

COMMONWEALTH OF PUERTO RICO
GENERAL SERVICES ADMINISTRATION

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Secretary of State

By: [Signature]
Assistant Secretary of State

Regulations Number 6

of the

General Services Administration

GOVERNMENT ACQUISITION REGULATIONS

1979

ACQUISITION REGULATIONS

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Commonwealth of Puerto Rico

GENERAL SERVICES ADMINISTRATION

REGULATIONS NUMBER 6

FOR the establishment of rules that shall regulate Government acquisition of goods, works, and services; distinguishing between Government acquisition methods; establishment of acquisition procedures and the steps to be followed when granting contracts, after the formal bid, the informal bid, and open market procedures or negotiations; delegation of some of the functions of the General Services Administrator; the setting of responsibilities and obligations; establishment of penalties; and for the derogation of Sections 15, 16, 17 and 18 of "Motor Vehicles Acquisition Regulations" of August 18, 1949, approved under Public Law Number 49 of August 4, 1947; the July 1st, 1963 "Regulations Establishing the Procedures for Purchase and Rendering of Services" approved under Public Law Number 49 of August 4, 1947; and Sections II, III, IV, V, VI, VII, and IX of Regulations Number 2 of the Administration "For the Control of Purchases under Public Law Number 96 of June 29, 1954", Regulations Number 4 of September 1st, 1977; and any other rule in effect on the date these regulations are approved.

PART I: GENERAL RULES

SECTION A: INTRODUCTION

ARTICLE 1: REFERENCE TITLE

These regulations shall be known as "Government Acquisition Regulations".

ARTICLE 2: SOURCES OF THE LAW

These regulations are adopted in accordance with the powers conferred upon the General Services Administrator by Subsection j and p of Article 14, Article 16, and Subsection b of Article 17, Subsection a of Article 18, Subsection a of Article 19, and Article 21 of Public Law Number 164 of July 23rd, 1974; as amended, known as "The General Services Administration Act"; Section 4 of Public Law Number 96, of June 29, 1954, as amended, known as the "Purchases and Services Act"; and Subsection b of Article 4 of Public Law Number 5 of December 8th, 1955; as amended, known as the "Public Documents Administration Act".

ARTICLE 3: PURPOSE

These regulations are adopted with the purpose of establishing within one legal document, all the normative rules that control the acquisition of chattels, works, and services in Government, as well as for the establishment of requirements determining the means to be utilized, the procedures to be followed in each one of them, and the manner in which any contract is to be awarded in the Government.

It is necessary to indicate within the very organization of the Administration, which units shall process acquisition requisitions of each agency; the scope of their functions and obligations, and the description of the work they are to perform. Thus, the Office of Purchases and Contracts of the Administration, is created, satisfying the need for an organism within the Administration, to carry out some or all the steps within the acquisition procedures, which the agencies are not able to do because of the amount involved, or the complexity of the requisition. The operation of said Office shall be carried out by the Delegate Buyers, Purchasing Specialists, and Experts. The Office will work as an auxiliary of the Board of Bids and will be under the jurisdiction of the Assistant Administrators. The functions and obligations of the Office related to the acquisition procedures are contained in these regulations.

ARTICLE 4: INTERPRETATION OF WORDS AND PHRASES

1. Tense, Gender, and Number

Words and phrases used in these regulations shall be interpreted according to the context and meaning of common and current usage. Terms used in the present tense shall also include the future; those used in the masculine gender, include the feminine and neuter; except, in those cases where such interpretation is absurd. Singular includes the plural, and the plural the singular.

2. Abbreviations and Definitions

The words and phrases used throughout these regulations shall be defined in this subsection. When to achieve greater clarity, terms have been defined in other sections, it has been clearly pointed out. Words and phrases shown below are short terms and definitions of the following:

- 1) Administration -- The General Services Administration.
- 2) Administrator -- The Administrator of the General Services Administration.
- 3) Assistant Administrator -- Any of the Assistant Administrators of the different Areas of the Administration. Unless specifically indicated, it shall be understood that their functions cannot be delegated.
- 4) Assistant Administrator for Purchases -- The Assistant Administrator of the Purchases, Services, and Supplies Area of the Administration.
- 5) Assistant Administrator for Transportation -- The Assistant Administrator of the Transportation and Motor Vehicle Maintenance Area of the Administration.
- 6) Assistant Administrator for Construction -- The Assistant Administrator of the Construction, Conservation and Maintenance of Public Buildings Area of the Administration.

- 7) Acquire - The act of procuring, receiving, or obtaining services or goods in existence or chattels and works that can be brought into existence through any of the means established in these regulations.
- 8) Petitioning Agency - Any Government agency that by law is obligated to utilize the services of the Administration, or those that, although not obligated to do so, voluntarily request said services; in which case, they are subject to the rules and controls established by the Administration. The Administration shall be considered as another petitioning agency.
- 9) Warehouse - Any of the Supplies Warehouses established or to be established in each one of the Areas to supply the agencies with the chattels needed by them for their operations. These are the Purchases Area Warehouse for office, and cleaning materials as well as official forms; the Transportation Area Warehouse for motor vehicle parts and materials, the Construction Area Warehouse for construction materials, equipment and their

parts; and any other Warehouse that may be established at a future time.

- 10) Area - 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.
- 11) Change Notice - Any amendment following the remittance of an Acquisition, Service, or Commencing Order.
- 12) Abandoned Goods - Anything found by or delivered to the Government, whose legitimate owner, cannot be identified, does not claim it or refuses to receive it, within the term established by law.
- 13) Confiscated Goods - Anything that any of the Government agencies, authorized by a law, may seize because it has been utilized to help, carry out, or during the perpetration of one of the crimes expressly mentioned in the law authorizing the seizure.

- 14) Expendable Goods -- Anything that is consumed when used.
- 15) Chattels -- Anything that is susceptible to being moved by itself or by another force or person and that may be fungible or not, such as but not limited to the following: medicines, foods, office material and equipment, construction material and equipment, land, sea, and air transportation means, its parts, and accessories, materials for its maintenance; printing or reproduction equipment machinery and material equipment; machinery and materials related to the electronic data processing means; school and medical equipment and material, and any other material, equipment or machinery necessary for Government operations.
- 16) Certification -- Document issued by the corresponding official or employee, confirming that any of the requirements demanded for any of the procedural steps established in these regulations have been complied with; or confirming information necessary to proceed with said steps or to inform that the good, service or work object of the contract has been received or accepted, and that these comply with the terms and conditions of the

contract; or to inform the terms of said contract that may have been breached.

- 17) Businessman -- Any person dedicated to sell or rent goods or services within the scope of the law in the Open Market.
- 18) Purchase -- a) Means by which Government acquires a thing or a work in exchange for a payment in money.
- b) Goods, works, or services grouped as one, due to similar purposes or suppliers, or because by acquiring them in the same transaction, it is more beneficial to the public interest.
- c) The term "purchase" is used in fiscal documents for the term "acquisition" indistinctively.
- 19) Buyer -- Any Government officer or employee authorized by the Administrator to purchase, for the Government, and to whom an appointment as Delegate Buyer or Subdelegate Buyer has been issued.
- 20) General Conditions for the Contracting of Public Works -- "General Conditions for Public Work Contracting and Other Related Documents" approved on October 27, 1976.
- 21) Contractor -- Person with whom the Government has a contract in effect.

- 22) Contract -- Document or group of documents containing the specifications and conditions agreed upon between the Government and a contractor.
- 23) Data Processing -- The handling of information through electronic means.
- 24) Delegate Buyer -- Official or employee authorized by the Administrator to purchase, and who shall be in charge of the purchasing functions in each agency, and whose function shall be controlled by the provisions of the "Delegate Buyers Regulations" of the Administration.
- 25) Purpose of a Work -- Reason for which a work is executed or the use given to a building or to be given.
- 26) Other Countries Dignitaries -- All official representative of the Government of another country, such as: Head of State, Consul, or Officials of any of the branches of their countries respective Governments.
- 27) Day -- Natural day.
- 28) Emergency (Urgency) -- Those terms are considered synonyms in these regulations. Emergency or urgency shall mean that situation occasioning unexpected and unforeseen public needs, requiring immediate action from the part of the Government, because the life, health or

security of its citizens or public services or Government property are in danger of being suspended or affected, when the period to use the funds available is about to expire, thus denying the Government of the opportunity to acquire the goods, works, or services desired, affecting adversely the public interest.

- 29) E. P. A. -- Environmental Protection Agency.
- 30) Specifications -- Group of physical, functional, aesthetical characteristics and quality of the goods, works, or services requested.
- 31) Evidence -- Anything utilized as proof in a civil or criminal case, before a Court of Justice, and remaining under the custody of the Court before or during hearings, or after disposing of the pending case, waiting for its legitimate owner to claim it.
- 32) Invoice - Voucher -- Form sent to the successful bidder or supplier together with the purchase order, so he may invoice the Administration, when the time comes, for whatever has been supplied, delivered, lent, or executed.
- 33) Bond -- Guarantee or amount of money deposited to ensure compliance with contracted obligations.

- 34) Prominent Personalities -- Persons who are outstanding because of their achievements in the intellectual, professional, artistic, or sports world, whose achievements have honored their countries or made them known internationally.
- 35) Government -- The Executive Branch of the Government of the Commonwealth of Puerto Rico, excluding, in the corresponding program the public corporations, municipalities, and any other agency that may be expressly exempt from procuring its goods, works, and services through the intervention of the Administration. In the Administration of Public Documents Program the term "Government" shall include the municipality and public corporations.
- 36) Regulatory Board -- Consultative body of the Administrator in the drafting, revision and approval of specifications.
- 37) Review Board -- Review Board of the General Services Administration.
- 38) Board of Bids -- The Board of Bids of the Administration or of the petitioning agency authorized, and appointed by the Administrator to conduct bids. Said Board acts as the administrative

organism for study, evaluation and award of bids, and its functions are ruled by the Formal Bids Regulations" of the Administration.

- 39) LCC Criteria - Life Cycle Cost Criteria to determine the cost of the lifecycle of an equipment that consumes energy.
- 40) Bidder - Natural or juridical person participating or that can participate in a bid, as bidder, presenting his proposal.
- 41) Successful Bidder - Natural or juridical person to whom one or more items in a bid has been awarded.
- 42) Luxury - Any good, work, or service acquired by the Government, in excess of the limit established in these regulations, and the austerity rules and controls established by the Secretary of the Treasury.
- 43) Microphotography - The application of photographic process to produce copies in very reduced sizes, to be read by enlarging them.
- 44) Funds Obligation - Separate and reserve from the budgetary assignments, the amount of money deemed necessary to cover certain disbursements.
- 45) Work - Any construction work, reconstruction, alteration, improvement, repair, conser-

vation or maintenance of any of the structures, without being limited to buildings, corresponding to functions prescribed by law, and to be discharged by an agency.

- 46) Order -- Written document issued by the Administration or the Buyer requiring the contractor to begin, continue, stop, deliver, finish, render a service, or construct a good or work, object of a contract.
- 47) Pool -- That part of the Government fleet assigned to each one of the Government agencies.
- 48) Surplus Property -- All Government chattels in such conditions as to make them unusable, or all those in the possession of an Agency that has no use for them, or whose use has been discontinued in the Government.
- 49) Official Receiver -- Official or employee of a petitioning agency, in charge of receiving the goods, works, or services and whose functions shall be ruled by the "Official Receivers Regulations" of the Administration.
- 50) Bidders Registry -- Registry of suppliers in which natural or juridical persons accepted by the Administration for contracting with the Government, are recorded, upon having complied with the requirements established by the Administrator.

- 51) Rules for Contracting -- Rules that shall regulate Administration construction contracts, and which, upon approval, shall have the effect of law. Until the Administrator approves said rules, the Administration construction contracts shall be regulated by the "General Conditions for the Contracting of Public Works and Other Related Documents".
- 52) Review -- Appeal through which a reevaluation of any decision issued by the Board of Bids or the Assistant Administrator is requested before the Board of Review.
- 53) Requisition -- Document by which the petitioning agency describes the goods, services, or works it is interested in.
- 54) Only Supplier or Source Available -- The only natural or juridical person available to supply the good, render the service, or execute the work needed at the time and under the conditions requested.
- 55) Assessed Value -- Value assigned by an expert to goods, after discounting percentages for usage, years in existence and other aspects.

ARTICLE 5: JURISDICTION

The provisions of these regulations apply to any acquisition transaction conducted in the Government by any organism that by law is

obligated to utilize the services of the Administration, or that voluntarily requests them.

ARTICLE 6: SCOPE

Any official or employee of the Government in which the Administrator has delegated acquisition functions, or to whom he has issued an appointment as Delegate Buyer, shall have to comply with the provisions of these regulations.

ARTICLE 7: INTERRELATION WITH OTHER RULES AND REGULATIONS

The provisions of these regulations shall not be interpreted solely by themselves. They comprise the stages before and after the conduct of formal bids, which shall in turn be executed according to the "Formal Bids Regulations" of the Administration; some stages of the informal bid procedure; and the steps to be followed when bid mechanisms are not used.

When interpreting the rules herein contained, all other rules and regulations in effect, pertaining to acquisition in Government, shall be taken into consideration, such as "Formal Bids Regulations" of the Administration, the "General Conditions for Contracting of Public Works and Other Related Documents", the "Contracting Rules", "Delegate Buyers Regulations", "Official Receivers Regulations", and any other rules approved by the Administrator as well as by the Secretary of the Treasury. As a general rule, all the rules established in the Civil Code of Puerto Rico 1930 edition, as amended, related to the acquisition methods mentioned in these regulations, are to be applied; except, in those cases expressly indicated in these regulations or in special laws.

