formal bid, the Office shall have the Bid Call Documents ready for the Call, within a period no greater than twenty (20) working days after having received the Assistant Administrator's decision.

6. Bid Record File and Numbering

When the Bid Call Documents are ready, the Office shall number the bid according to the bid numbering system approved to such effect by the Administrator.

SECTION B: CALL FOR BIDS

ARTICLE 24: TIME

The Call shall take place after the Bid Call Documents are adequately prepared.

ARTICLE 25: CALL HANDLING

The Office shall be in charge of handling the Call, in coordination with the Office of the Secretary of the Board, following the procedure below:

1. Office Report

On a daily basis, and when the bid Call documents are ready the Office shall send in writing or verbally, according to the urgency, to the Office of the Secretary the following information:

- a. Bid number;
- b. Subject of bid;
- c. Petitioning agency;
- d. Award priority;
- e. Call date;
- f. Delivery date;
- g. Date and hour of Opening;
- h. Deadline for award.

2. Selection of Dates

As soon as the Secretary receives information from the Office, he shall select the dates on the Board calendar and shall immediately notify them to the corresponding Office.

If within twenty-four (24) hours of receiving the information, the Office of the Secretary does not get in communication with the Office, it shall mean that there are no objections to the proposed date and the Office shall proceed with the Call.

ARTICLE 26: CALL PROCEDURE

The Call shall be conducted by publication in a newspaper or by invitation, as determined by the Assistant Administrator.

1. In General

All kinds of Calls shall comply with the following:

a. Signature

Call shall bear the signature of the Assistant Administrator.

b. Term

A reasonable term shall be provided for the study of the Bid Call Documents. Such a term shall not be any less than ten (10) days between the date of the last publication and the deadline for submitting quotations.

c. Contents

The Call shall consist of the following:

- 1) Call date;
- 2) Bid number;
- 3) Bid purpose;
- 4) In construction bids;
 - a) name of project,
 - b) project location,
 - c) project description,
- 5) In construction and service bids
 - a) time limit within which the work shall be performed or the service rendered;
- 6) Conditions or requirements bidders must meet;

- 7) In bids called by means of newspaper notice, or when it may not be viable or economical for the Government to send the Bid Call Documents by mail:
 - a) Specific instructions for the location or procedure for obtaining Bid Call Documents, including physical address, and specific place where the documents shall be handed out and the telephone number;
 - b) Date and time of the last day for distributing the documents;
 - c) Cost, if any, to be met in order to receive said documents;
- 8) Deadline and last hour for bidder's proposal submittal;
- 9) Date and hour of bid opening. Even though the deadline for proposal submittal may be set at the opening date, the hours should not coincide and will always be indicated in the Call;
- 10) Expenses to be paid, if any;
- 11) In bids by invitation, the complete Bid Call Documents shall be included in said invitation as well as the Call itself which shall contain the information here indicated; provided, it is not extremely expensive for the Government, in which case they will be handed personally.

2. Call by Means of Newspaper Notice

The Call shall be made by means a newspaper, when there is no Registry available, or when Government interests are thus best protected. Said Call shall be carried out as stipulated below:

a. Publication

The Call shall be made publishing a notice not more than four (4) inches in width by four (4) inches in length (4" x 4"), in two (2) general circulation newspaper, twice (2) weekly during two (2) consecutive weeks.

3. Call by Invitation

The Call by Invitation shall be carried out in one of the following manners:

- a. By sending all the Bid Call Documents by certified mail return receipt requested which upon receipt by return mail, shall become part of the bid record file;
- b. By hand delivering the documents;
- c. In addition to the provisions in paragraphs 1) and 2), a copy of the Invitation shall be attached to the "Bidders Bulletin Board" provided to such effect, in each Area.

ARTICLE 27: PERSONS INVITED

1. Newspaper Call

Bids whose Calls have been made by publication of notices in the newspaper shall be opened to all persons interested, who meet bidder requirements.

2. Invitation Call

Bids, whose Calls are by invitation, shall be sent to the bidders included in the Bidders Registry stipulated in the First Part of these regulations, according to the category under which they were registered.

ARTICLE 28: AMENDMENTS TO CALL

1. Application

Amendments to Call shall be applicable subject to complying with stipulations herein:

a. Date

Amendments to a Call may be effected only if the same are done before the Opening Act.

b. Circumstances

Amendments may be made given one of the following circumstances:

- 1) When petitioning agency submits Amendments:
- 2) When the Assistant Administrator does not deem the terms established to be reasonable;
- 3) When in some way by itself or through petition or third parties, the Office or the Assistant Administrator discover a substantial and incorrigible error in the Bid Call Documents;
- 4) When there is a need to increase or decrease the terms or amounts or vary conditions or specifications;
- 5) When the Call is impugned.

2. Approval

Amendments shall have to be approved by the Assistant Administrator.

3. Amendment's Notification

The amended Call shall be made known by the Office, through the publication of a notice of said Call in a general circulation newspaper, or through its remittance by certified mail with return

receipt request to all invited bidders, depending on the type of original Call that was to be made.

ARTICLE 29: CALL CANCELLATION

1. A Bid Call may be cancelled subject to the following:

a. Term

The cancellation must be made any time before the Opening Act.

b. Conditions

- 1) Any one of the conditions exempting the bid procedure unexpectedly arises;
- 2) For any cause that the Assistant Administrator considers the petitioning agency has duly justified;
- 3) As a consequence of Call impugnation.

c. Approval

The cancellation shall have to be approved by the Assistant Administrator.

d. Notification

The cancellation shall be notified by the Office, in the same manner as amendments.

ARTICLE 30: CALL IMPUGNATION

If a bidder interested in participating in a bid, or the petitioning agency does not agree with the final terms under which the bid is called, said bidder or agency shall be able to impugn the terms of the bid by filing a petition to the Assistant Administrator under whose signature the Call was issued.

1. Filing of Appeal

Said appeal may only be filed given one of the following circumstances:

- a. That the term for proposal study and preparation, and the date for filing the proposal is considered insufficient;
- b. That there is disagreement concerning the Instructions, Specifications or Conditions of the Bid.

2. Scope of Appeal

The appeal may not be filed when in disagreement with the contents of the standard specifications. Only the Regulatory Board shall have jurisdiction in this matter, in accordance with what may be established in the "Regulatory Board Regulations".

3. Procedure

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.

4. Appeal Effect

As a consequence of the filing of this appeal, transactions concerning that particular bid shall be stopped and subsequent terms shall be counted following the final decision by the Assistant Administrator, who shall make a determination within five (5) days of receiving the objection.

5. Result of Appeal Before Assistant Administrator

As a consequence of the appeal filed before the Assistant Administrator, he shall be able to opt for one of the following actions;

- a. Dismiss the appeal and order the continuation of bid transactions;
- b. Amend the Call and issue a new Call;
- c. Cancel the Call.

6. Review Appeal

If the petitioner is not satisfied with the Assistant Administrator's decision, he may file action at the Review Board of the Administration, within ten (10) days subsequent to the receipt of the decision notification. The petitioner shall send a copy of his appeal to the Administrator and to the Board of Bids, and comply with the provision of the Board of Review Regulations of the Administration, as amended.

SECTION C: BID CALL DOCUMENTS

ARTICLE 31: BID CALL DOCUMENTS DEFINITION

The Bid Call Documents are the group of documents in which everything necessary for preparation of the quotations shall be stipulated, and which shall be delivered to the bidders interested in participating in a bid.

ARTICLE 32: CONTENTS

The Bid Call Documents shall be composed of four (4) items which may be contained in two or more documents: the Notice, the Instructions, the Specifications, and the Conditions.