In construction works, the "General Conditions for the Contracting of Public Works and Other Related Documents" shall prevail, until the Administrator approves the "Rules for Contracting".

PART II: NORMATIVE - RULES REGULATING ACQUISITION IN GOVERNMENT

SECTION A: IN GENERAL

ARTICLE 8: ACQUISITION METHODS

The following are hereby recognized as valid and acceptable acquisition methods:

1. Purchase and its variants
2. Barter
3. Rental
4. Donation
5. Transfer

ARTICLE 9: METHOD DETERMINATION

Agency Heads shall determine which method of acquisition shall be utilized for each one of their needs using as a guide the following:

1. Criteria
 - a. Budgetary appropriations their agency can count with, for what is requested;
 - b. Powers conferred by the law creating his agency, pertaining to the method chosen; and
 - c. The rules approved by the Administrator for the control of transactions under the method choose.
2. Administration Discretion

In such cases, the Administration shall have to notify the Agency Head before handling the requisition. Provided that it is not prohibited by a special law from doing so, the Administration may substitute the method choose by the Agency Head, when deemed beneficial to Government interests.

SECTION B: PURCHASES

ARTICLE 10: DEFINITION

Acquisition methods by which one part: the seller, agrees to deliver a particular thing and the other part: the Government, buyer, agrees to pay a specific price for it, in money or the symbol representing it.

ARTICLE 11: CRITERIA FOR DETERMING WHEN TO PURCHASE

Purchase shall be the method to acquire, when a real need exists, in accordance to the following:

1. General Criteria

- a. That there does not exist an immediate or reasonable possibility of utilizing a less expensive method;
- b. That it involves fungible goods or chattels necessary for the daily work of the petitioning agency;
- c. That it involves the replacement of a unit considered by the Head of the petitionary agency as necessary for the performance of his agency's functions, and that specific funds have been assigned for said agency;
- d. That it involves a unit that is going to replace another, partially or totally destroyed as a consequence of accident, fire, vandalism or excessive use; provided, that there are funds available for said substitution.

2. Special Criteria

a. Construction materials

- 1) That they are going to be used and are necessary for one or more works, or a specific project in the amounts or time specifically requisitioned.

- 2) That the Assistant Administrator for Construction has approved the project or work.
- 3) That there are funds available and assigned to cover said purchase.

b. Computers, Microfilm Equipment, and Related Equipment

That a viability study has been made showing said purchase is necessary, and the Administrator has approved it.

c. Printing Machinery and Equipment

- 1) That it is necessary for the expansion or improvement of an existing reproduction center.
- 2) That it is necessary for establishing one; and whose need has been demonstrated by a viability study.
- 3) That it is authorized by the Administrator.

d. Construction Equipment and Machinery

That the Administrator deems it necessary for the development of the improvements or conservation programs carried-out by the Administration.

e. Transportation Means

- 1) That more than three (3) years have passed without acquiring a new one for the petitioning agency.
- 2) That the means being replaced has been in use in the Government more than five (5) years, or has more than eighty thousand (80,000) miles covered from its existence, or whichever occurs first.

f. Services

Services shall always be rented; consequently, no acquisition of services should appear transacted by purchase.

ARTICLE 12: PURCHASES LIMITATIONS

Even if the criteria for purchase is in order, for equipment, machinery, or any means of transportation, acquisitions are to be limited throughout Government, notwithstanding the origin of the funds, and the purposes for their use, by the following:

1. General Limitations

a. Alternatives

No purchases shall be made when other Government resources and other less costly acquisition methods may be utilized to obtain intended purposes.

b. Expansion and Improvements

No purchase shall be made for the expansion of programs, unless technicians of the petitioning agency have conducted a study showing the need for the expansion or improvement, which shall have to be approved by the Administrator.

c. Energy Consumption

If it consumes electric energy or fuel, the "Life Cost Cycle Criteria" shall be taken into consideration over the lowest cost, at time of award, in compliance with federal energy conservation legislation.

d. Model Specifications

It shall have to comply with specifications and criteria recommended by the Regulatory Board and approved by the Administrator.

e. Cost

1) Special Equipment

Its cost shall not exceed the one established by the Administrator for the type of construction, data processing, or microphotography equipment, machinery, vehicle, or service related with them, even when there may be assigned or available funds for it.

a) Cost Criteria Setting

These costs criteria shall be established by the Administrator in consultation with the Secretary of the Treasury and the Director of the Budget Bureau. Said criteria shall be published in the agencies before they submit their budgetary requisitions.

2) Other Equipment, Works, and Service

For other goods, works, or services, the cost shall not exceed the amount obligated by the agency.

f. Luxury

Unnecessary equipment accessories, or high quality materials may not be acquired when extremely expensive, and others more economical are available and suitable for the same purposes.

2. Special Limitations

a. Budgetary and Expenses

The Secretary of the Treasury and the Director of the Budget Bureau may establish, at their discretion, and in consultation with the Administrator, special additional criteria and limitations which they deem reasonable for the safeguarding of the best economic interests of the Government.

b. Cultural Control

When any chattel is to be bought, that due to its origin, nature, or purpose, it is related with the cultural interests of Government, said purchase shall have to be approved by the Executive Director of the Puerto Rico Institute of Culture or his authorized representative.

The Director shall recommend to the Administrator those special criteria and limitations he considers should be adopted in the Government acquisition of goods, in order to safeguard the best cultural interest of the Government.

ARTICLE 13: PURCHASES HANDLING

1. Procedure

When acquiring by means of a purchase, one of the following procedures shall be used, depending on the circumstances that give occasion to the purchase:

- a. Formal Bid
- b. Informal Bid
- c. Open Market or Special Procedures

2. Procedure Determination

To determine under which procedure the purchase shall be handled, the rules established in these regulations shall be followed.

ARTICLE 14: TYPES OF PURCHASES

The following types of purchases shall take place in the Government:

1. From the Administration Warehouse,
2. Directly Against Contracts,
3. Special Purchases.

ARTICLE 15: PURCHASES FROM THE ADMINISTRATION (OR THE WAREHOUSE)

1. Definition

Purchases from the Administration shall be those made by the petitioning agency directly to the Administration Warehouse, for the acquisition of office equipment, official, printed forms, cleaning items, motor vehicle parts and accessories.

2. Application

Purchases from the Administration shall be made when the petitioning agencies try to acquire any fungible goods regularly, ordinarily consumed, included in the catalog distributed by the Administration, even if they are not in stock.

3. Assistant Administrators -- Obligation

The Assistant Administrators shall see that their respective Warehouses maintain an inventory of the goods regularly

and ordinarily consumed by their respective Areas programs, according to their nature and expected average consumption.

a. Catalog

The Assistant Administrator shall be in charge of publishing and distributing annually, among the petitioning agencies, a catalog of the items, with their sale price, as found in their respective Warehouses.

4. Handling

Purchases from the Administration Warehouse shall be handled through Requisition, according to the procedure established in these regulations.

ARTICLE 16: PURCHASES DIRECTLY AGAINST CONTRACTS

1. Definition

A direct purchase against contract is the one made from a bidder that has been contracted by the Administration, as a consequence of a bid awarded in his favor.

2. Application

A direct purchase can only be made when there is a contract in effect with the Administration, to deliver one or more types of goods, during a period established in said contract.

3. Persons in Charge of Handling Direct Purchases

Direct purchases shall only be effected by the Administrator or his authorized representatives in the Administration or by the Buyers; in which case, the amount limitations shall not operate.

4. Handling Procedure

Direct purchases shall be handled through the issuing of purchase orders, as established in these regulations.

ARTICLE 17: SPECIAL PURCHASES

A special purchase is the type of purchase against a contract, handled exclusively for one agency, for a specific purpose, and against which only the number of orders previously set, may be issued. These are issued by the Office or by the expressly authorized Buyer.

SECTION C: PURCHASES ON CREDIT

ARTICLE 18: DEFINITION

Purchases on credit are the type of purchases established in Civil Law, by means of which acquisition is made of something that can be used and enjoyed immediately, but payment shall be made on set terms by partial or time payments.

ARTICLE 19: APPLICATION

Purchases on credit are in order given the following circumstances:

1. That the cost of what is to be acquired is so excessive, that the immediate and complete disbursement of such an amount would adversely affect Government interests;
2. That whatever is to be acquired is equipment or machinery, whose life exceeds five (5) years;
3. That there is no other way of acquiring it within the circumstances of its purchase;
4. That the amount and cost of item to be acquired is so great, that it merits such treatment.

ARTICLE 20: LIMITATIONS

Purchases on credit shall be limited by the following rules:

1. That the petitioning agency has the power to enter into said type of transaction;
2. That the Budget Bureau Director authorizes it and certifies future sources of income;

3. That should interest rates be included, these shall not exceed the legal rates prevailing in the Open Market, established by the Secretary of the Treasury for private transactions;
4. That no financing, marketing, or any other kind of special charge shall be paid.

SECTION D: TRADE-IN

ARTICLE 21: DEFINITION

Purchase method established by Anglo-American Law, through which something new is acquired, by paying for it in one of the following:

1. Payment Methods

a. Complete Payment

Something similar, used, previously assessed and having its assessed value accredited to the payment, is given in trade for the new item and the difference in price is satisfied in a money payment.

b. Time Payment

At the moment of the transaction, the used item, at its assessed value, is accredited to the price of the new item and the difference is satisfied by partial payments, consisting of previously determined and agreed amounts, for a specific and determined period of time.

2. Differences

a. Barter

Trade-in must not be confused with Barter in that in Trade-In transactions:

- 1) The value of the assessed good traded-in may but usually does not cover fifty percent (50%) of the total value of the acquired item;

- 2) The transaction is conducted based on a price in currency, crediting the value of the good traded-in, as if received in cash.

b. Purchases on Credit

The Trade-in must not be confused with the Purchase on Credit in that:

- 1) In the Purchase on Credit, down payment is in money; while in the trade-in, down payment is in kind.

ARTICLE 22: APPLICATION

The trade-in transaction is in order, when given the same conditions as those established for Barter.

ARTICLE 23: LIMITATIONS

The Trade-In transaction is limited in the same way as the Barter. No Trade-In shall be conducted on credit, unless, in addition to the Administrator's approval, the Secretary of the Treasury also approves it; and if the period of the time payment were to exceed one (1) fiscal year, the Budget Bureau Director must approve it. The Secretary of the Treasury and the Budget Bureau Director shall establish the rules governing these transactions.

SECTION E: BARTER

ARTICLE 24: DEFINITION

Method of acquisition, established in Civil Law, by means of which one party agrees to deliver an item to another party, in exchange for payment made in kind of another item similar to the one received, or part in kind and part in cash. The value of the item received in exchange is equal or greater than that of the item given; the excess value of the thing received shall be compensated by a cash payment, but that payment may never be greater than the value accredited to the thing received.

ARTICLE 25: APPLICATION

Acquisition through barter may be effected given the following conditions:

1. That the goods given in payment has depreciated considerably or depreciates rapidly;
2. That the assessed value given the item is reasonable, according to the criteria of the Administrator;
3. That the use of the thing given in payment has been discontinued by the Government;
4. That the Administrator understands, through previous recommendation of the Assistant Administrator, that the transaction is beneficial to the Government;
5. That the goods has been declared surplus, in conformance with the provisions established by the "State Government Surplus Property Regulations";

6. That they are excess.

ARTICLE 26: BARTER LIMITATIONS

Acquisition through barter may be conducted if said transaction has been approved and authorized by the Administrator, in compliance with the rules that he and the Secretary of the Treasury may establish to such effect.

ARTICLE 27: HANDLING

Barter shall be handled according to what is established in these regulations:

1. Persons in Charge of Handling Barter

Barter shall be handled by the Administrator, or his authorized representative in the Administration.

SECTION F: RENTAL

ARTICLE 28: DEFINITION

Means of acquiring goods, works, or services for the Government, through which one part is obligated to execute a work or render a service or give in use an item, for a determined period of time, at a determined price.

ARTICLE 29: CRITERIA FOR DETERMINING IF ACQUISITION THROUGH RENTAL APPLIES

Acquisition through rental applies in the following cases:

1. Special Criteria

a. Vehicles

1) Head of Agencies

When the vehicle of the Head of the Agency is not available for delivery or use and the following conditions exist:

- a) That there is an eminent need,
- b) That there are no available vehicles in the agency pool.

2) Visitors

When dealing with limousines or other vehicles to be used by dignitaries from other countries, prominent foreign or local personalities or members representing their countries in International Congresses, or professional, cultural, or sports activities sponsored by the Government or subsidized by it.

3) Emergencies

When in order to meet emergencies, it may be necessary to use specially equipped vehicles; provided, that the following circumstances are present:

- a) That similar special Government vehicles are not sufficient or are not available to be used in said emergency;
- b) That it exclusively involves vehicles such as trucks, buses, cranes, tank-pump trucks, dump trucks, ambulances, prison vans, jeeps and small trucks, excluding passengers vehicles.