ARTICLE 33: INSTRUCTIONS-DEFINITIONS

The Instructions shall be the guidelines indicating the bidder how to prepare his proposals.

ARTICLE 34: INSTRUCTIONS-PREPARATIONS

1. Handling

Instructions shall be the same for all bids. In order to insure their similarity, they shall be formally stipulated in an official form.

The Administrator shall assign the persons in charge of preparing and finally drafting them. ✓

2. Office Obligation

Once the Instructions have been approved by the Assistant Administrators, the Office shall have the obligation of seeing that General Instructions Form and the corresponding Special Instructions Forms are included in all bids called.

ARTICLE 35: TYPES OF INSTRUCTIONS

There shall be two (2) types of Instructions:

1. General

General Instructions shall be those guidelines given to bidders, subject to provisions herein stipulated.

a. Contents

General Instructions shall contain provisions about the following:

- 1) How to effect proposals, such as preparation and delivery, method and others according to stipulations in Section D of Part III of these regulations;
- 2) Bidders requirements;
- 3) Provisions established in these regulations and other rules controlling the bid procedure, or sale or acquisition contracts in Government that the Assistant Administrator indicated are necessary or convenient in order to assure their effective compliance by bidders.
 - a) The following regulatory provisions shall have to be included always in the General Instructions:
 - (1) "The Government shall not be considered bound by any Award until the corresponding Contract" has been signed.

2. Special

Special Instructions shall be warnings or special notices made to bidders, indicating changes, suggestions, or errors and other business in each Area that the Board or specialists understand

should be indicated to bidders or that the Assistant Administrator is interested in having them included in his Area bid, to facilitate evaluation and proposal award.

ARTICLE 36: SPECIFICATIONS - DEFINITION

Bid specifications are the characteristics of each one of the products, materials, equipment, works, or services requisitioned and that shall be contained in the descriptive part of what is requested in the Bid Call Documents and clearly stipulated as "Specifications".

ARTICLE 37: SPECIFICATIONS - PREPARATION

Standard specifications shall be drafted by the Regulatory Board; special ones shall be drafted by the Office or the petitioning agency; in which case, they shall be revised by the Office, except for the provisions in Article 23, Section 3, Subsection b, paragraph 1).

1. Office Obligation

The Office shall not accept nor process any requisition in which the minimum specifications of matter requisitioned have not been included; except, in those cases expressly authorized by regulations or by the Administrator.

a. Review

In preparing the Bid Call Documents the Office shall review the specifications submitted by the petitioning agency and shall ensure the following:

- 1) That they are up-to-date;
- 2) That they are clear, precise, and complete;

- 3) That they are not restrictive;
- 4) That they contain what is basically required to describe matter requested.

ARTICLE 38: TYPES OF SPECIFICATIONS

Bids specifications may be of two (2) types: "Standard" and "Special" specifications.

1. Standard Specifications

Specifications known as "Model" or "Standard" are those published in "Specifications Model of the Regulatory Board", and that shall be adopted by the Administrator, subsequent to Regulatory Board recommendation.

a. Purpose

The purpose of said standard specifications is to see that everything acquired by the Government have the same level of quality and provide uniformity in the description of matter requisitioned and acquired.

2. Special Specifications

"Special Specifications" shall be drafted by a specialist on the matter for equipment, material, work, or service requisitioned, and for which no standard or model specification has been adopted; or those approved, do not apply to what is being requisitioned.

ARTICLE 39: CONDITIONS - DEFINITION

Bid conditions are the terms under which goods are to be delivered, the work executed, or the services involved rendered.

ARTICLE 40: CONDITIONS - PREPARATION

Conditions shall have to be based on the rules regulating acquisition in Government. When making its requisition, the petitioning

agency shall select those provisions applicable to the requisitioned subject matter and shall be responsible for including them.

ARTICLE 41: TYPES OF CONDITIONS

Bid may contain three (3) types of conditions: General, Special, and Particular.

ARTICLE 42: GENERAL CONDITIONS

General Conditions are those based on acquisition or disposition rules of the Administration.

"General Conditions" shall always have to be included in all Bid Call Documents, but may vary in detail depending on bid subject matter.

1. Contents

General Conditions shall involve the following:

- a. Bid Bond
- b. Performance Bond
- c. Trademarks
- d. Model
- e. Samples
- f. Inspection Certificates
- g. Packaging Quality
- h. Content and Weight
- i. Deliveries
- j. Storage
- k. "General Conditions for Public Works Contracting and Other Related Documents"
- l. Any other matter contained in the "Acquisition Regulations", the "State Surplus Property Regulations" or in any other related rule approved by the Administrator or the Secretary of the Treasury.

ARTICLE 43: GENERAL CONDITIONS-PREPARATION AND PUBLICATION

The General Conditions shall be draft by the Office in coordination with the person chose by the Administrator for this purpose.

Besides always being included in the Bid Call Document, the General Conditions shall be published in the "Purchases and Bid Informative Bulletin" that shall be published by the Administration for distribution, at cost, among registered bidders.

ARTICLE 44: SPECIAL CONDITIONS

The Special Conditions shall be those established depending the goods, works, or services to be acquired or disposed of and which based on experience evaluating, awarding, or administrating contracts, it is concluded, that in particular circumnstances, said special conditions should be adopted.

1. Preparation

a. By the Board

The Board shall draft Special Conditions based on its bid awarding experience and shall notify the Office for their adoption and inclusion in the Bid Call Documents.

b. Office

The Office and specialists in the particular subject matter may recommend special conditions base on their experience.

c. Assistant Administrator

The Assistant Administrator shall also draft special conditions, when base on the particular experience within his Area, he dems necessary their adoption. The Assistant Adminis-

trator shall draft them and notify the Office for their adoption and inclusion in the Bid Call Documents.

ARTICLE 45: PARTICULAR CONDITIONS

The Particular Conditions shall vary with each item in the bid depending on the specific needs of the petitioning agency.

1. Particular Conditions - Drafting

It shall be the responsibility of the petitioning agency to supply the Particular Conditions upon submittal of requisition. If it does not supply them it should be understood that only the General and Special Conditions shall apply.

SECTION D: PROPOSALS

ARTICLE 46: DEFINITION

Proposals shall be those bid offers submitted by bidders interested in the award of a bid. Upon submitting their proposals bidder shall have to adhere to the provisions stipulated in this section.

ARTICLE 47: DEADLINES

1. For Pick-Up or Receiving of Bid Call Documents

The Bid Call Documents shall be delivered to the bidder in a fast, safe manner, and equal conditions.

When the Call is made by newspapers, said Call shall clearly indicate the place, date and hour for Bid Call Documents pick-up. In those cases in which it may be onerous for the Government because of volume, the bidder may call by telephone and request a remittance of said Documents by mail.

When the Call is made by invitation, the Bid Call Documents may be sent with the Call. In cases where it may be onerous for the Government, only the Call may be sent, clearly indicating the place, date, and hour where the Documents may be picked-up.

2. For Delivery or Submittal of Proposals

The Call shall have to clearly indicate the place, date, and hour for bidder delivery or submittal of proposals. Said date should establish a reasonable term for said delivery or submittal, which may not be any less than ten (10) days, subsequent to the publication date of the last notice, or mail remittance of the Call.

3. Proposal Envelopes Opening

Deadline for submittal of proposals shall be the same day of the Opening, except the hours may not coincide. Delivery hour shall be no later than fifteen (15) minutes before Opening. If the Office deems it more beneficial to the Government or by request of the Board, different dates may be established for the delivery and opening.

ARTICLE 48: PROPOSAL SUBMITTAL

Any bidder interested in having his proposal considered shall have to submit it in the manner provided below:

1. Official Form

Bidders shall submit their proposals in the official forms supplied by the Administration, one original and at least one copy.

a. Reproductions

Bidders may reproduce the official form by photocopy, if necessary.

b. Additional Sheets

The bidders shall add additional sheets, if necessary, to clarify or describe their proposals in more detail, but they shall have to do it in print or typewritten on the Bidder's letterhead stationery, of the same size as the form, if they have it.

c. Different Models

The Office shall be responsible for making sure that the corresponding form is used for each matter object of a bid.

Notwithstanding what is herein expressed, the Administrator may adopt a uniform form for any matter susceptible to being acquired or sold through a bid. If such a form were adopted, the Office shall incorporate it to its work.

2. Sealed and Identified Envelopes or Packages

It shall be strictly the obligation of every bidder to submit his proposal in a sealed envelope or package marked and identified in its exterior.

a. Contents

The identification shall contain the following information:

- 1) Name of bidder;
- 2) Telephone number and address;
- 3) Bid number, date and hour of delivery and opening or both;
- 4) Name of project;
- 5) The phrase "Bidder Proposal".

b. Package or Envelope Identification Failure

Any proposal received without proper identification as herein established, shall be handled as regular correspondence. Once opened according to the normal handling of regular correspondence, Secretary shall communicate with the provisions established in these regulations. The Secretary shall retain the envelope or wrapping utilized in the package not identified in the bid record file and shall write up a Record of Extraordinary Proceedings.

1) Board Release

Under the circumstances described in the above mentioned paragraph, the Board shall not be liable, if sender loses his opportunity to submit his proposal on time; neither can the bidder demand that notice be taken of his proposal or charge that it has been divulged or opened ahead of time.

a) The date and hour of original receipt of offer shall not be considered for the receipt of proposal.

3. Signature

The proposal shall be signed in permanent ink or ball point pen in the space thus provided, in the form supplied to such effect, and all pages of said proposal must be initialed.

a. Signature Procedure

The person signing the proposal shall comply with this requirement in the following manner:

- 1) he shall print his name,
- 2) sign it,
- 3) and shall indicate under what capacity he is signing and the position or office held.

b. Signer

The proposal shall have to be signed by whomever is authorized by the person, firm, corporation, society, or entity bidding, or by the person whose name is registered in the Bidders Registry.

c. Unsigned Proposals

The Board may consider unsigned proposals under the following conditions:

- 1) If before Opening, the bidder involved or his authorized representative has presented, to the Board, a letter or some other signed document justifying the absence of the signature, and confirming his proposal.
- 2) If there is a document or letter signed by the bidder accompanying the offer in which there is a direct reference made to the proposal.

d. Alterations

All proposals shall have to be written in a legible clear, complete and precise manner.

All proposals written in an illegible or ambiguous manner shall not be considered by the Board.

All erasures, crossing-out, annotations, or corrections in the Documents shall have to be initialed by whomever signs the proposals, if the Board is to consider it.

4. Address

Proposals shall always include postal address, the address of main office of business, the name and address of the resident agent of the corporation, whenever applicable.

5. Price Quotation Unit

Proposals shall be made in American dollars and cents, by items.

Proposals expressed in percentage terms in reference to possible prices set by governmental authorities, in determined or undetermined prices, or in amount of money in excess of the highest or lowest bid, shall not be considered.

The amount of the proposals shall be computed based on the unit required.

ARTICLE 49: BOARD OF BIDS-OBLIGATIONS

The Board has the obligation of safekeeping all proposals, according to what is herein established.

1. Record

Each Secretary shall keep a record of all proposals received or submitted by Area.

a. Contents

Said record kept for each bid shall contain the following information:

- 1) Name of sender;
- 2) Sender's address;
- 3) Date and hour of receipt or submittal;
- 4) Identification of the depository where it is being kept.

a) Depository

The Board shall maintain a depository located with a key for each bid, for the safekeeping of proposal envelopes or packages received. The Secretary shall have custody of these depositories, in which proposal envelopes for each bid shall remain sealed until their opening date, and each depository shall be identified with a permanent number and the number of the specific bid.

Bidders shall be entitled to see the depositories, to verify their adequate custody or safekeeping.

ARTICLE 50: PROPOSAL DELIVERY

Bidders proposal delivery shall be executed according to provisions herein:

1. Delivery Site

Proposal delivery shall be made in the Office of the corresponding Secretary or in any other place expressly stipulated in the specific bid for which the proposal is being made.

2. Manner of Delivery

Delivery may be made personally or by certified mail with return receipt.

a. Personally

1) Person in Charge of Submittal

Any person whether employed or not by the bidder shall be able to submit the proposal to the Board.

2) Obligation of the Secretary

It shall be the obligation of the Secretary to issue a receipt indicating the date and hour of delivery and the number of the bid for which said proposal is received. This information must be registered in the correspondence Book of the Board and in the Bid file.

b. By Mail

When the proposal is sent by mail, the return receipt shall serve as a receipt to the bidder. If the bidder should send his proposal without registering it, it shall be at his own risk.

The Secretary shall record all information in the Board Correspondence Book and in the bid record file involved.

3) Bid Receiver

It is the function of the Secretary to receive Board Documents. It shall be a Board obligation to provide him with the means to assure the Secretary that there

shall always be an official, authorized by him, available for the receipt of proposal envelopes and issuance of receipts. No Board member can receive said proposals.

a) The official or designated employee unjustifiably refusing to receive a proposal envelope, liable if found in such action, shall be administratively sanctioned, in accordance with existing personnel rules in the Administration.

3. Proposal Envelope Not Susceptible to Evaluation-Circumstances

The Office of the Secretary may not refuse to receive a proposal envelope, even when said envelope is submitted under conditions which the regulations stipulate said proposal envelope shall not be susceptible of evaluation. In such cases, the Secretary shall proceed in the following manner:

a. Non-Compliance with Delivery Terms

All proposal envelopes received after the date and hour set for their delivery, which shall be confirmed by checking the date and hour of the Board clock and not bidders or the post office postage machine date, shall be received "With Exception". The Secretary shall note in the record file the provisions of the regulations that have been breached, upon delivery of proposal.

The envelopes received or submitted too late shall be annotated by the Secretary in red pencil with the date and hour of delivery and a LATE annotation. The envelope thus identified, shall be included in the record file but shall not be opened until the Board determines the action to be taken upon it,

based on the provisions for form and delivery stipulated in these regulations.

b. Non-compliance of other requirements

If the proposal should be on time but opened, broken-into, or if the envelope is so deteriorated that it may indicate there is a possibility that it may have lost some document, the Secretary may communicate with the bidder to request that he verify the contents of his envelope, and determine if it contains all the documents and if he is still interested in presenting it; but the decision and formal delivery by the bidder shall have to be made before the delivery of deadline. Original receipt date of the envelope shall be considered the delivery date.

ARTICLE 51: PROPOSAL MAKING - METHODS AND PROCEDURES

Bidders shall prepare their proposals only as herein stipulated

1. Basic Proposal

The "Basic Proposal" is the one that the bidder has to make for each category or item for which he is interested in bidding.

Even if the bidder adds or makes a total computation of the proposals made by him in a bid, he has the obligation of writing in the space thus provided and at the side of each item, his proposal for the same. This proposal shall be made in dollars and cents.

a. Omittment of Basic Proposal - Effect

No Bid Documents shall be accepted in which a basic proposal has not been made for each item bid.

If for some items unit prices have been recorded and in others said prices have been omitted, it shall be understood that the bidder is interested in bidding for those items at which side he recorded the unit price, that is, the basic proposal. In those on which he is not interested in bidding, he shall indicate it in writing on the side of the corresponding item.