4) Other Officials or Employees

When there are no pool vehicles available to conduct a particular official business for a specific period of time, not exceeding the maximum period established by the Administrator.

b. Construction, Printing, Computer, and Microfilming Equipment or Machinery and other Related Equipment

- 1) When the cost of purchasing is so high, as to make a disbursement unjustifiable, in light of the following:
 - a) Because it is susceptible to being modernized constantly,
 - b) Because it is not to be used permanently.

c. Other Equipment

Unless the Administrator expressly establishes other criteria, said equipment shall be ruled by the general ones.

d. Services

When a service is involved that cannot be rendered by the Government, or by employees of the petitioning agency, or by employees of the Administration, or by any other Governmental organism.

2. General Criteria

a. Use Period

When the use to be given what is rented is for a short, determined period of time, and it would be quite onerous for the Government to acquire what is desired, for a greater period of time than that for which it is really needed.

b. Unforeseen Situations

Except for what is stipulated in relation to vehicles, when dealing with an unforeseen situation, arising in such a way, that there is no time to comply with the established terms for any other acquisition method.

c. Determination by the Agency Head

When a petitioning agency Head has the need for it, in order to carry out the programs that he has been developing, or by reason of imminent needs in his agency and subsequent to its justification to the Administrator, he authorizes it.

d. At the Discretion of the Administrator

When the Administrator considers it reasonable.

e. Special Funds

When available funds dictate that what is needed may only be acquired through rental.

ARTICLE 30: RENTALS LIMITATIONS

All rental transactions are limited to the following:

1. In the case of vehicles; they may not be rented:
 - a. For periods in excess of ninety (90) consecutive days for the same purpose;
 - b. If they do not meet the requirements established by the E. P. A.
2. In other transactions no rental may be made:
 - a. When a contract is in effect;
 - b. When, actually, the transaction that is being done is a purchase on credit;
 - c. When it is for acquiring luxury equipment;
 - d. When the Administration or any other Government agency can execute the work, render the service, or deliver the goods requested or similar ones.

ARTICLE 31: HANDLING

Rentals shall be handled following one of the procedures established in these regulations.

ARTICLE 32: TYPES OF RENTALS

Various types of rentals may take place in the Government, depending on the entity in charge of being the lessor; and in case of services, depending on the number of persons rendering the service:

1. Goods and Services, In General: Where Acquired
 - a. From the Administration,
 - b. From any of the other agencies in any of the Branches of the Government,
 - c. From private contractors.
2. Services -- Persons Who Shall Render Them
 - a. Unipersonal
 - b. Multipersonal

ARTICLE 33: RENTALS FROM THE ADMINISTRATION

1. Definition

Rental from the Administration are those requested so the Administration may render a service, or authorize the use of goods for a limited period.

2. Services

All petitioning agencies must rent from the Administration the services it renders.

a. Types of Services

The services rendered by the Administration include, among others, the following:

1) Printing

Printing services may be requested for the printing of all documents, information, or forms needed by the agencies in order to efficiently perform their work.

a) Scope

Printing service includes printing as such, and related services like artwork, design, drawing, photographs, and their development, lithography, typesetting; and everything related to and necessary for the activities before and after printing; such as, distribution.

b) Requisition Procedure

The printing services may be requisitioned through the procedure established in these regulations.

2) Investigation

Investigation services are those rendered in relation to vehicle accidents or related to other services or Administration's programs for proof collection, which may serve to determine responsibilities and actions to be taken.

a) Requisition Procedure

The Investigation services are automatically rendered, as soon as the petitioning agency notifies an irregularity, which occasions such an investigation.

3) Custody

The custodial services are rendered by the Administration in cases of chattels, property of third parties, under the Government jurisdiction, in the execution of any law, such as confiscated, received, or evidenced goods.

a) Requisition Procedure

Custodial services are automatically rendered by the Administration, as soon as the agency delivers the good to the Administration.

Only the Administration may contract custodial services from the private sector.

4) Fleet Repair and Maintenance

Repair and maintenance services for the fleet are rendered by the Administration shops; and may be requested through the issuance of orders, in accordance with what is established in the "Fleet Management Regulations" and these regulations.

5) Orientation

Orientation, consultation, training services, and others are rendered, when necessary, to implement Administration programs.

a) Rendering Procedure

Orientation services are rendered according to what the Administrator may stipulate for each case in particular.

6) Transportation and Conveyance

Special Transportation services for persons, equipment, or documents through air, sea or land transportation means are rendered by contracts awarded and approved by the Administration.

a) Annual Contracts

The Assistant Administrator for Transportation in consultation with the Assistant Administrator for Purchases shall determine the need to maintain these contracts in effect annually, or if the same should be contracted for each occasion, when the need arises, the Assistant Administrator for Transportation must approve them.

b) Travel Tickets

The acquisition of travel tickets for air, sea, or land transportation by public or private means for only one person or a group of less than three (3) persons, shall be controlled by the rules established to such effect by the Secretary of the Treasury and the Director of the Budget Bureau in whom, through this disposition, the Administrator delegates control of such transactions.

When acquiring said tickets for more than three (3) persons, this service shall be procured through the direct intervention of the Transportation Area.

When necessary because of the volume or the occasions, if recommended by the Budget Bureau Director and the Secretary of the Treasury, a formal bid shall be conducted for the annual contracting of said services, at a set price, thus protecting Government interests.

ARTICLE 34: RENTAL AGAINST CONTRACTS

1. Definition

Rentals against contracts are those which, subsequent to a formal bid, are contracted with a bidder in order to render a service or deliver a good, subject to terms, conditions, and prices established in said contract during the period it is in effect.

a. Special Limitation

Any natural or juridical person leasing goods to the Government must have complied with the provisions of Public Law Number 20 of May 8, 1973; as amended, and with the Rules promulgated under its provisions.

2. Application

Acquisition through rentals contracts may be made when the Administration does not have the good available or cannot render the service requested.

3. Handling

In order to rent against contracts, orders must be issued against them, according to what is established in these regulations.

ARTICLE 35: RENTALS FROM GOVERNMENT DEPENDENCIES

1. Application

Goods and services may be rented from other Government agencies, when the Administration cannot provide them for rent, subsequent to the approval and authorization by the

Administrator; and provided, that the dependency rendering the services is not a petitionary agency, but a municipality or public corporation.

ARTICLE 36: PRIVATE SERVICES RENTAL

Services may be rented from the private sector, when the Administration cannot render them, subject to the provisions herein established:

1. Unipersonal

a. Definition

Unipersonal services are those rendered by only one person and may be among one of the following types:

1) Professional and Non-professional

Professional services are those rendered by a person who has a university degree or license to practice in the field in which he has been accredited by the title conferred upon him by the degree; and that when rendering such services the person has to use more than sixty (60) percent of his time in work requiring mental analysis, study, evaluation, judgement, and discretion.

2) Manual work

3) Specialized, technical and skilled work

4) Semi-skilled and Unskilled

5) Others

2. Multipersonal Services

a. Definition

Multipersonal services are those rendered by juridical persons, groups, or entities and shall depend on more than one person for their rendering. They may be procured, due to the fame, name, and prestige of one person; but, their rendering shall depend on the work of more than one person at a time, or several persons, in subsequent related activities, rendering different services.

SECTION G: DONATIONS

ARTICLE 37: DEFINITION

Means by which the Government acquires a thing, a service, or a work, from a person acting of his own free will, giving, what is acquired, free of charge and without conditions.

ARTICLE 38: APPLICATION

Donations of chattels, services, or works may be made, if their use or usefulness is closely related to the functions and services rendered by the Administration.

ARTICLE 39: DONORS ALLOWED TO MAKE DONATIONS TO THE ADMINISTRATION

Any person natural or juridical, societies, and any private or public entity, legally capable of entering into contract, can make donations to the Administration.

ARTICLE 40: DONATIONS LIMITATIONS

1. No petitioning agency may accept donations of equipment, machinery, materials, goods, or services which should be procured through the Administration; or money for these, without the Administration's approval.
2. Money donations shall be controlled by the rules established to such effect by the Secretary of the Treasury.

ARTICLE 41: CONDITIONED DONATIONS

1. Definition

Conditioned donations are those that:

- a. Are subject to certain circumstances; or
- b. Are to be used for a determined period of time; or
- c. Are to be utilized for a specific purpose.

2. Limitations

Conditioned donations of goods, works, or services related to the functions or services rendered by the Administration, or that the petitioning agencies must procure through the Administration, shall have to be approved by the Governor, according to the provisions of Public Law Number 36, of June 9, 1975; as amended, following the procedure established for it in these regulations.

ARTICLE 42: HANDLING

Donations shall be handled in accordance with the procedure established in these regulations, except:

1. Money

When it is a money donation, steps established by the Secretary of the Treasury shall be followed.

2. Conditioned

Conditioned donations shall be handled in accordance with these regulations, in the stages prior to the Governor's approval.

SECTION H: TRANSFERS

ARTICLE 43: DEFINITION

The Government may acquire chattels by transfer of title, or possession of these, according to the provisions of the laws that provide for the transfer of said chattels to the Government.

1. Laws Providing For The Transfer of Goods to the Government
 - a. Public Law Number 39 of June 4, 1960, as amended, known as the "Uniform Vehicle, Mount, Vessel, and Plane Seizure Act".
 - b. Public Law Number 88 of May 31st, 1967, known as the "Acquired Goods Act".
 - c. Public Law Number 2 of January 20, 1956, as amended, known as "Excise Act of Puerto Rico".
 - d. Public Law Number 17 of January 19, 1951, known as the "Weapons Law of Puerto Rico".
 - e. Public Law Number 143 of June 30, 1969, as amended, known as the "Alcoholic Beverages Act of Puerto Rico".
 - f. Public Law Number 4 of June 23, 1971, as amended, known as the "Controlled Substances Act of Puerto Rico".
 - g. Public Law Number 17 of May 15, 1948, as amended, known as the "Number and Other Illicit Games Act".
 - h. Rule 251 of the "Criminal Procedure".
 - i. Public Law Number 134 of June 28, 1969, as amended, known as the "Puerto Rico Explosives Act".
 - j. Public Law Number 94 of October 17, 1976 of the Congress of the United States of America.

- k. Any other law expressly authorizing the Government to take possession, confiscate, or seize goods.

ARTICLE 44: WAY IN WHICH CONFISCATED GOODS BECOME GOVERNMENT PROPERTY

1. Government Right - Sources of the Law

In accordance with the provisions of Public Law Number 39 of June 4, 1960, as amended, known as the "Confiscation Act", as a consequence of confiscation, goods become Government property in the following manner:

- a. When fifteen (15) days have passed from the date of notification of seizure and appraisal of the property, and the owner or any person interested in the same has not impugned the confiscation;
- b. When having impugned the confiscation, no bond has been posted, within twenty-five (25) days after the notification of the seizure and appraisal of the property.

ARTICLE 45: WAY IN WHICH ABANDONED GOODS BECOME GOVERNMENT PROPERTY

1. Right of the Government

When abandoned property has been in the possession of the Puerto Rico Police Department for more than one (1) year, having published the corresponding notices in the press, and no one comes to claim or prove ownership title over the property at issue, according to the provisions of Public Law Number 88 of May 31st, 1967, the property title is automatically transferred to the Government.

ARTICLE 46: WAY IN WHICH GOODS USED AS COURT EVIDENCE BECOME
GOVERNMENT PROPERTY

1. Government Right

If the periods of time, established in Rule 251 of the Criminal Process, have passed without the legitimate owner of the property used as evidence in a case claiming said property, the property title to such goods is automatically transferred to the Government.

ARTICLE 47: FEDERAL SURPLUS PROPERTY

The Government may also acquire goods by means of a transfer made by the Federal Government of new or used property, according to the procedures established by law and these regulations to such effects.

PART III: ACQUISITION PROCEDURES

SECTION A: ACQUISITION DOCUMENTS AND PRELIMINARY HANDLING

ARTICLE 48: INITIATION OF ACQUISITION PROCEDURE

Acquisition steps are initiated when any agency has the need for a good, work, or service in order to carry out its functions. The unit interested and in need, within the agency, shall requisition said good, work, or service from the Delegate Buyer for the corresponding agency by any internal means provided.

The Buyer shall proceed to analyze and evaluate the requisition, according to the instructions given to such effects by the Administrator, and subject to provisions in these regulations.

ARTICLE 49: METHOD SELECTION

When determining which method and procedure to use, the Head of the petitioning agency shall be guided by the following:

1. Use of Form

From the Requisition Content, the Buyer shall determine which method of acquisition is involved, using as a guide the provisions of these regulations and the instructions that to such effect the Administrator may issue.

ARTICLE 50: REQUISITION PREPARATION AND EVALUATION

1. Preparation

When filling out or reviewing the requisition generated by the unit within the agency, the Buyer shall have to comply with the following rules:

a. Form

The Buyer shall fill out the form approved by the Administration for the requisition.

b. Purpose

The purpose for filling out the requisition is to supply the necessary information to the Administration, so it may adequately prepare the Bid Call Documents, if the situation so demands. In the other cases, it must have the record up-to-date ensuring, at all times, the uniformity of the specifications, terms, and conditions of what is requisitioned; as well as, for the clear understanding of what is requisitioned by the petitioning agency, in order to supply it as exactly as possible.

c. Contents

The requisition should contain the following information:

- 1) Description of what is requisitioned;
- 2) Justification, when necessary;
- 3) Acquisition method recommended and reason for it;
- 4) Recommended specifications;
- 5) Conditions that must be met by what is requisitioned;
- 6) Funds certification by the Finance Director or his authorized representative; and
- 7) Any other necessary information that the petitionary agency may have.