2. "All or Nothing" Proposal

a. Definition

In addition to the Basic Proposal the bidder may make an "All or Nothing" Proposal. The "All or Nothing" Proposal consists of offering conditioned prices, or subject to having the group of items in one category or group of categories or the total of these awarded to him.

b. Types

Bidder may opt for one of the two (2) types of "All or Nothing" Proposals.

1) With Discount

The bidder shall write down at side of items he is grouping together and the sum of the items, a reduced price with the phrase "All or Nothing" by its side, or a percentage.

2) Without Discount

The bidder shall write down, at the side of each item he is grouping together, and of the sum of the items, the phrase "All or Nothing"

c. "All or Nothing" Proposal - Effect

The Board may award individually each item in an "All or Nothing" proposal, if it is the best, unless the bidder has expressed in writing on his proposal that he will not accept it: "All or Nothing" - Individual Not Accepted".

- 1) An award in favor of the "All or Nothing" proposal may be made only if the group of items bid complied with specifications and conditions and total a lesser amount than the total of the amounts offered by the other bidders complying with the specifications and conditions and offered the lowest prices in the same items.

3. Lump Sum Proposal

In addition to the Basic Proposal, the bidder may submit a "Lump Sum" Proposal according to the following: at the side of the sum total of the categories for which he bid, the bidder shall also offer a reduced figure in lieu of the original sum or indicate a discount percentage.

a. "Lump Sum" Proposal Submittal - Effect

The Board may consider and accept the individual items of any proposal disregarding the "Lump Sum" proposal, if it is more convenient to the Government, according to the Board; but, in such a case, the discount can not be applied to said items. If the Board accepts the "Lump Sum" proposal, and if said proposal is made based on total amount, the amount reduced shall be distributed on a prorated basis among the items. If the proposal is made based on discount percentages, the percentage shall be applied to each item.

4. Negative Proposal

If the bidder is not interested in bidding, he shall return the Invitation with a note to such effect.

The return of the Invitation by the bidder shall be accompanied by an explanatory note stating the reasons for not bidding, and notifying if he is interested or not in being invited to future bids. Should the bidder not include this information along with his returned Invitation, he shall be subject to being deleted from the Registry.

ARTICLE 52: AMENDMENTS BEFORE OPENING

1. Types

There are two (2) basic types of amendments: those arising as a consequence of errors and those as a consequence of modifications in the proposal. Both types are to be done before the Opening Act.

a. Error

When a bidder notices that he has made a mistake in his proposal, he shall notify it in writing and submit his correction, to the Board before the Opening and said notification shall be considered a valid amendment to his proposal.

1) Addition Mistakes in Totals

Mistakes in the sums or totals shall not be taken into account, since the Board shall limit itself to the figures for the item. If a bid should be awarded, the Board would make the corresponding corrections in the totals.

b. Proposals Modifications

1) Circumstances

Modifications to the proposals may be made in one of the following circumstances:

- a) When the Bid Call Document is amended,
- b) When the bidder so desires.

2) Term

Proposals must be modified before the Opening.

2. Amendment Procedure

Proposals shall be amended in writing, and in those cases where they are to be amended on account of the bidder, they shall be accompanied by all the information tending to show the reason for such an amendment, if the bidder's judgement it is necessary to make it known to the Board.

a. Delivery

Amended proposals shall be delivered in the same manner as the original proposals.

b. Formal Requirements

Any envelopes containing amendments to proposals shall be sent duly identified, in the same manner as to the original proposal envelope, and in addition shall have to the word "Amendment" on it.

The Board will not consider amendments, if they arrive following the date of delivery for the corresponding bid, due to omission of correct identification on the envelope. The Board shall not be liable for the negligence of the bidder who did not identify the envelope properly.

ARTICLE 53: PROPOSAL WITHDRAWAL

Proposals may be withdrawn subject to the stipulations herein established.

1. Requirements

- a. Proposal withdrawal notification stating the reasons for withdrawal shall be presented by certified letter, with acknowledgement, or personally in the Office of the Secretary. No verbal notification shall be accepted under any circumstances.
- b. Withdrawal notification should be submitted to the Board before the beginning of the Opening Act.

2. Proposal Withdrawal - Effect

The bidder withdrawing his proposal shall not be able to make a substitute proposal afterwards.

3. Justified Withdrawal

When a bidder withdraws his proposal by mail and federal postmarks show that it was sent before the Opening Act, and the proposal arrives at the Board after the Opening Act but before the award, the Board shall not consider such proposal.

4. Breach of Contract Due to Withdrawal

If a bidder fails to comply with the terms of a bid awarded to him alleging that he withdrew his proposal, but the envelope arrived at the Board after the award or with the postmark subsequent to the hour and date of the Opening Act, the bid bond shall be executed so as to respond for the excess amount that the Government shall have to pay the second highest bidder.

SECTION E: PROPOSAL ENVELOPE OPENING ACT

ARTICLE 54: PURPOSE

The Proposal Envelope Opening Act shall be carried out in each bid, so the interested parties may verify what proposals were received, if they comply with basic form requirements and find out the amount, and model when in order of each proposal.

ARTICLE 55: PUBLICITY

The Opening Act shall be opened to the public and all interested persons may attend.

ARTICLE 56: QUORUM

The Board shall not be constituted for the Opening Act and none of its members need be present.

ARTICLE 57: FUNCTION OF THE SECRETARY

The Secretary of his authorized representative shall have to be present in said Act, and shall be in charge of the proceedings during the same, distributing the work during the Act among Office of the Secretary personnel.

ARTICLE 58: ATTENDANTS-OBLIGATIONS

1. Rules of Conduct

All persons, who attend the Opening Act, must abide by the rules of conduct established by the Board for such purposes.

2. Attendants Registry

All present at the Opening Act shall sign the Attendance Registry that the Secretary will provide for said purposes. Upon signing said Registry, the person must annotate who he represents and his position in said firm.

ARTICLE 59: OPENING AND READING

Once the doors to the room have been closed, the Opening Act shall proceed as herein stipulated.

1. Deposit Opening

The deposit containing the proposal envelopes received for the bid at issue shall be opened in the presence of those present.

2. Envelopes - Collation

The name of the sender of each one of the proposal envelopes shall be read as they are taken out of the deposit and it shall be checked against the list of envelopes received.

3. Opening and Reading of the Proposal Envelopes

a. Opening Procedure

At the beginning of the Opening, the Secretary, or his representative, shall announce to those persons present the following:

- 1) The number of the bid for which proposals shall be opened,
- 2) Bid subject matter,
- 3) Identification of each envelope to be opened, which shall consist of the following:
 - a) Name of bidder,
 - b) Identification of the person representing said bidder at the Act.

b. Reading Procedure

The Secretary or his representative shall open each one of the proposal envelopes and shall read the following information from each proposal by item:

- 1) Number of item for which a bid has been made;
- 2) Price bid for item;
- 3) Delivery date offered, when in order;
- 4) Mark and model offered, when called for.

4. Right of Attendants

Once the reading of all the proposals received has finished, those present at the Opening may examine them.

5. Reading at Sale Bids

At sale bids, the Board at its discretion, may establish different itemization and reading systems be they manual or mechanized.

6. Closing of Opening Act

One the persons attending the Act have examined the proposals, the Act shall be closed.

ARTICLE 60: DUTIES OF THE SECRETARY SUBSEQUENT TO THE OPENING ACT

Subsequent to the Opening Act, the Secretary shall have to do the following:

1. Formal Record of Proceedings

It shall be the duty of the Secretary to keep a formal record of all incidents at the Opening Act, thus the proceedings may be tape recorded.

a. Term

The Formal Record of Proceedings of the Opening Act must be written no later than twenty four (24) hours after the Opening, except in the case of sale bids.

b. Contents

The Formal Record of Proceedings shall contain the following information:

- 1) Number and bid subject matter;
- 2) Date, hour and place of Opening;
- 3) Number of proposals received;
- 4) Number of those bidding for one or more items, or how many did not bid;
- 5) Name of the "No Bids" received;
- 6) Opening Act Attendants;
 - a) Copy of the Attendance Sheet signed by those present at the Opening may be included as part of the Record of Proceedings,
- 7) Certification by the person in charge of the Opening Act to the effect that the information publicly read was the one required by regulations;
- 8) The person in charge of the Opening Act shall initial all proposals and shall make them part of the Record of Proceedings;
- 9) Any incident during the Opening or peculiarity noted in relation to any specification, condition, or bidder; or any other matter that the person in charge of the acts should be informed to the Office or to the Board.

c. Signature and Certification

The Record of Proceedings of the Opening Act shall be signed by the person who directed it.

d. Tape Recording

If Opening Act proceedings are recorded, the recording shall be kept intact and labeled, under the custody of the Secretary for a period of no less than six (6) months; unless,

the bid in question is under review of an administrative or judicial organism, in which case it shall be kept until a final and firm decision has been issued.

2. Collection

Immediately after the Opening Act, and within twenty-four(24) hours subsequent to it, the Secretary, if appointed Assistant Collector shall proceed to formally receive the Bid Bonds.

a. Summons

If the Secretary is not designated Assistant Collector, he shall communicate with the Official Collector and shall summon him to his Office the same day of the Opening Act.

1) Bid Bond Collection

At the appointed hour, in the presence of the Secretary and being the record file of the bid under the custody of the Secretary, the Collector shall proceed to verify and formally receive the Bid Bonds.

a) Bid Bond Verification

The Collector has to diligently verify the Bid Bonds submitted, and record them in the form thus provided.

b) Bid Bond Receipt

Bid Bonds submitted shall be received by the Collector and shall be deposited in a special bond account or in the Collector's safe, according to the kind of bond submitted by the bidders.

In those cases in which a proposal has not been accompanied by a bond, the Collector must point it out, so as to verify if the bidder is exempt from it.

2) Report

The Collector must submit as many reports as necessary to facilitate the evaluation and awarding of the bid and specifically the following:

a) Report of Bid Bonds Received

The "Report of Bid Bonds Received" shall be entered into the bid record file, and shall contain the following information:

- (1) Bid number;
- (2) Bid subject matter;
- (3) Percentage or fixed amount Bid Bond requested;
- (4) Date of report;
- (5) Bidders list;
- (6) Type of Bid Bond presented by each bidder;
- (7) Amount covered by said bond;
- (8) Number of receipt issued;
- (9) Location of Bid Bonds;
- (10) Certification of date and hour of remittance of receipts.

(a) The Collector shall send the receipt to the address appearing in the proposal immediately after receiving the Bid Bond. He may utilize Board or any Area's personnel, if it were necessary to do so.

3) Remittance to the Office

Once the certified Record of Proceedings and the Collector's Report have been included in the bid record

file, the Secretary must send said file by hand delivery to the Office. This remittance must take place no later than three (3) days subsequent to the date of the Opening Act.

SECTION F: EVALUATION AND RECOMMENDATION

ARTICLE 61: BID RECORD FILE RECEIVAL

The Office shall receive the bid record file for the preliminary study and evaluation of the proposals, making sure upon receipt that the record file is complete. If any documents are missing according to the Office, it will request them from the Office of the Secretary, and the controversy must be solved within twenty-four (24) hours of the remittance of the said file by the Office of the Secretary.

ARTICLE 62: TERM FOR STUDY AND EVALUATION

The Study, Evaluation, and Final Report of the Office shall have to be submitted to the Assistant Administrator for his approval within a period of no more than twenty-five (25) days from the date in which the record file is received and accepted in the Office.

ARTICLE 63: REPORT

The Office must to include in its Report a complete, correct, and concise analysis concerning each one of the proposals received and subject to evaluation.

The Office shall carefully evaluate specifications, conditions, and price of each one of the proposals.

The evaluation made by the Office shall have to limit itself only and exclusively to evaluate specifications and conditions contained in the Bid Call Documents, and not those that could have or should have been requested. The evaluation must to be strictly limited to objective and technical terms.

Upon making a recommendation for award in favor of a bidder, the specific reasons for such a recommendation must be indicated.

The Office may include in its Report commentaries, and special recommendations concerning other matters which it deems of importance to the Board, in addition to the award recommendation.

The Report the Office must render must be in writing. If the Board after analyzing or studying the proposal determines that further study is necessary, it shall have the power to summon the person making the recommendation, so he may expound on it orally.

ARTICLE 64: ASSISTANT ADMINISTRATOR AND OFFICE LIMITATION

Neither the Assistant Administrator nor any person attached to the Office, shall at any moment be able to make public or private manifestations concerning the recommendations and Report content, or the possibility or the award of the bid at issue.

SECTION G: BID AWARD

ARTICLE 65: SUMMONS

Immediately after receiving the bid record file from the Assistant Administrator, the Secretary must summon an evaluation and award Board meeting and shall send a copy of the summons to the Office so that it may be available in case the Board deems it necessary meet the Office personnel in charge of the preliminary evaluation.

ARTICLE 66: AWARD EXECUTION TERM

The Board must meet no later than five (5) days after receiving bid record file, for the awarding of the bid.

ARTICLE 67: AWARD ACT PROCEDURE

1. Type of Meeting

The Award Act for sale or acquisition bids shall take place by means of a private meeting, at which the Board shall be called to order. The Secretary shall keep a Record of Proceedings of everything that happens at the meeting.

2. Attendants Allowed

The Board award meeting shall be attended by Board members authorized to form quorum, "ad honorem" members and the authorized representative of the Office, or any expert who participated in the evaluation or whom the Board requests documentation. The experts attending such meetings will only serve to enlighten the Board in its deliberations. The Secretary will attend in order to keep record of the incidents of the meeting.

ARTICLE 68: GENERAL ORDER OF AWARD PROCEEDINGS

The Board shall have to first determine which proposals have to be considered for award, using as a guide the rules established in these regulation, the information contained in the Record of Proceedings of the Opening Act and the Collector's Report.

After making this preliminary determination, the Board shall proceed to verify which of the proposals, subject to evaluation according to the Office Report have complied with specifications and conditions requested in the bid.

Once it has been determined which proposals complying with regulation requirements, have offered what has been requested in the specifications and conditions of the bid, the Board shall select the one whose price is the lowest. Upon doing so, the Board shall have to take into consideration possible discounts and the application of percentages in relation to special laws, such as the "Preference Act" and others. Discounts offered to stimulate prompt payments from the Government will not be considered for evaluation and award purposes.

ARTICLE 69: GENERAL AWARD RULES

When awarding the bid, the Board shall first limit itself to the following and only general award rule:

1. Acquisition Bids

The award of acquisition bids shall be made in favor of the bidder having a good capability and compliance record, which shall would assure the Board that he will comply with the terms of the contract if granted; provided, his proposal meets the following requirements in the order herein established:

a. That it complies with the specifications;

- b. That it complies with the conditions and other requirements established in the Bid Call Documents;
- c. That it is the lowest in price.

2. Sale Bids

The sale bids shall be awarded in favor of the bidder whose proposal is the highest and most reasonable in relation to the assessed value of the good.