2. Evaluation

The Buyer shall evaluate the requisition before his consideration, subject to the following:

- a. He shall verify if what is requisitioned is a good, work, or service which the Administrator has stipulated can only be provided through the Administration;
- b. He shall verify if there is a contract in effect for what is requisitioned;
- c. If what is to be acquired, regardless of the amount involved, is a specialized good, work, or service; and
- d. If none of the above situations are involved, the Buyer shall proceed to recommend a method and procedure to the Head of his agency, and he shall make the corresponding decision, according to the guide established in these regulations.

ARTICLE 51: PROCEDURE SELECTION

1. General Rule

Any acquisition by purchase or rental or the special variants of the purchase method, shall have to be handled through Formal Bid. All other acquisition methods shall not be handled by Formal Bids, but through special procedures established in these regulations.

2. Exceptions to the General Rule

Purchases, rentals, and purchase variants transactions may be conducted without a Formal Bid, given one of the exempting causes of said procedure, established by law or regulations.

a. Procedure Determination

In these cases, the Buyer shall handle the requisition following the provisions established in these or the "Delegate Buyers Regulations", depending on the public bid exemption cause.

3. Formal Bid Exemption Rules

a. Laws

The following laws containing public bid exemption provisions apply to transactions conducted in the light of these regulations:

- 1) Public Law Number 96 of June 29, 1954, as amended, known as the "Purchases and Services Act".
- 2) Political Code of 1902, as amended.

b. Regulations and Other Administrative Rules

The acquisition of chattels, works, or services without public bids must be expressly authorized in these regulations, or other regulations by the Administrator, Secretary of the Treasury, or the Governor.

4. Formal Bids Exemption Conditions

The following goods, works, and services are exempt from being acquired through a formal bid, given the conditions herein stated:

a. As provided by Public Law Number 96 of June 29, 1954, as amended, known as the "PURCHASES AND SERVICES ACT".

- 1) When the cost does not exceed four thousand dollars (\$4,000.00);

- 2) When the acquisition has to be effected immediately because of an emergency;
 - 3) When acquired from the Government of the United States of America or from that of foreign countries;
 - 4) When the minimum price has been set by a Governmental authority;
 - 5) When after a period of five (5) days during which no bidders have participated, and no proposals have been received, any opportunity for acquiring the needed supplies may be lost; and
 - 6) When only one supply source exists.
- b. As provided in Article 423 of the Political Code of Puerto Rico of 1902, as amended.
- 1) Works whose cost does not exceed twenty-five thousand dollars (\$25,000.00) and services whose cost does not exceed ten thousand dollars (\$10,000.00).
 - 2) The works that, even though they exceed said figures, have not been able to be contracted, after having tried it by means of a bid; if the Administrator considers it more convenient that they be constructed by the Administration.
 - a) If the Administrator should opt for a new bid, he may vary the specifications, conditions, or original terms, to try to achieve greater competition.
 - 3) The works, that regardless of their cost, are declared an absolute necessity or urgency by the Administrator.

- 4) Works demanding special care in their execution, from a technical point of view; provided, that the Administrator so determines by means of a resolution.
- 5) Works performed in buildings that due to their purpose, demand extreme security and protection measures for the building itself, or for its occupants, and the Governor of Puerto Rico has so declared, by means of an Executive Order.

c. As provided by Public Law Number 5 of October 19, 1975, as amended, known as the "Puerto Rico Service Personnel Act", and the regulations approved under it.

- 1) When the person rendering the service cannot be recruited in a Government post.
- 2) When the terms and conditions of the contract do not constitute the creation of a position, according to the criteria that to such effect the Administrator of the Central Personnel Administration Office establishes.

ARTICLE 52: BUYER FUNCTION IN THE PRELIMINARY STAGES OF ACQUISITION PROCEDURE

The Buyer shall be in charge of handling all the stages of the acquisition procedure at his agency level, subject to the rules contained in these regulations and in the "Delegate Buyers Regulations" of the Administration.

ARTICLE 53: REMITTANCE OF REQUISITION TO THE ADMINISTRATION

1. Application

After the agency head makes the corresponding determination, the Buyer shall refer the requisition before his consi-

deration to the Administration for handling, or authorization for handling it at his agency level in the following cases:

- a. When it has been determined that the formal bid has to be the procedure to follow;
- b. When the special procedure to which the requisition is to be subjected, thus requires it;
- c. When it falls within the limits of the assigned amount, but because of its specialization, the Buyer deems it pertinent to submit it to the Administration.

2. Requisition Remittance

The completed and fully complemented requisition shall be sent to the Area by means of a Delegate Buyer in each agency, indicating term or approximate date for when what is requisitioned is needed; and making sure that said requisition contains adequately and correctly all the specifications, terms, and conditions.

3. Grouping

The Delegate Buyer of the agency shall group all similar requisitions of his agency and those common, repetitive, and of continuous use and shall refer them once a year, and not in stages and recurrently, according to what is established in the "Delegate Buyers Regulations" of the Administration.

ARTICLE 54: ACTION TO BE TAKEN BY THE ASSISTANT ADMINISTRATOR IN THE ADMINISTRATION

When the acquisition requisition of a petitioning agency is received in the Administration, it shall be sent to the Assistant Administrator, for the corresponding handling.

1. Internal Procedure

Each Assistant Administrator shall establish in his Area the internal procedure to be followed in the handling of any requisition received.

2. Personal Approval

The corresponding Assistant Administrator, shall indicate the requisitions that shall have to be referred to him for his personal approval before handling, in which case, he shall verify the following about them:

- a. If what is requisitioned may be given, lent, or effected by the Administration;
- b. In the case of vehicles requisitions, if vehicles in use can be assigned, instead of acquiring new ones;
- c. In the case of computers, if the needs of various agencies can be grouped; and
- d. Any other determination deemed in order.

ARTICLE 55: ACTION TO BE TAKEN BY THE OFFICE OF PURCHASES AND CONTRACTS IN THE ADMINISTRATION

After the corresponding Assistant Administrator makes his preliminary determination, he shall refer the requisition to the Office of Purchases and Contracts of the Administration.

1. Definition

The Office of Purchases and Contracts of the Administration is the central unit responsible for acquisition in Government, and for implementing the purchasing function of the Administration.

2. Structure

The Office in the Administration is structured in units in charge of goods, works, and services that are commonly acquired by the Government. Said units are organized by goods, works, and services classification, and are located in one or more areas, subject to the petitioning agencies greatest convenience and usefulness.

3. Components

The Office shall be composed of Administration personnel, occupying positions and jobs as Purchase Specialists, Purchasing Agents, and other positions; all these employees may have appointments as Buyers. The work of specialized units in the Office, related with the Administration Area, shall be subject to the approval of the corresponding Assistant Administrator, but the procedures and general instructions pertaining to the purchasing function shall be issued by the Administrator or the Assistant Administrator for Purchases, so as to maintain uniformity.

4. Requisition Handling

The requisition shall be sent to the corresponding unit, according the subject of the requisition, and there, it shall be handled in the following manner:

a. Method Procedure Selection

- 1) The Office shall determine if acquisition method selected is the most convenient, and
- 2) If the procedure selected is the most adequate.

b. Contents Determination

After determining which procedure the requisition is to be subjected to, the contents of said requisition shall be verified as to their correctness and compliance with the rules approved by the Administrator.

Upon making the evaluation of the requisition contents under the circumstances herein indicated, the Office shall follow the instructions below:

1) Amendments, Corrections, and Additions

It may require additional information, changes, corrections, and alterations to the requisition submitted by the petitionary agency; in which case, all activity pertaining to said requisition shall be stopped until the receipt of the required information. The petitionary agency shall supply the information within the term set in the communication by the Director of the Office.

a) Agency Refusal to Amend, Correct, or Add Information

The requisition shall be sent back to the agency, when said agency does not supply the information within the term set for it, and for all effects, the Requisition shall be considered as if it had never been presented to the Administration; furthermore, the agency Buyer may not handle said requisition by means of any other procedure.

2) Discrepancies Between the Petitionary Agency and the Office

No requisition shall be handled in which discrepancies between the petitionary agency and the Office exist. In order to prevent this situation from obstructing the work of the petitionary agencies, the following procedure shall be in effect:

a) At the Discretion of the Office

The Office shall prepare and submit for consideration by the petitionary agency the corrected, amended, or expanded requisition, in compliance with the rules established by the Administrator, for the matter involved. Said amended requisition shall be submitted by the corresponding Assistant Administrator to the petitionary agency with an explanation of the reasons for the amendments done, so it may serve as a guide and orientation for future requisitions.

b) At the Discretion of the Petitionary Agency

The petitionary agency shall accept or reject the corrected requisition, indicating the reasons for it, in cases of rejection.

c. Rules for Solving Discrepancies

If the petitionary agency rejects the corrected requisition, the discrepancy shall be solved in the following manner:

- 1) If the same is based in the procedures to follow, or the specification of what is requisitioned, the Office position shall prevail; provided that, it ensures the best interests of the Government and the greatest competition.
- 2) If the same is based on the special conditions that the petitionary agency wants fulfilled or in the amount of funds separated, or its origin, the position of the petitionary agency shall prevail; and in cases related to the amount of funds, the amount shall be readjusted to agree with the agency's needs and payment possibilities.

d. Bid Call Documents Preparation

Using as a base the approved requisition, the Office shall prepare the Bid Call Documents, according to the terms established in these regulations, and in the "Formal Bids Regulations" of the Administration.

ARTICLE 56: STEPS WITHIN THE PROCEDURE SELECTED

Once the Bid Call Documents have been prepared, the steps in the acquisition procedure chosen shall proceed, according to the provisions in the "Formal Bids Regulations", the "Delegate Buyers Regulations", or these regulations, depending on whichever applies to the situation.

ARTICLE 57: BID CALL DOCUMENTS

Bid Call Documents are the group of documents containing the Instructions on how to submit the proposal, the Specifications of

the good, work, or service requisitioned, and the Conditions under which the delivery of the goods, the performance of the work, or the rendering of the service is to be performed, when the time comes. Said documents, regardless of how complex or voluminous they may be, shall be delivered and made known, to the bidders, when inviting them to the formal bids, or when asking for their quotations.

1. Preparation Responsibility

a. Formal Bid, Open Market, and Special Procedures

The Bid Call Documents shall be prepared and maintained up-to-date by the Office of Purchases and Contracts; but, the Delegate Buyer of the petitionary agency shall have to submit the requisition, with the most correct and precise information available.

1) Exceptions

Situations may arise in which for a specific transaction, the Administrator delegates on a Buyer or any other official or employee the handling of these procedures; in which case, the Bid Call Documents shall be prepared by the Buyer expressly authorized for it by the Administrator.

b. Informal Bid

The Buyer or the Office shall prepare the Bid Call Documents, depending on who shall handle it.

ARTICLE 58: INSTRUCTIONS

The Instructions shall be the guide lines offered to the bidders for the submittal and preparation of their proposals. The Office shall adopt and publish said Instructions, indicating which of these apply to each procedure. The Instructions shall be based on the provisions established in the rules regulating acquisition, sale, and related procedures in Government, and shall be of the following kind:

1. General Instructions

General Instructions shall contain the provisions dealing with the preparation and delivery of proposals, and the requirements bidders and others must meet, all according to the provisions of the "Formal Bids Regulations" of the Administration.

2. Special Instructions

Special Instructions shall be warnings or calls to the bidders. The Office must prepare Documents based on the Special Instructions adopted from the rules established in these regulations or in the "Formal Bids Regulations", or in any other rule.

ARTICLE 59: SPECIFICATIONS

1. Definition

The Specifications of a bid are the group of characteristics of each one of the goods (products, materials, or equipment), works, or services requisitioned.

2. Kinds

Specifications for a bid may be of two (2) kinds: model and special.

ARTICLE 60: MODEL SPECIFICATIONS

1. Definition

Model specifications or Specifications Patterns that shall be published by the Regulatory Board are those adopted by the Administrator subsequent to said Board recommendation, so that everything acquired by the Government may have the same level of quality and uniformity, in the description of what is requisitioned and what is acquired.

Consequently, they shall comply with the requirements approved by the Federal and State agencies stipulating quality and security criteria, such as the Federal and State Departments of Agriculture, the Federal Food and Drug Administration, the Consumers' Affairs Department, the Environmental Quality Board, the Energy Administration, and others.

2. Use

These model specifications shall be utilized in each category applicable to any bid conducted by the Board, or by any agency handling bids, by virtue of the express authorization conferred upon it by the Administrator.

3. Alteration

Under no circumstances may any model specification be altered without the approval of the Regulatory Board and the Administrator.

Only a reconsideration may be requested, by means of a reconsideration petition before the Regulatory Board itself, in conformance with the procedure the Administrator may establish to such effect.

ARTICLE 61: SPECIAL SPECIFICATIONS

1. Definition

Special Specifications shall be drafted for a good (equipment or material) work, or service requisitioned, when no model specifications have been adopted, or the ones approved, do not apply to what is requisitioned.

2. Drafting

In as much as possible, Special Specifications shall be drafted in accordance with the general rules contained in the "Specifications Patterns", published by the Regulatory Board, and shall have to comply with the minimum Federal and State safety and quality requirements.

3. Use

Special Specifications shall be used only in the specific bid for which they are drafted.

4. Obligation of the Drafting Organism

When a Special Specification is drafted, the unit originating it shall submit a copy of the same to the Office of Purchases and Contracts, as may be the case, and to the Regulatory Board for reference or future use.

5. Identification

Special Specifications shall be clearly identified in the Bid Call Documents.

ARTICLE 62: GENERAL COMPULSORY CONDITIONS

The following General Conditions are hereby established as compulsory conditions, to be included by the Office in all Bid Call Documents, according to Bid subject matter. The Office is obligated to indicate, describe, detail, and clearly explain, the way to comply with each one of these conditions.

1. Bid Bond

a. Definition

The Bid Bond shall be the provisional security presented by the bidder, with the purpose of assuring the Government that he shall uphold his proposal, during all the Bid procedure.

b. Bid Bond Posting

Bid Bond shall be posted in favor of the Administration in one of the following ways:

- 1) Certified checks;
- 2) Money Orders;
- 3) United States or Commonwealth of Puerto Rico Government Bonds or bonds from any of their public corporations;
- 4) Savings certificates;
- 5) Mortgage notes on bidder property, completely free of charges and liens, certified by the Property Registry, on the date nearest to the Bid Opening;
- 6) Bid Bond issued by insurance companies, authorized to do business in Puerto Rico; and

- 7) The backing of another person or entity, obligating his goods in collateral for the bidder, by any of the means established in these regulations.

c. Time for Bond Posting

The Bid Bond shall be posted in one of the following two (2) occasions:

- 1) Right at the time of proposal submittal;
- 2) Annually, by means of a lump sum, at the moment of being entered in the Registry.

d. Amount

The amount of the Bid Bond shall depend on the type of Bid involved. The Administrator may increase or decrease the amount as he may see fit and beneficial to the Government.

As a general rule, and except in the case of the annual bond, the following amounts may be requested:

1) Five Percent of the Total Proposal (5%)

A five percent (5%) of the total proposal Bid Bond shall be posted in the following Bids:

- a) Construction works;
- b) Construction materials acquisition; and
- c) Construction equipment acquisition

2) Ten percent of the Total Proposal (10%)

A ten percent (10%) of the total proposal Bid Bond shall be posted in the following Bids:

- a) Vehicles acquisition, parts, or services for them.

3) Fifteen Percent of the Total Proposal (15%)

A fifteen percent (15%) of the total proposal Bid Bond shall be posted in the following Bids:

- a) Office materials purchases;
- b) Office equipment purchases;
- c) Merchandise, medicines, and all types of fungible chattels;
- d) Unipersonal services.

4) Twenty Percent of the Total Proposal (20%)

A twenty percent (20%) of the total proposal Bid Bond shall be posted in the following Bids:

- a) Unipersonal services.

e. Refund or Withholding of Bid Bond

Unsuccessful bidders shall have the Bid Bond they posted in cash, certified checks, or money orders, or Bank money orders, refunded to their legitimate owners, after the Award Notice has been executed; except, that in a Sale Bids, bonds belonging to the three (3) highest bidders shall be withheld. In those bids whose award has been impugned, the successful bidder's bond and that of the petitioner, shall be withheld until the contract is executed.

1) Withholding Effect in Impugnation Cases

If the award was revoked by the Board of Review, the bond posted by the bidder, to whom the bid was originally awarded by the Board, would be refunded.

2) Bid Bond Refund - Time and Circumstances

The refunded Bid Bond shall be sent by certified mail with return receipt requested, within thirty (30) days subsequent to having notified the award or the decision of the Board of Review, in the corresponding cases.

Under no circumstances shall Bid Bonds be refunded by hand.

f. Refund of All Bid Bonds

When the Board agrees to cancel a bid, or the bid award or contract execution are not in order, all Bid Bonds shall be refunded by the corresponding Disburser, according to the provisions of the "Formal Bids Regulations".

g. Bid Bond Withdrawal

The bidder to whom the bid has been awarded may withdraw his Bid Bond, except in data processing bids, in the following cases:

- 1) If after fifteen (15) days from the date on which he was notified of the award in his favor, a contract has not been awarded to him, for reasons other than award impugnation.
- 2) If within fifteen (15) days of having been notified of the award, he were to be informed that the award has been cancelled.

h. Bid Bond Execution

If after ten (10) days of having been summoned for contract formalization, the successful bidder does not show up, his Bid Bond shall be executed, to cover the amount in which the second bidder exceeded the original successful Bidder's quotation. If the Bid Bond does not cover the excess to be paid by the Government, the private goods of the bidder shall respond.

i. Amendments: Effect on Bid Bonds

When proposals are amended, if the amendment should entail an increase in excess of two (2%) of the original proposal, the bidder has the obligation of adjusting the Bid Bond, according to the new amount. Should he fail to do so, his original proposal shall stand and the amendment shall not be considered.

2. Performance Bond

The Performance Bond is the backing with which the bidder shall assure the Government that he will comply with the terms of the contract.

a. Person Posting

Only the successful bidder shall post the Performance Bond on a bid awarded to him.

b. Posting Procedure

The Performance Bond shall be posted in the same manner as the Bid Bond.

c. Amount

Performance Bond amount shall vary depending on bid subject matter, according to what is herein established.

1) Vehicles or Parts Acquisition

The amount of the Performance Bond shall equal the Bid Bond.

2) Sale of Vehicles or Vehicle Part, Materials, Office or Construction Equipment

In Sale Bids, no additional bond shall be required, other than the balance of the proposal.

3) Construction Works

a) Performance Bond amount shall be equivalent to fifty (50%) percent of the total cost of the works or the construction contract.

(1) The Bond discussed in this provision is the Performance Bond. Nothing of what is herein stipulated shall prevent other bonds from being required in these contracts.

4) Acquisition of Office Equipment and Materials, Construction Equipment and Materials, Merchandise, Medicines, and All Other Types of Fungible Chattels

Performance Bond shall be no less than fifteen (15%) percent of the total amount of projected purchase.

5) Acquisition of Electronic and Electromechanic Equipment

Performance Bond shall be no less than ten (10%) percent, nor greater than fifteen (15%) percent of the total equipment cost.

6) Services

Performance Bond shall be twenty-five (25%) percent of the total of the proposal or maximum amount projected; except, that in cases in which the services are offered by a natural person (unipersonal services), no Performance Bond shall be required.

d. Failure to Post Performance Bond - Effect

Unless it has been stipulated that no Performance Bond shall be required in a particular contract at issue failure to post bond in its total amount or failure to post it within fifteen (15) days from the date required for it, shall give occasion to the execution of the Bid Bond, and the contract shall be awarded to the next bidder in line of succession. What is herein established does not prevent the Government from filing a claim for any damage suffered.

3. Trademarks and Models

a. Prohibition

No reference as to specific trademarks such as "trademark 'X' or similar approved", shall ever be made in the Bid Call Documents.

b. The Bidder Obligation

In order to consider the proposals submitted, bidders must mention products or equipment trademark and model offered; and they must include a copy of related manufacturer's or businessman's literature.

c. Obligation of the Trademark Representative

If the bidder offering a specific trademark is the exclusive representative of said trademark, it is his obligation to mention it in the proposal; and also, indicate the percentage of additional discount that he shall offer the Government, if it buys the article directly from him, and not from a distributor.

4. Samples

a. Bidders, when required, must submit representative samples of what they would deliver, if a bid were awarded to them, when the time came:

- 1) Free of charge to the Government;
- 2) In the amounts required;
- 3) Carrying the original sticker identifying product trademark;
- 4) Delivered before the Opening, if required;
 - a) Any offer not accompanied by a sample, when required, shall not be considered;
- 5) Accompanied by the businessman's or manufacturer's literature.

b. Examination

The samples shall be examined by the Office.

- 1) If within the examination process, said samples are destroyed or used, the Government shall not be liable for their cost.

c. Pick-up

If after the examination, the samples are not destroyed or used in their totality, the bidder is obligated to pick them up within ten (10) days of having been required to do so by the Office.

1) If said term passes by and the bidder does not pick up the samples, they shall become Government property, in accordance with "State Surplus Property Regulations". In case of the the Successful Bidder his samples may be retained for the adequate administration of the contract. In case they are returned, the Successful Bidder shall have to keep them available for inspection at any moment during the contract.

a) Everything indicated in this Section related to samples, shall not be applicable in those bids in which the object in question is very large or makes it physically impossible to present said samples, such as is the case with machinery, heavy equipment, transportation vehicles, but said samples may be substituted for an equipment demonstration.

5. Merchandise Inspection

In those bids specifically required, the bidder shall have to deliver a certificate of inspection with his proposal.

a. Delivery Procedure

- 1) Shall be submitted in the original,
- 2) Issued by the corresponding Governmental state or federal authority,
- 3) Dated subsequent to the Invitation.

b. Certificate Content

The certificate shall contain the following information:

- 1) Date of product manufacture,
- 2) Packaging date (month and year) of the merchandise offered,
- 3) Codification of containers in which the inspected articles are packaged.

a) Codification Content

Codification shall contain the letters, numbers, and symbols, or a combination of them, normally embossed by the packaging entity, in any one of the ends of each package, to indicate the month, day, and year of packaging, the last date for usage of article, expiration date, as well as any other information.

b) Automatic Rejection

The Office shall not accept articles without codification.

- 4) Verification that the product meets federal quality specifications requirements.

6. Containers Quality

Containers in which any merchandise is supplied, shall have to be completely new and vacuum sealed, and in the case of metal containers, without any indication that oxidation is taking place.

Cardboard, sacks, or box containers must be kept in good conditions.

7. Contents and Weight

a. Bidder Obligation

It shall be the bidder's obligation to supply the correct information regarding the net weight, contents, number of units per cardboard box or container, in the corresponding bid categories, even if it has not been expressly requested in the bid.

The Board may reject those proposals failing to meet this requirement.

8. Deliveries

a. Merchandise Delivery Dates, Initiation and Termination of Services or Works

Even if it is not requested in the Bid Call Documents, it shall be the obligation of the bidder to indicate in his proposal, the approximate delivery date, and in the case of public works or services, the date projected for the beginning of the work or service and the approximate time it will take to finish it.

b. Delivery Site

It shall be the obligation of the Office to indicate to the bidder the delivery site, in the Bid Call Documents.

In Service Bids, the place where the service is to be rendered, must be clearly identified.

In Disposal Bids, the Surplus Property Warehouse of the Administration shall be the delivery site.

In Vehicles Bids, it shall be the Transportation Area.

c. Pick-Up Date

The Successful Bidder in a Sale Bid, has to pick-up at his own cost and risk the merchandise or good awarded in his favor, within ten (10) days after having received pick-up notification. Failing to do so, it shall be awarded to the second bidder and the difference between the original proposal and the second bidder's proposal, shall be absorbed by the Performance Bond of the first Successful Bidder. Said Successful Bidder shall also be charged for the storage of the goods during the days subsequent to the date for the pick-up and the date of pick-up of the goods by the next highest bidder.

9. Storage

In case the bidder who sells to the Government has to store his supplies to be delivered, the Government shall not be liable for the price paid by the bidder for said storage, nor by the profit said bidder may fail to obtain.

10. Discounts

The discounts offered by the bidder as stimulus for the acceleration of payment when a bid is awarded him, shall not be considered in the evaluation of the bid, to determine the price of the proposal.

11. Taxes

The price offered by the bidder cannot include state taxes.

12. General Condition for the Contracting of Public Works and Other Related Documents

In Public Works Bids, it shall be indicated and the bidder must certify that he is acquainted with the "General Conditions for the Contracting of Public Works and Other Related Documents" approved October 27, 1976, which are part of all contracts, or agreements formalized by the Government in the field of public works construction. Subsequently, when the "Rules for Contracting" of the Administration are approved, their knowledge shall also be required.

13. "Preference Act"

The Bidder interested in having the benefits granted by Public Law Number 103 of June 24, 1977, known as the "Government Purchases Preference Act" applied to him, shall have to indicate in his proposal that his product is included in the lists and the percentage of preference assigned to his product by the Board of Preference.

If any bidder should alter documents in order to enjoy the benefits of this law, he shall be ineligible to participate in future bids for a term determined by the Board. Said term

would not be any less than six (6) months nor any greater than two (2) years. In cases involving a decision by a competent Court on said action, the ineligibility period shall start subsequent to having served the sentence or having paid the fine, as may be the case.

In order to be re-entered in the Registry, said bidder shall have to formally request it to the Administrator through the reinstatement procedure established by it, to such effect.

14. Energy Conservation Act

Any bidder when making his proposal to offer equipment, machinery, or vehicles consuming electric energy or fuel for their operation, shall have to make it known that his equipment, machinery or vehicle complies with the requirements established by the "Federal Energy Conservation Act". When awarding these bids, the Board shall adhere to the Federal Rules for consumption, conservation and usefulness of the good involved. And it shall not be considered a reason for requesting review of the award of a bid to a bidder offering a more expensive good, if the one offered by other bidders does not comply with the rules established by said Act.

15. Bids for the Acquisition of Electronic Data Processing or Electromechanic Equipment

a. For these types of bids, the bidders must submit as a minimum the following information, as it might apply:

1) Hardware characteristics

For this item the bidder shall submit the information pertaining to the architecture and capability of the Central Processing Unit (CPU); the printing speed of the printer, the reading speed and recording density of the tape and disc drives; and any other characteristics required in the specifications.

2) Software characteristics

In regard to this item, the bidder shall submit the following information:

- a) The operating system, its characteristics, and handling facilities;
- b) Data Base System and its versatility to manage the information provided;
- c) Operational Programs for coordinating and processing of communication functions, under different communication methods, through local as well as remote lines;
- d) Functioning of compilers and interpreters;
- e) Control and security of files, transactions, and remote and local terminals; and
- f) Other characteristics relevant for the Agency.