ARTICLE 70 PURPOSE AND ADOPTION OF AWARD RULES

When evaluating proposals before its consideration, the Board may come across some proposals which may not follow general established directions, but that could be susceptible of evaluation, subject to some controls.

The following rules are adopted to provide the Board with the guidelines to follow in the circumstances cited in them:

1. Ties or Equal Proposals

When two (2) or more bidders submit proposals equal in specifications, conditions, and prices and they are the most beneficial to the Government, the Board shall proceed according to the stipulations in this Sub-section:

a. Notification of Item Awarded

The fact that a tie exists shall not detain bid proceedings. When the tie does not include the whole bid, but only some items in it, award notification of other items evaluated and awarded shall be in order.

b. New Prices

1) Notification and Request

The Board shall inform the Secretary of the tie and shall give instructions to only notify tied bidders of said tie and summon them to submit new prices, informing them of the procedure to follow.

2) Summons Procedure

Tied bidders shall be summoned by any means of communication available for the date set by the Secretary, which date may not be any more than three (3) days after the Board so ordered. Afterwards, the Secretary shall note in writing said summons.

3) New Prices Delivery and Opening

For the date and hour summoned, tied bidders must appear before the Secretary and deliver to him the new prices in a sealed envelope. The Secretary shall open the envelopes before them.

a) New Ties

Upon opening the envelopes, if new ties arise the same procedure is in order for new prices requested.

4) Report of the Secretary

By means of a Record of Proceedings, the Secretary shall inform the Board of the tie solving act.

5) Award

The Board shall award the bid and shall order the Secretary to make the corresponding notification.

2. Only One Bidder

When only one proposal is received, the Board may award the bid

in favor or said bidder if his proposal complies with the specifications and conditions of the bid and prices is reasonable.

a. Only Proposal Rejection

The only proposal received may be rejected even if it meets with the requirements of the bid, if the priced offered is unreasonable, or if the bidder is not trustworthy according to Board criteria.

b. Presumption of Negligence

It is the obligation of the Office to keep itself up-to-date on the changes in the open market and Registry information; so that, prior to calling a bid, it can verify if there is only one available source in the open market.

If the board continually come across bids for the same matter in which only one bidder participates, the Board is obligated to inform the Assistant Administrator, so he may order an investigation to identify the causes for the occurrence of such a situation, and take the corrective measures he may deem to be in order.

2. Several Proposals From the Same Bidder

When one bidder presents several separate proposal envelopes for the same item, under his name or under other names or pseudonyms, with the purpose of pretending there exist market competition, if proven the Board is obligated to reject all the proposals thus presented. Such a bidder shall be penalized by suspending him from the Registry or preventing him from entering it, or participating in future bids for a period stipulated by the Board, which may not be greater than six (6) months. The Board shall notify this decision to the Assistant Administrator

and to the Central Registry so they may proceed accordingly. The penalized bidder may appeal before the Board of Review of the Administration, within ten (10) days of receiving the Resolution of the Board of Bids.

a. Alternatives

In the Bids for equipment, machinery or vehicles.

Because of the specifications a bidder could offer various models or styles, all of which comply with the specifications, he must choose one and offer it, unless it has been expressly requested in the Bid Call Documents, to submit alternatives.

If alternative have not been requested and a Bidder Offers them, even if all of them comply with the specifications, the Board has to reject said offer.

3. Conspiracy

When because of the unreasonableness of the proposals, or because of an investigation ordered as a result of sworn statements presented before the Board by bidders, it is proved subsequent to a hearing to such effect, that two (2) or more bidders have agreed to monopolize the bid, the Board shall reject their proposals and shall withdraw them from the Registry for a term no less than one (1) year or for the next two (2) bids, and the case shall be submitted to the Department of Justice.

a. Procedure

The Board shall establish the procedure to be followed at the hearing of such cases.

b. Unjustified Complaint

If after the hearing, the Board should prove that the sworn declaration offered by the bidder who presented the complaint has been arbitrary, unfounded, or maliciously offered, it shall refer the matter to the Justice Department for the corresponding action, under the provisions of the Penal Code of 1974, as amended and shall withdraw the Bidder from the Registry for a period no less than six (6) months.

5. No Proposal (Deserted Bid)

When no proposal is received the Board shall refer the bid record file to the Office, so that it may conduct the corresponding investigation and submit a Report to the Board, by means of which it may determine if a new call should be ordered, or return the record file to the Office for other transactions.

6. Whole Reject

All proposals received in a Formal Bid may be rejected in the following cases.

a. Unacceptable Offers

- 1) Proposals shall be considered unacceptable when they
 - a) Do not comply with the specifications;
 - b) Do not comply with the conditions;
 - c) The prices offered are unreasonably high.

2) Action In Order

When all proposals received are unacceptable, the following shall proceed:

- a) In the case of construction works, these may be done by administration.
- b) A new formal bid; shall be called.

(1) If upon calling the new bid the original situation for which all proposals were rejected should arise, the procedure below shall be followed:

(a) If the rejection was due to unreasonable price or non-compliance with conditions

a) The Office may be authorized to proceed in the acquisition of the goods, works, or services at issue, by negotiating the price or the conditions proposed with the rejected bidders who complied with the specifications, in accordance with the Acquisition Regulations.

b) If the Rejection was due to No-Compliance with Specifications

The Bid shall return the case to the Office so it may be contact the petitioning agency for the amendment of specifications, so they may be more atuned to present open market conditions and a new formal bid shall be called with the ammended specifications.

(b) Government Interests

All proposals may be rejected in a bid during any stage prior to the remittance or purchase orders in the following cases:

- 1) When it is deemed that there has not been aduated competition;
- 2) When the available funds are not enough to cover the price offered in the lowest quotation;
- 3) When the petitioning agency decides not to effect the purchase.

- a) In these cases no similar transaction may be made by the petitioning agency during the current fiscal year.

7. Other Criteria

When evaluating the proposals received at bids for equipment, in general, the Board is obligated to take into consideration the additional conditions herein stipulated with must be included in the Bid Call Documents.

- a. Savings in an equipment's consumption of fuel or electric energy according to the standards established by the "LCC Criteria";
- b. Equipment repair frequency;
- c. Equipment maintenance shop facilities;
- d. Replacement parts cost;
- e. Aspects affecting service such as inventory.

ARTICLE 71: DECISION

Once proposals have been evaluated utilizing the Office Report, the Board shall decide the award of the bid in the following manner:

1. Procedure

a. Summary

The President, or the Board member in whom he delegates, will make a summary of each one of the proposals evaluated, in order of greater to lesser benefits for the Government, mentioning each proposal and indicating those that should be rejected, and the reasons for it.

b. Decision

Members in attendance shall vote in favor of the bidder who complies with the specifications and conditions requested and whose offer thus consider the best for the Government. The Board will establish a system to be followed when voting and tallying the votes.

2. Duty of the Secretary

It is the duty of the Secretary to note of all that happened and draft a Record of Proceedings.

3. Award Effect

The award made in favor of a proposal constitutes an implicit rejection of all other proposals submitted by the bidders.

ARTICLE 72: AWARD NOTIFICATION

Not late than three (3) days after the Board has awarded the bid,

the Secretary has no notify all bidders submitting proposals, the petitioning agency, the Office, and the Collector.

1. Procedure

The bid award shall be notified to the bidder by means of a written communication entitled "Award Notice", which shall be sent to the address appearing in the proposal by the most adequate means according to the Instructions of the Board. The same means shall be utilized for all bidders. The Secretary shall certify the date of said Notice.