3) Technical Support Offered by the Vendor

Under this concept the bidder shall submit the following information:

- a) The technical assistance provided for the development and implementation of the different applications on equipment offered;
- b) General assistance provided by the vendor in regard to the software maintenance;
- c) Availability of users and operators manuals;
- d) Existence of back-up facilities for emergencies and testing time;
- e) Location of the vendor's personnel and equipment resources in relation to the purchasing or renting agency;
- f) Availability of vendor's systems analysts and programmers for assistance to the agency;
- g) Any other assistance considered relevant by the leasing or purchasing agency.

4) Training

Concerning training, the bidder shall submit the following information:

- a) Quality and quantity of courses offered;
- b) Physical facilities and human resources available;
- c) Level for which courses are designed; and
- d) Time frame of each course.

5) Maintenance

The following information shall be submitted, regarding equipment maintenance:

- a) Preventive and remedial maintenance schedule;
- b) Extra charge for remedial maintenance outside of regular hours;
- c) Quantity and quality of the personnel available; and
- d) Minimum time (in hours) in which service can be provided.

6) Costs

In relation to costs, the bidder shall provide the following information:

- a) Alternatives of rent versus lease of the equipment;
- b) Purchase price and plans;
- c) Service provided by the vendor;
- d) The total cost represented by the installation and operation of the system, including personnel, training, space, transportation, insurance, and other matters related with the equipment selected, and operating system.

16. Construction or Service Bids

- a. The Office shall make sure to request in Bid Call Documents the following information, and the bidder shall have to submit it:
 - 1) Economic and human resources;
 - 2) Experience in the service to be rendered;
 - 3) Organization and equipment with which it can count for work performance;

- 4) List and qualifications of the personnel to be utilized;
and
- 5) An examination of plans and work site.
 - a) All bidder shall have to visit the work site, to inform themselves of the conditions under which said work shall be executed, and to familiarize themselves with the nature, extension, quality, and quantity of the work or service that is to be performed and the materials to be supplied.

17. Bids in General

The Office is obligated to indicate to the bidders in the Bid Call Documents that they shall state, under oath, the following:

- a. That they have not come into agreement with a particular person, corporation or firm to submit various proposals under different names;
- b. In construction bids, that he is acquainted with the "General Conditions for the Construction of Public Works and Other Related Documents", approved on October 27, 1976, and the "Rules for Contracting", when approved by the Administration;
and
- c. That no employee of the Administration has any monetary interest in his proposal.

ARTICLE 63: CONDITIONS

1. Definition

All bids shall contain conditions, which are the terms on

which the good is to be delivered, the work executed, or the service involved, rendered.

2. Type

a. General

1) Definition

The General Conditions are those based on the acquisition rules of the Administration. They shall always have to be included in Bid Call Documents, and may vary in detail depending on the object of the bid.

2) Drafting Responsibility

General Conditions shall be drafted by the Office in coordination with the person designated by the Administrator, for such purposes.

b. Special

1) Definition

Special Conditions are those that may be established, depending on the good, work, or service acquired or to be sold; and that, based on the experience evaluating, awarding, or administering contracts, it is concluded that their adoption is advisable.

2) Drafting Responsibility

The Board of Bids, the Assistant Administrator, or the Office, may draft them, but they shall be sent to the Office for the adaptation and inclusion in the Bid Call Documents.

c. Particular

1) Definition

Particular Conditions are those expressing the specific needs of the petitionary agencies.

2) Drafting Responsibility

The petitionary agency shall draft them.

SECTION B: PURCHASE PROCEDURES

ARTICLE 64: TYPES OF PROCEDURES

When acquiring through a purchase, it may be handled by means of any one of the following procedures, depending on the circumstances of the transaction at the time it is conducted.

1. Formal Bid
2. Informal Bid
3. Open Market
4. Special Procedures

ARTICLE 65: FORMAL BID

1. Definition

Formal Bid is the procedure to be followed in Government to acquire all goods, works, or services exceeding four thousand dollars (\$4,000.00), or all construction work exceeding twenty-five thousand dollars (\$25,000.00), or services related to it exceeding ten thousand dollars (\$10,000.00).

2. Handling

The formal bid procedure shall be handled according the provisions established in the "Formal Bids Regulations" of the Administration, and the rules contained in these regulations.

ARTICLE 66: INFORMAL BID

1. Definition

Informal bid is the procedure to follow when the acquisition transaction to be conducted is exempt from being handled by formal bid because the amount involved does not exceed the minimum limits established for the formal bid.

2. Handling

Informal bid procedure shall be conducted in different ways, depending on the amount involved.

a. The "Delegate Buyers Regulations" of the Administration establishes the procedures in the following:

- 1) Transactions involving one cent (\$0.01) to fifty dollars (\$50.00),
- 2) Transactions involving fifty dollars and one cent (\$50.01), up to two thousand dollars (\$2,000.00),
- 3) Transactions involving two thousand dollars and one cent (\$2,000.01), up to four thousand dollars (\$4,000.00).

b. The following procedures shall be handled as established in these regulations.

- 1) In transactions involving one cent (\$0.01), up to twenty-five thousand dollars (\$25,000.00), to acquire construction works;
- 2) In transactions involving one cent (\$0.01), up to ten thousand dollars (\$10,000.00), to acquire construction related services.

c. Exception

When trying to acquire any means of transportation such as boats, motor scooters, and others, parts and accessories, whose amount is less than four thousand dollars (\$4,000.00), it shall have to be submitted to the Transportation Area for handling.

ARTICLE 67: INFORMAL BID TO ACQUIRE CONSTRUCTION WORKS UP TO TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)

1. Application

The procedure up to twenty-five thousand dollars (\$25,000.00) shall be followed, only when it involves a construction work that the Construction Area of the Administration decides to handle by contract, and the total amount of said work does not exceed twenty-five thousand dollars (\$25,000.00).

2. Assistant Administrator's Authorization

All construction work to be executed by the Construction and Conservation of Public Buildings Area of the Administration, that anyone of the Regional Directors of said Area recommends to be handled by contract, shall have to be authorized by the Assistant Administrator of said Area, who shall establish the procedures to requisition said work.

3. Invitation - Drafting

Once the Assistant Administrator has authorized the execution of a work by contract, the person designated by him shall prepare the Invitation to the Informal Bid, making sure that the terms and conditions are uniform for all the bidders invited, and that in the Invitation or accompanying it, the following information is included in detail, when applicable:

- a. Name of work;
- b. Number of the work;
- c. Location of the work;
- d. Description of the work to be executed;
- e. Purpose of the work;

- f. Requisitioning agency or work origin;
- g. Specifications;
 - 1) A detailed description of each one of the components of the work, such as the description of the materials that should be used and others.
- h. Conditions;
 - 1) Detail of the way in which said work shall be carried out and final delivery made, indicating each special condition.
- i. Exact date in which delivery of the work is required;
- j. Maximum amount of money projected to be spent on said work;
 - 1) Said amount may not exceed twenty-five thousand dollars (\$25,000.00);
- k. Funds certification;
- l. Bonds and insurance necessary and the total amount of these;
- m. Existing plans for the work, if any;
- n. Date, place, and hour of Opening.

4. Approval by the Assistant Administrator for Construction

When the Invitation is ready, it shall be referred to the Assistant Administrator for Construction who shall approve it, subject to the following:

- a. If the specifications and conditions required comply with the construction rules established to such effect by the Administrator or by the "General Conditions for Contracting of Public Works and Other Related Documents".

b. If the same was accompanied by the Funds Certification Form, containing the following information:

- 1) Funds origin;
- 2) Number and date of obligation and separation of funds;
- 3) Number of account against which it shall be paid out, when the time comes;
- 4) Manner in which the total payment is to be made, partial payments, if any, indicating the terms under which said partial payments shall proceed;
- 5) Signature of the Finance Director or his representative.

Said form, approved by the Assistant Administrator shall be part of the Invitation to the Informal Bid, and shall be part of the record file, of the contract, when awarded.

5. Bidders Selection

The person in charge of the preliminary steps of the Informal Bid shall make sure to verify that the bidder to be invited are duly included in the Bidders Registry of the Administration, and shall have to invite all bidders, registered for the type of work and amount involved.

6. Proposals

Bidders shall submit their proposals in writing and in sealed envelopes, identified with the Informal Bid number.

7. Opening

On the date, place, and hour set, the Opening, which shall be public, shall proceed.

The person in charge of the Opening shall record in writing all happenings at the Opening Act in the form thus provided, and shall return the record file to the Assistant Administrator for Construction.

8. Proposal Summary

The Assistant Administrator for Construction, or his representative, shall make the pertinent evaluations for corresponding recommendations and submittal to the Board. Within the evaluation, in the form thus provided, a breakdown or summary of price quotations offered by all bidders shall be recorded, including the following information, when applicable:

- a. Informal Bid number;
- b. Name and location of project;
- c. Corresponding Region;
- d. Name of each bidder presenting proposal;
- e. Price quoted;
- f. An indication, as to whether or not it complies with specifications and conditions;
 - 1) If it does not comply, reasons for non-compliance with said specifications and conditions must be indicated;
- g. Recommendation in favor of the bidder to which a bid should be awarded and why, and the reason for rejection of other proposals;
- h. Date and signature of the person preparing the summary; and
- i. Signature of the Assistant Administrator for Construction for his authorized representative.

9. Award

The Assistant Administrator for Construction or his authorized representative, shall send the record of the Informal Bid to the Board of Bids of the Administration, for the corresponding award.

a. Procedure

The Informal Bid shall be awarded to the bidder whose proposal complies with the specifications and conditions requested, and whose terms and price are most beneficial to the Government, according to the rules established by the Administrator and the "General Conditions for the Contracting of Public Works and Other Related Documents".

b. Handling Subsequent to Award

The Board of Bids shall proceed in conformance with provisions established by the Board of Bids of the Administration, for handling subsequent to award of Informal Bid, disregarding terms established in said Regulations, for review of Formal Bids.

10. Contract

The contract shall consist of the following documents:

- a. A copy of Invitation;
- b. The Original of the Successful Proposal;
- c. Copy of Award Notice;
- d. Plans and other documents required in the Call, Bid conditions and those included in paragraph number 2.1.1

of Article 2 of the "General Conditions for Contracting of Public Works and Other Related Documents".

- e. Copy of the Order vouching for contract formalization, as well as, the date on which it shall commence.
 - 1) In public work contracts a "Commencing Order" shall be issued in the form provided by the Administration, in substitution of a Purchase Order. The Assistant Administrator or his authorized representative shall be the ones who may issue it, according to the circumstances in each particular case.

ARTICLE 68: PROCEDURE FOR PURCHASE AT ADMINISTRATION WAREHOUSES

1. Handling

a. Funds Obligation

The agencies shall obligate the funds which they shall assign for goods supplied by the corresponding Warehouse, sending a copy of the obligation to the Administration.

b. Forms

When making the requisitions to the corresponding Warehouse, the Buyers shall utilize the "Warehouse Requisition", provided to such effect by the Administration.

c. Approval and Remittance

The unit in charge of finances for the petitionary agency shall approve the requisition, after verifying if there are funds available in the obligation.

The Buyer shall send the requisition to the corresponding Area Warehouse.

d. Shipment

Once the requisition arrives at the corresponding Warehouse, if sufficient funds in the Obligation of the petitionary agency are confirmed, said requisition shall be filled and dispatched.

1) Lack of Goods

When the Warehouse cannot supply what is requisitioned by the agency because it does not have it available, it must take pertinent action to supply it.

2. Petitionary Agencies Obligation

It shall be the obligation of the petitionary agencies, to acquire from the Administration the materials supplied by it. No emergency requisitions shall be approved to acquire said or similar materials from the private sector.

ARTICLE 69: PURCHASES DIRECTLY AGAINST CONTRACT

1. Definition

Purchases directly against contract are those made from the Successful Bidder of formal or informal bids, be it on a short or long term, having contracts in effect on the date the purchase is to be made.

2. Purchase Transactions

Purchases against contracts are made directly without the intervention of the Administration, through the issuing of a purchase order against the contract in effect.

3. Limitations

Buyers issuing Purchase Orders against contracts awarded as a consequence of a Formal Bid, shall not be subject to amount control.

4. Issuing Responsibility

Purchase order shall be issued by the Buyer, or by the Office of Purchases and Contracts in short term contracts, contracts requiring only one purchase order, or in special purchases.

5. Issuance Procedure

Purchase orders shall be issued utilizing the form provided for it, making sure to fill out completely and adequately, stipulating the specifications, conditions, terms, funds certifications, and other necessary information.

After filing out said form, the orders shall have to be distributed in the manner provided by the "Delegate Buyers Regulations".

ARTICLE 70: OPEN MARKET PURCHASES

1. Definition

Open Market purchase is the term given to any of the acquisition procedures, when the transaction is exempt from being handled through a formal bid, for any reason other than the amount involved; or when a contract in effect is breached, and the need to acquire the goods, works, or services contracted continues.

2. Application

An Open Market purchase may be authorized given one of the following circumstances:

- a. When contract breach is based on contractor refusal to supply what has been contracted or to supply it within the period established in the contract.
 - 1) In these cases if payment exceeds the contracted price, the contractor refusing to comply with said contract, shall reimburse the Government for the excess, in addition to any other penalties in order.
- b. When a transaction is exempt from formal bid by any reason other than the amount involved.

3. Handling

Purchases in the Open Market shall be handled by the Buyer, by the Purchasing Specialist, or by Purchasing Agent of the Administration.

a. Limitation

When what is to be acquired involves any vehicles, printing equipment, construction machinery, computers, or microphotography equipment, purchases in the Open Market shall be handled only by the corresponding Specialists and Agents of the Administration.

4. Handling Procedure

Open Market purchases shall be handled depending on the reason giving occasion to said procedure, subject to the procedures established in these regulations, as follows:

- a. Emergency;
- b. Only Source;
- c. Purchases from Governments;
- d. Breach of Contract; and
- e. Others

ARTICLE 71: ONLY SUPPLIER PURCHASES

1. Definition

Only Source or Supplier purchases entail the Open Market purchasing method, followed when at the specific time the goods, works, or services are needed, only one bidder can provide them.

2. Application

The Only Source Purchases are in order in the following cases:

- a. When there is only one registered bidder in the Bidders Registry.
- b. Where there is no Supplier registered and there is only one Supplier in the Open Market, and he meets the requirements required of Government bidders.
- c. When there are several registered bidders but at the time and place desired there is only one Supplier available.

3. Handling Responsibility

Only Source Purchases shall be handled by the Administration or authorized Buyer, when the amount involved does not exceed four thousand dollars (\$4,000.00).

4. Handling Procedure

a. Buyer

When Only Source Purchases are going to be made by a Buyer, he shall proceed according to the following:

1) Certification and Request

Once he verifies that one of the circumstances indicated in Section 2 of this Article occurs , he shall certify in writing said circumstance to the Administration and request authorization to proceed with the purchase.

2) Authorization

If the corresponding Area considers it in order, and the amount involved does not exceed the limit authorized the Buyer, it shall authorize in writing the purchase. Each Assistant Administrator shall determine the way for studying and authorizing these requests.

3) Purchase Procedure

Once the authorization has been received the Buyer shall proceed to issue the purchase order against the bidder he certified as the only bidder, making sure said order contains all the specifications, conditions, and terms required.

b. Area

The Area shall make only Source or Supplier in the following cases:

- 1) When the amount involved exceeds the limits authorized for the Buyer, and the Assistant Administrator considers that said purchase should be made in the Area, instead of authorizing the Buyer to do it.
- 2) When regardless of the amount involved, the corresponding Assistant Administrator, for any reason he considers beneficial to the Government, so determines it.

ARTICLE 72: PURCHASES FROM FOREIGN GOVERNMENTS OR IN FOREIGN COUNTRIES

1. From Governments

Purchase from the Government of the United States of America, or any foreign country shall only be made by the Administration through the Open Market purchase method procedure, herein established.

a. Handling Procedure

1) Justification

Any petitionary agency interested in acquiring a good, work, or service from the Government of the United States of America or of a foreign country, shall submit to the Administrator the completed requisition accompanied by the justification it may have, for carrying out said acquisition.

2) Handling

If the Administrator understands that the requisition is duly justified, it shall order the Office to take the pertinent action.

2. In Foreign Countries

Any transaction made with one foreign person or private firm lacking a representative in Puerto Rico, shall have to be justified before the Administrator and authorized by him.

ARTICLE 73: EMERGENCY PROCEDURE

1. Definition

The emergency procedure is the Open Market method to be followed in emergency cases.

2. General Authorization

When there is an emergency, the formal bid transaction shall be waived and the following procedure shall be in order.

3. Certification

The petitionary agency shall have to submit an accreditative justification of the emergency through any means of communication available.

a. Contents

Said justification shall have three (3) parts:

- 1) Reason for the emergency shall be indicated: if an Act of God, vandalism, or negligence; the act shall be specified.
- 2) Damage inflicted or about to be inflicted shall be indicated, specifically pointing out whatever is in danger, and the reasons that the Head of the agency has, for coming to that conclusion; expressly indicating how it affects services rendered by the Government through his agency.

- 3) Certification by agency Head to the effect that he is aware of the existence and ill effect of the emergency.

b. Justification Submittal

- 1) Acts of God or Vandalism

When the emergency has been created by a foreseen, but inevitable Act of God, placing in danger life, health, and the security of the people or the services rendered by the Government, the Head of the petitionary agency may authorize his Delegate Buyer to proceed with the purchase, regardless of the amount involved.

Said Head of the petitionary agency shall notify the Administrator immediately and verbally of such a determination.

As soon as the circumstances permit, he shall submit in writing his justification to the Administrator.

- 2) Acts of Negligence

In cases where the emergency arises as a result of negligence, error, or omission caused by an official or employee, the emergency justification shall have to be submitted in writing to the Administrator, before conducting any transaction.

c. Approval

- 1) Acts of God or Vandalism

The Administrator shall approve or disapprove the transaction, except when the good to be acquired is a

vehicle for land, air, or sea transportation, and its accessory parts; the Area shall then handle the acquisition.

a) If the Administrator does not approve the transaction, the Head of the agency shall have to justify his action before the Secretary of the Treasury, who shall determine whether to make the payment or not.

2) Acts of Negligence

a) Approval

If the Administrator approves it, he shall authorize the Delegate Buyer of the agency to proceed with the acquisition of the good, work, or service regardless of the amount, or he may decide that the purchase has to be made in the Administration. In the cases of vehicles for land, sea, or air transportation and their accessory parts, the Area shall always handle them.

b) Disapproval

If the Administrator does not approve said purchase, the procedure in order shall be the one according to the amount involved.

ARTICLE 74: PROCEDURE FOR ACQUIRING LUXURY GOODS, WORKS, OR SERVICES

Whenever a luxury good, work, or service is to be acquired, its approval shall be submitted to the Administrator, through the following procedure:

1. Acquisition Requisition: Additional Documents

The requisition must be accompanied by a certification from the Head of the agency in which the following is indicated:

- a. All the reasons for which the acquisition of the luxury good, work, or service should be authorized.
- b. Official or employee who shall have direct use or control of the good, the program that shall directly benefit from the service, or the work, and the official or employee who shall administer the work or service;
- c. Specific use or purpose;
- d. Origin of funds to be utilized;
- e. Funds obligation;
- f. Explanation of why something similar, and not a luxury, cannot be acquired;
- g. Way in which the Government shall benefit, by acquiring what is requisitioned.

2. Official in Charge of Approving Luxury Purchases

Only the Administrator may approve luxury acquisition requisitions, by means of the procedure he may approve to such effect, in coordination with the Secretary of the Treasury and the Budget Bureau Director.

3. Payment

The Department of the Treasury shall not make any payments, if they are not accompanied by the written approval of the Administrator.

4. At the Discretion of the Secretary of the Treasury

The Secretary of the Treasury may question any requisition, not handled as a luxury one, if in his judgement the same should be submitted through the luxury procedure and subsequent to consulting with the Administrator, the Secretary shall make the corresponding determination.

ARTICLE 75: ON CREDIT PURCHASES PROCEDURE

On credit purchases shall be handled in conformance with the rules established to such effect by the Administrator, in consultation with and subsequent to the approval by the Secretary of the Treasury and the Budget Bureau Director.

When payments on a purchase exceed one (1) fiscal year, said transaction may not be conducted without the approval of the Governor, the express authorization of the Legislature, or both, at the discretion of the Budget Bureau Director.

ARTICLE 76: "TRADE-IN" PROCEDURE

Only those goods having been declared surplus by the Administrator may be given in "trade-in". Trade-in Contracts will be handled according to the provision of the "State Surplus Property Regulations" of the Administration.

ARTICLE 77: BARTER PROCEDURE

1. Requisition

When a petitionary agency understands that it is in its best interest to carry out a barter, it should request authorization from the Administrator to do so. The requisition shall contain the following information:

- a. Justification
- b. Purpose
- c. Goods to be bartered, and
- d. Appraised value of the goods by the petitionary agency.

2. Steps in the Administration

The Administrator shall immediately submit the requisition to the corresponding Assistant Administrator for his recommendation, and said Assistant Administrator before recommending the transaction, must send one of his agents to appraise the goods. The Assistant Administrator shall submit his recommendation together with the appraisal report to the Administrator, within a period of no greater than ten (10) working days, starting from the date the documents are received by the Administrator.

3. Approval and Authorization

The Administrator shall deny or approve the transaction. If approved, the goods shall be subjected to the procedure for declaring them surplus, in conformance with the provisions of the "State Surplus Property Regulations" of the Administration.

a. Special Limitation

Barter Contracts always shall be awarded by the Administrator and only the following goods may be bartered:

- 1) transportation vehicles;
- 2) printing equipment or machinery;
- 3) construction equipment or machinery;

- 4) microphotography equipment;
- 5) computers and other related equipment;
- 6) office equipment; or
- 7) any other equipment utilized by the agency.

4. Contract

The Barter Contract shall be awarded utilizing the contract form designed by the Administration and provided to such effect.

SECTION C: RENTAL PROCEDURES

ARTICLE 78: RULES

1. General Rule

The rentals of goods or services are made through the same procedures utilized for purchases.

In those cases in which a contract is in effect with the Administration for rendering the services, providing the good, or executing the work, the agencies may procure the same, by having the Buyer issue orders, utilizing the form thus provided by the Administration. Buyers must follow the same procedure as for Direct Purchases, established in these regulations; except, in the case of services, the orders shall be titled "Service Orders", and in construction, "Commencing Orders".

2. Exception: Contract Non-Existence

In those cases in which for the desired transaction through rental there is no contract awarded by the Administration, if the amount involved does not exceed the limit set for the Buyer, an Informal Bid shall be in order, for amount involved, according to the provisions of the "Delegate Buyers Regulations" of the Administration. In case it exceeds the limit of the amount authorized the Buyer, a requisition shall be submitted, supplying the following information:

- a. Number of units or amount of goods requisitioned by type and description, services or work requisitioned;
- b. Rental justification;
- c. Rent considered reasonable

- d. Projected rental period;
- e. Estimated total cost;
- f. Comparison of rental cost versus purchase cost and the use of present Government and Agencies resources;
- g. Funds obligation.

ARTICLE 79: RENTAL REQUISITION APPROVAL

Upon receiving rental requisitions, the corresponding Assistant Administrator shall, subsequent to the Office of Purchases and Contracts recommendation, approve or disapprove said requisition, in order to determine if it is to be referred to the Board of Bids for handling, or if another available resource shall be utilized to satisfy the agency need.

Evaluation of the requisition shall be made so as to determine if the equipment, machinery, or vehicle, work or service requisitioned, in terms of time, does not justify the required investment if acquired through purchase. The Rental requisitions shall be approved, based on the following criteria:

1. Market value of what is requisitioned,
2. Use to which it shall be destined,
3. Convenience of this type of acquisition,
4. Agency immediate need for what is requisitioned,
5. Rental period,
6. Preference for this type of acquisition over any other,
7. Any other criteria, the corresponding Assistant Administrator considers convenient, to the best interest of the Government.

ARTICLE 80: RENTAL CONTRACTS REQUIREMENTS

In all rental contracts awarded subsequent to a bid or otherwise, the following clauses shall be included:

1. Public liability insurance by the lessor;
2. That the equipment, machinery, or vehicle to be utilized, shall be maintained in a similar way to those already in use by the Government;
3. The lessor shall provide maintenance, except in cases in which the corresponding Assistant Administrator considers it more practical for the Government to assume that obligation;
4. In cases of vehicles equipped with two-way radio components, c.b., c.h.f., s.s.b., or any other similar equipment, said vehicles shall be acquired with all their accessory equipment, in order to be able to perform their functions, without any extra part coming from another source.
5. When the rental of chattels is involved, evidence that the lessor complies with the provision of Public Law Number 20, of May 8, 1973, as amended, known as the "Chattel Rental Act", and complies with any other law in effect or approved in the future, regulating rentals; as well as, the rest of the laws controlling private businesses, their owners, and other related rules.

ARTICLE 81: PROCEDURE FOR CONSTRUCTION SERVICES RENTAL UP TO TEN THOUSAND DOLLARS (\$10,000.00)

Services related to construction work not exceeding ten thousand dollars (\$10,000.00), shall be handled by the same procedure established for construction works not exceeding twenty-five thousand dollars (\$25,000.00), as established in these regulations.

ARTICLE 82: PROCEDURE FOR UNIPERSONAL AND MULTIPERSONAL SERVICES RENTAL

1. Unipersonal

The unipersonal services shall be handled in conformance with the procedures the Administrator of the Central Personnel Administration Office may establish, for the contracting of individuals. Except when non-professional services are involved, a request shall have to be submitted to the Administrator, and depending on the amount involved and competition viability, a formal bid, informal bid, or open market recruitment shall be conducted. However, in all cases, the general rule, that no position shall be created in the contract executed under this provision, shall be adhered to.

2. Multipersonal

Multipersonal services shall be handled by formal or informal bid, depending on the amount involved.

a. Professional Services

Professional services to be rendered by entities or professional firms, and related to the functions and services rendered by the Administration, such as data processing through electronic systems, microphotography, construction, transportation, printing, printed publicity and other, shall be recruited by formal bid; unless, the amount involved or the Administrator expressly exempts it from said bid procedure, the law regulating the profession or its code of ethics prevents said professional from appearing in public bids.