2. Contents

a. General

The Award Notice shall contain the following information:

- 1) Date of Notice;
- 2) Date of Award;
- 3) Name and address of bidder;
- 4) Bid number;
- 5) Name of each bidder indicating the items awarded in their favor, and the reasons for rejection of items not awarded to each of them;
- 6) A warning to the effect that in case of not being satisfied with the award, the bidder may request a review of the same, within ten (10) days of receiving the Award Notice;
- 7) A warning to the effect that the award, in cases of sale, is susceptible to variation. If within ten (10) days of having been notified, the highest bidder does not pick up the goods and pays for them, they may be awarded to the second highest bidder; consequently, the second and third highest bidders must be prepared to maintain their proposals for the period of time above mentioned.

b. Successful Bidder

In addition to the information mentioned in paragraph "a", the successful bidder or bidders award notification shall indicate the following:

- 1) Documents to be submitted before contract execution;
- 2) Period of time for their submittal, which will not be less than ten (10) workdays from notification date;
- 3) A warning to the effect that the award does not obligate the Government until the contract is formally executed.

3. Report to Official Disburser

The Collector shall proceed to complete the Report to the Official Disburser, ten (10) days after the bidders have been notified about the award.

a. Purpose

The Collector must submit to the Official Disburser of the Administration a detailed report of the status of the Bid Bonds, so that he may return those bonds that need to be returned.

b. Contents

The Report to the Disburser shall include the following information:

- 1) Bid number;
- 2) Date of report;
- 3) Name of bidder;
- 4) Number of each receipt issued;
- 5) Type of Bond Presented;
- 6) Amount of Bond;
- 7) Items awarded to each Bidder;
- 8) Amount offered by the Bidder for each item awarded in his favor;

- 9) Amount that the successful bidder is to be charged;
- 10) Total amount of the items awarded to each bidder;
- 11) Amount to be reimbursed to unsuccessful bidders.

ARTICLE 73: AWARD CANCELLATION

The Board by unanimous agreement may cancel the award before the signing of the contract due to the following:

1. Reasons

a. Need

That the petitioning agency proves to the Board that the need originating the bid no longer exists.

1) Limitation

In these cases the petitioning agency shall not be able to:

- a) Request authorization to buy the goods, works, or services through another procedure;
- b) Nor acquire the goods, works, or services at issue during the fiscal year in progress.

b. Funds

That for some unexpected and unforeseen reason, because of the petitioner's urgency, the funds obligated for the transaction:

- 1) are depleted;
- 2) have been reassigned for other purposes.

2. Effect

Neither the Board nor the Administration nor the Government shall be liable in any way, under these circumstances.

ARTICLE 74: AWARD REVIEW

Within ten (10) days after the award of a bid, any bidder participating in it shall be able to request from the Board of Review of the Administration, a review of the award made by the Board of Bids, or a cancellation of said award, as provided in the Board of Review Regulations of the Administration.

1. Requirement

If the bidder presenting the appeal is the contractor of the contract in effect, to be substituted by the proposed new contract, the effectiveness of his contract shall not be extended unless he is Bonded for fifty (50) percent of the approximate cost of the new contract.

SECTION H: CONTRACTS

ARTICLE 75: OFFICE OF PURCHASES AND CONTRACTS NOTIFICATION

1. Term

Ten (10) days after having sent the Award Notice, the Secretary shall send the Office a notification to the effect that the Board has not been informed of any Review proceedings so that the Office may proceed to execute the contract according to the "Acquisition Regulations".

2. Contents

Said notification shall be accompanied by the following:

- a. Copy of the Award Notice,
- b. A copy of the Bid Call Documents,
- c. A copy of the Successful Bidder's Proposal.

3. Exception

In the event that review proceedings of the award of the bid have been presented, the notification to the Office shall be made immediately after receiving the final decision of the Board of Review of the Administration.

4. Bid Record File Safekeeping

The Secretary shall keep the bid record file until the Board of Review issues its resolution or until it requests the file.

5. Contract Record File

The Successful Bidder's proposal, Bid Call Documents and other formal requirements of the Government contracts shall constitute the contract record file which will be maintained in the Office. In said file shall be filed copies of orders against said contract. Another file shall be opened for each Contractor.

ARTICLE 76 CONTRACT EXECUTION REFUSAL

If the successful bidder should refuse to execute the contract within ten (10) days from the date in which he was summoned, the Office shall proceed in the following manner:

1. Board Notification

Once the ten (10) days term has concluded, the Office shall notify the Board of the successful bidder's refusal to execute the contract.

2. Action In Order

The Board, in a special meeting which shall be held no later than three (3) days after receiving the notification from the Office, will choose one of the following alternatives:

- a. Award the bid to the second lowest responsible bidder;
- b. In the case of services or construction works, recommend the execution of them administratively, in which case, if should notify it immediately to the corresponding Office.

3. Penalties

Regardless of the action taken or recommended to be taken by the Board, the following penalties shall be imposed to the successful bidder refusing to grant the contract:

- a. His Bond shall be executed to cover the difference between the price offered by him and that of the second bidder.
 - 1) If his Bond is not enough, action may be taken directly, against him to recover the difference.
- b. He shall be withdrawn from the Registry for the next bid or for a one year term, at the Board's discretion.

ARTICLE 77: BREACH OF CONTRACT

If during the execution of a contract, the contractor should breach it, the Government must notify immediately the Area of said breach. In these cases, and if the charges were proven correct, the Assistant Administrator will eliminate the bidder from the Registry for a period no less than six (6) months nor greater than two (2) years, independently of the action that the Office may take to recover losses from the bidder because of breach of contract.

PART IV- GENERAL PROVISIONS

SECTION A: DOCUMENTS

ARTICLE 78: SCOPE OF THE PUBLIC NATURE OF BIDS DOCUMENTS

As a general rule, documents pertaining to bids and contracts are public records, and thus, shall be accesible to the interested parties after the Opening of Proposals.

1. Exceptions

Nevertheless the above mentioned, the following documents shall not be considered public ones in relation to the accesibility of the bidders of thir parties:

- a. Documents pertaining to bids ordered by the Administrator, without a legislative or regulatory rule requiring that a bid must take place for that kind of transaction.
- b. Working papers written by the Board's members, individually, during their deliberations or special studies, which are not part of the bid file.
- c. Non-obligatory, persuasive reports offered to the Board by its consultants.

ARTICLE 79: RECORDS MAINTENANCE AND DISPOSITION

1. Filing and Retention of Records

Every bid file shall be kept in the Central File of each Area active and accessible until the first audit by the Office of the Comptroller of the Commonwealth of Puerto Rico.

2. Disposal

a. New Files

After the Comptroller's audits the bids files shall be transferred to the Inactive Central File, where they shall be kept for sixteen (16) years after the date in which the

contract was granted at the end of that period, they shall be disposed off, according to records dispositions regulations approved under Public Law Number 5, approved December 8, 1955 as amended or any other future law.

b. Records of Former Board of Awards

Records of different Boards of Awards previously organized in the Administration as well as contracts granted before the approval of these regulations, shall be disposed off if they meet the following requirements:

- 1) that sixteen (16) years have passed since the contract was granted;
- 2) that they have been audited by the Office of the Comptroller of the Commonwealth of Puerto Rico;
- 3) that contracts granted under the dispositions of those bids are not in force;
- 4) that there is no court laws suit pending.

c. Agencies Case Files with Delegated Authorities:

The case files maintained in the Agencies Boards of Awards shall be disposed off as explained in subsection (b) if they meet those requirements.

SECTION B: DELEGATIONS OF POWERS AND DUTIES

ARTICLE 80: DELEGATION TO THE BOARD OF BIDS

In order to perform the functions set forth by these regulations, the Administrator delegates to the Assistant Administrators and to the members of the Board the powers and duties accorded him by the provisions of Public Law Number 164 of July 23rd, 1974, as amended.

ARTICLE 81: DELEGATION TO THE ASSISTANT ADMINISTRATORS

Under existing law and regulations in effect, the power to decide whether or not to submit an acquisition activity to the public bid procedure shall be delegated to the Assistant Administrators and Delegate Buyers in the agencies.

ARTICLE 82: DELEGATION TO THE AGENCIES

If justified through written petitions, the Administrator may delegate the functions established in these regulations in the agencies that use services rendered by the Administration.

1. Procedure for Delegation

Said Delegation shall be made in writing, subsequent to the establishment or a Board of Bids in the petitioning agency, recommended by the agency Head, approved and appointed by the Administrator. The Board President shall be the Head of the Agency or his authorized representative.

2. Agency Head-Functions

The functions to be discharged by the Assistant Administrators shall be performed by the Head of the Agency or his representative, in accordance with all Administration's regulations.

3. Duties of the Boards of Bids in the Agencies

The appointed Board of Bids for each agency must comply with the following:

- a. Faithfully execute the procedure established in these regulations,
- b. Submit a Monthly Report on Bids Pending to the Administration,
- c. Submit an Annual Report to the Administrator concerning work performed.

ARTICLE 83: SALE BID LIMITATION

Sale bids shall not be delegated to the Boards of Bids of the agencies.

SECTION C: TEMPORARY PROVISIONS

ARTICLE 84: BOARDS OF BIDS OF THE AGENCIES-TEMPORARY EFFECTIVENESS

Existing Boards of Bids in other agencies at the effective date of these regulations, shall continue their functions in order to prevent a delay in the functioning of Government agencies but their ratification shall be subject to approval by the Administrator; consequently, they shall comply with the requirements and procedures the Administrator may establish under Article 82, and in Sub-section 1 of this Article.

1. Duties of the Agencies

The heads of the agencies having Board of Bids are obligated to submit, within six (6) months of having entered into effect these regulations, a detailed Report containing the following:

- a. A copy of the original delegation and any other subsequent delegation up to the present,
- b. Functions performed for the last two (2) Fiscal years under delegation in effect;
- c. Functions projected for the Fiscal year in effect and the next one,
- d. Detail of reports submitted to the Administration under previous delegations,
- e. Justification for continuing their activity.

2. Failure to Submit Reports- Effect

Those agencies failing to submit Reports and Requisitions requires by this provision, shall have their Boards automatically dissolved, upon the conclusion of the six (6) months term here established.

ARTICLE 85: FORMS AND DOCUMENTS

All fiscal or necessary forms for the implementation of all the stages of the procedure herein established, shall have to be designed and referred to the Treasury Department for its approval, within the first six (6) months of the date of effectiveness of these regulations. Until said forms are approved by the Treasury Secretary, the ones in effect shall be utilized, and as the new ones are approved, they shall be adopted.

Purchase forms, not needing the approval of the Secretary of the Treasury, shall have to be submitted to the Assistant Administrator's, within the first six (6) months these regulations are in effect.

ARTICLE 86: PROCEDURE

1. Internal

The internal procedures, required of the Board, may be adopted according to the work-plan the Board in each Area establishes for itself. Until these are approved, the Board shall be ruled by the existing internal functioning procedures. New internal procedures shall have to be approved and if effect, no later than six (6) months after these regulations enter into effect. ✓

SECTION D: FINAL PROVISIONS

ARTICLE 87: GOVERNMENT EMPLOYEE LIMITATION

No official or government employee intervening in acquisition or bids proceedings shall have an economic interest in such proceedings.

Under no circumstances, shall any person or official of the Government intervene directly or indirectly with the bidders in the preparation or writing of the bidders proposals.

If a bidder has any doubts about the formal requirements for the submittal of his proposals, or the procedure to be followed, he may only communicate it to the Secretary, who shall thus note it in a Formal Record, copies of which shall be sent to the corresponding Assistant Administrator, and to the bids record file, within twenty four (24) hours of having offered the orientation.

The official or employee not complying with this provision shall be considered in violation of his duties as a Government employee, and may be subject to the corresponding disciplinary action, in accordance with the Public Service Personnel Act.

ARTICLE 88: PENALTIES

Article 32 of the Public Law Number 164 of July 23, 1974, as amended stipulates that should any provision of any regulation adopted by virtue of the power that Article 14, Sub-section J of this law confers upon the Administrator be infringed, the violator shall incur in a misdemeanor and if convicted, shall be sentenced to pay a fine of no less than fifty dollares (\$50.00) and no greater than two hundred and fifty dollares (\$250.00), or to imprisonment of no less than one (1) month and no greater than six (6) months or both penalties, at the discretion of the court.

Independently of the criminal action for which the case shall be referred to the Secretary of Justice, administratively, the following procedure shall be in order:

1. If he is an official or employee of the petitioning agency

The Administrator shall notify the violation to the agency concerned, requiring that the head of the agency determine if he deems it convenient to impose a sanction, in accordance with the "Public Service Personnel Act".

a. Effect

The Administration shall not accept any request of said agency, if it is transacted by the official or employee concerned; unless, the agency itself certifies in writing that such a person has complied with the sanctions imposed on him, or it appears in the Administration's records, that said person has been rehabilitated before the Administration and the Board, through the procedure that the Administrator shall approve to such effect.

2. If he is a bidder

In cases where any bidder violates the provisions in these regulations, the Administrator may delate him from the Bidders Registry for the term he may deem convenient, and in accordance with the stipulations in effect. As main criterion, though not the only one to determine which sanction to impose, the Administrator shall weigh the damage caused or that could have been caused, if the violation or irregularity had not been discovered on time.

3. If he is an employee of official of the Administration

In those cases in which the violation or irregularity is committed by an employee or official of the Administration, the Administrator may, subject to the report he receives, impose on said official or employee the sanction he deems convenient and necessary, in accordance to the provisions of the "Public Service Personnel Act":

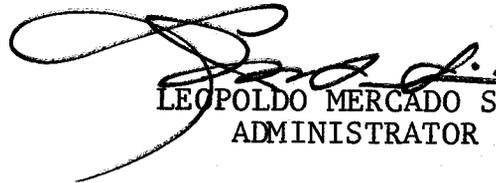
ARTICLE 89: DEROGATIONS

These regulations repeal Section I, Sub-section E, F, and J of Section IV; Sub-section B, C, D, E, and I of Section V; and Sections XII and XIII of Regulations Number 2 of the General Services Administration, "To Regulate All Purchases Under the Provision of Public Law Number 96 of June 29, 1954"; the "Bid Procedure of February 1st, 1976, for the Construction and Conservation of Public Buildings Area of the General Services Administration"; the Regulations of January 30th, 1963, "For the Control of the Functions of the Board of Bids of the Transportation Office"; the "Procedure for Bids Publication of the General Services Administrator" of June 12, 1973; Administrative Bulletin Number 1902 "Executive Order for the Establishment of a Uniform Procedure for the Publication of Bid Notice in the Press"; and any other Regulations, Circular Letters, and Instructions conflicting with the provisions of these regulations, approved prior to the approval of these regulations; except, the "General Conditions for the Contracting of Public Works and other Related Documents", which shall prevail for contracting all public works.

ARTICLE 90: EFFECTIVENESS

These regulations shall enter in effect thirty (30) days after their presentation at the Department of State of the Commonwealth of Puerto Rico according to the provision of Public Law No.112 of June 30, 1957, as amended; better known as the "Regulations Act of 1957".

Approved in San Juan, Puerto Rico, on the *18th* day of *June* of 1979.


LEOPOLDO MERCADO SANTINI
ADMINISTRATOR