SECTION D: DONATIONS

ARTICLE 83: DONATIONS PROCEDURE

1. Form

When any person natural or juridical, or private entity is interested in donating any transportation vehicle, equipment, machinery, material, work, or service related to the functions of the Administration, he shall have to fill out the "Donation Contract" in the form distributed to such effect by the Administration, and send it, duly filled out to the Administration for its approval.

2. Obligation of the Agency Benefited

If the donation were to be offered by means of a petitioning agency or because of the action of the interested parties within the petitionary agency, said agency must submit the form in conjunction with the donor, a donation acceptance recommendation, and a requisition for the use and enjoyment of the same.

3. Appraisal and Examination

Before accepting the donation of any vehicle, machinery, equipment, material or good, the Administrator shall send a person capable of appraising the property to be donated and investigating the property title.

When works or services are involved, the study shall entail the capability of the person or entity for effecting the work or rendering the service involved.

Based on the Appraisal, Property Title Study, or Viability Report submitted, the Administrator shall accept or reject the

donation, authorize the acceptance, or order the rejection of the same.

4. Contract

When the donation originates in a petitionary agency, it shall send the contract to the Administration for its approval or authorization.

A copy of the approved and signed contract shall be sent to the Secretary of the Treasury and the Comptroller General; and in cases of transportation vehicles, to the Department of Transportation and Public Works, or to the Federal Aviation Agency or the Ports Authority, as may be the case.

SECTION E: HANDLING OF GOODS THAT BECOME
GOVERNMENT PROPERTY

ARTICLE 84: PROCEDURE IN RELATION TO SEIZED GOODS

When the period given by law to the legitimate owner of a seized good for its recovery elapses without said owner posting the corresponding bond or without a Court issuing an order to deliver said good to the person, it becomes Government property.

The agency conducting the seizure must notify the Administration that the period has elapsed and the circumstances of said lapse. Depending on these, it will authorize the Administration to dispose of said property.

Upon receipt of said notification, the Administration shall take the corresponding measures for the transfer of the title to the Government, in accordance to the provisions of the "State Surplus Property Regulations".

ARTICLE 85: PROCEDURE IN RELATION TO PUBLIC LAW NUMBER 88 OF MAY 31st,
1967, AS AMENDED

Once the terms established by law have elapsed, the Police shall deliver the goods to the Administration, which in turn shall make the corresponding registration and accounting as Government property, subject to the provisions established in the "State Surplus Property Regulations".

ARTICLE 86: PROCEDURE IN RELATION TO CRIMINAL PROCEDURE RULE NUMBER 251

Once the period established in Rule 251 has elapsed, the Court shall deliver the goods to the Administration, which in turn, shall proceed with the corresponding registration and accounting of it as Government property, in accordance with the provisions established in the "State Surplus Property Regulations".

PART IV: CONTRACTS

SECTION A: AWARD

ARTICLE 87: TYPES OF CONTRACTS

The contracts are awarded as a culmination of any acquisition procedure in Government. The purchases or requirements against them shall be conducted through the issuance of orders. Government contracts shall be of the following types:

1. Contracts for Continuous Needs, Indeterminate Quantities or Periods

These contracts are those through which the petitionary agencies are provided the articles and services of continuous and common use, which make it necessary to always have a contract in effect for each one without interruptions.

Said contracts are awarded when upon calling a bid, the amount of goods to be used or occasions on which services or works will be requested during the term of a contract cannot be precisely determined.

This type of contract shall always be the result of a Formal Bid.

Upon calling the bid, the bidder shall be informed as to the approximate amounts, according to consumption estimate of the agencies, and said bidders are warned that those figures may increase or decrease.

These contracts may have the effectiveness period that the corresponding Assistant Administrator may estimate, depending on the prevailing market conditions, and the Government needs but they may never be in excess of one (1) year.

a. Contractors Obligations

The Contractor to whom an indeterminate amount or period contract has been awarded, must have available for delivery to the Government, what is requisitioned by any of its agencies within the time established in the bid conditions.

b. Obligations of the Agencies

The petitionary agencies shall make sure to submit their estimates as accurate as possible, so as to not unnecessarily obligate the successful bidder to sustain greater marketing expectations than the real ones.

c. Scope of Government Liability

The Government shall not be liable to the contractor if the agencies do not consume the maximum established in the Call.

d. Renewal

In situations when a new contract for continuous needs cannot be executed on time, authorization may be requested from the Administrator, so he may authorize the corresponding Area to renew the contract in effect for an additional period, which will only extend until the new contract is formalized.

2. Multiple Selection Contract

Multiple Selection Contracts shall be awarded with various bidder at the same time, so that the petitionary agencies may issue the orders against the category and bidder that most adequately meets the needs of said agencies.

a. Application

These contracts shall be awarded given the following circumstances:

- 1) When the demand is of such magnitude that it cannot be met by one contractor alone;
- 2) When the variety of types and models of what is requisitioned do not permit the selection of one type of model only, for general use;
- 3) When variety is allowed in the budgetary capacity of the agency.

3. Immediate Delivery Contract

Immediate Delivery Contracts are those awarded with the purpose of issuing only one order against them, or several orders in a specific period of time.

ARTICLE 88: FORMALIZATION

Formalization or Execution is the act by which the agreements between the two (2) parties are formally and clearly recorded, beyond doubt. At all times, when a contract is executed in which the Government, the Area, the Office, the Buyer, or any employee or official of the Government authorized for it is a party for the contract, said contract shall be executed according to what is herein established:

1. Summons Term

The Buyer, or official or employee of the Office of Purchases and Contracts in charge of said activity, shall summon the person who shall represent the successful bidder or future contractor, within ten (10) days subsequent to the following, as applicable.

- a. of having received award notification of the Board of Bids,
- b. of having been awarded the Informal bid,
- c. of a resolution having been issued by the Board of Review,
- d. of having been ordered by the Administrator,
- e. of having a negotiation authorized and the contract perfected.

2. Summons

At their discretion, the Office or Buyer may effect the summons, by the fastest and most effective means of communications benefiting Government interests; but, they shall always have to keep written evidence in the record file, of where said summons was executed, indicating the date and means utilized.

3. Contract Contents

Depending on the acquisition procedure utilized, all contracts formalized in Government shall consist of the following:

a. In Formal Bid

- 1) Bid Call Documents,
- 2) Bidder's Proposal,
- 3) Award Notice,
- 4) Purchase Order, in cases where it may be issued simultaneous to contract execution.

b. In Other Procedures

- 1) Call Documents,
- 2) Successful Proposal,
- 3) Award Notice.

4. Contract Attachments

All contracts awarded in Government shall have attached to them as many additional documents as necessary, to comply with requirements of special laws regulating transactions involved, as well as any other rule specifically requiring it, including among others, the following:

- a. "General Conditions for Contracting of Public Works and Other Related Documents", or "Rules for Contracting", when adopted by the Administrator;
- b. Special Conditions applicable to services and supplies contracts adopted by the Administrator;
- c. Requirements for services related with transportation, in conformance to what the Administrator may establish;
- d. Requirements provided by the Table of Standards for matters related with Information Systems through electronic means, in accordance to what the Administrator and the Governor of Puerto Rico may approve.

5. Contract Award Procedure

Contract award is carried out by the formal act of the parties of signing the last page or sheet of the principal document of the contract, and initialing the rest of the pages, sheets, and additional attached documents. In those cases in which the Administrator so establishes, contracts shall be notarized.

ARTICLE 89: REFUSAL TO FORMALIZE A CONTRACT

If the contractor refuses to formalize the contract within ten (10) days from the date he is summoned, the person in charge of the formalization of the contract shall inform it to the corresponding Area, where the Assistant Administrator will have his name shall withdrawn from the Registry.

1. Action to be Taken by the Buyer or the Office

The Buyer or the Office shall proceed to summon the second bidder for contract formalization.

2. Notification to the Administrator

When the chosen contractor has been referred by the Administrator for a special contract or for service contracts, the notification shall be made to the Administrator, and he shall proceed according to his best judgement.

SECTION B: CONTRACT NEGOTIATION

ARTICLE 90: DEFINITION

The negotiation of the contract shall be that verbal or written transaction carried out by the corresponding Assistant Administrator or his authorized representative, at a meeting with the other contracting party, to set the terms of the contract, with the purpose of transacting the best prices and conditions for the Government, subject to the rules established in this Section B.

ARTICLE 91: APPLICATION

A contract may be negotiated given one of the following circumstances:

1. When all proposals received in a bid are rejected;
2. When no proposals are received after a bid Call in one or more separate occasions;
3. When prices offered by bidders are unreasonably high, giving way to the cancellation of the bid;
4. When the quotations submitted have unsubstantial deviations that is, at least they comply with the specifications, and public interest does not permit the delay inherent in a new bid.
5. When the cost of a new bid would be unjustified;
6. When the successful bidder refuses to execute the corresponding contract and there is not a second bidder or he does not sustain his offer;

7. When the contractor has breached the terms of the contract;
8. In case of an emergency;
9. Subsequent to an Informal bid;
10. When a professional service is involved;
11. When involving a public work contract in whose Bid Call negotiating points were indicated;
12. In any situation in which the Administrator understands negotiation must take place.

ARTICLE 92: HANDLING

The negotiation shall be in charge of the Assistant Administrator or his authorized representative. Prior to the negotiation, he shall consult the expert in the subject matter to be negotiated, and shall be up-to-date in the information regarding the budget set by the Administrator for said contract. When the Administrator expressly indicates it, or the Assistant Administrator requests it, an Administration lawyer will be present in said negotiation.

ARTICLE 93: PERIOD FOR INITIATING NEGOTIATION

The contract negotiation subsequent to a formal bid may not be conducted before the completion of the ten (10) day period for impugnation, granted by the "Board of Review Regulations" of the General Services Administration.

ARTICLE 94: PROCEDURE

The negotiation shall be conducted verbally or in writing, as determined by the Government representative.

A Record of Negotiation shall be kept concerning the negotiation conducted. Said Negotiation Record shall form part of the record file after being approved and signed by both parties. The proceedings of the verbal negotiation may be tape recorded if the parties thus agree beforehand, but the written Negotiation Record shall always have to be drafted.

ARTICLE 95: POINTS TO BE CONSIDERED WHEN NEGOTIATING A CONTRACT

1. Bid Call Documents

Within feasibility limits, the negotiation shall be conducted in conformance with the specifications, terms, and conditions established in the Bid Call Documents or the Requisition.

2. Preference

Whenever a contract is negotiated, the person with whom the negotiation is being conducted must be a registered bidder. When price quotations are received, possibilities for negotiation shall be studied, starting with the lowest bidder.

- a. If the lowest price proposal is not the most convenient to the Government, written Note shall be made in the record file, concerning the reasons preventing the acceptance of said proposal, in relation to negotiation base, and the study of the proposal of the next lowest bidder shall be in order.

ARTICLE 96: APPROVAL AND AWARD

All contract negotiation shall have to be approved by the Administrator.

1. Report

The Assistant Administrator shall submit negotiated contract project to the Administrator for his approval, when it exceeds four thousand dollars (\$4,000.00), twenty-five thousand dollars (\$25,000.00) in construction works or ten thousand dollars (\$10,000.00) in construction services. Said project shall be accompanied by an Explanatory Report, containing the basis on which award of contract is recommended and it shall have to be signed by the Contractor.

When it does not exceed four thousand dollars (\$4,000.00) twenty-five thousand dollars (\$25,000.00) in construction works or ten thousand dollars (\$10,000.00) in construction services the contract shall be approved by the corresponding Assistant Administrator.

2. Decision of the Administrator

The Administrator may approve the recommendation of the Assistant Administrator, in which case the contract shall be awarded.

If the Administrator were not in agreement with the terms set in the negotiation, he shall return the contract to the Assistant Administrator to discuss with the contractor the unacceptable clauses.

3. Contract Award

Once both parties have reached an agreement, the contract shall be awarded by the Administrator or by the Assistant Administrator, depending on the amount involved.

ARTICLE 97: NEGOTIATION IMPUGNATION ENCUMBRANCE

Determination inherent in this type of transaction shall not be subject to impugnation or review.

SECTION C: CONTRACT ADMINISTRATION

ARTICLE 98: DEFINITION

Contract Administration is that activity carried out at the level of receipt of goods, rendering of services, or execution of work at issue, by means of which the person in charge of guarding Government interests verifies, supervises, approves or disapproves of the operations conducted under the contract.

ARTICLE 99: CONTRACTS ADMINISTRATION HANDLING

In general terms, the first phase of contract administration is controlled and shall be in charge of the Receiver, in accordance with the provisions of the "Official Receivers Regulations" of the Administration.

In construction works contracts, the Administration of the same shall be the responsibility of the Assistant Administrator for Conservation and Construction of Public Buildings or his authorized representative.

In acquisition of goods contracts, the Official Receiver of each petitioning agency shall be in charge of said administration.

The Director of the Services Division of the petitioning agency or the person in whom he delegates or the Director of the unit receiving the service in the petitioning agency shall be responsible for the administration of services contracts.

In contracts concerning electronic data processing or microphotography, the Administration or the petitioning agency technician shall be in charge of the project, if the Administrator thus authorized it.

ARTICLE 100: CONTRACT ADMINISTRATION - SCOPE

The administration of a contract carries with it the responsibility of ensuring the faithful compliance by part of the Contractor of each one of the clauses of the contract, as stipulated in said contract.

1. Functions

It shall be the function of the person in charge of a contract's administration to file the corresponding claims on time and to make the notifications required by law, regulations, or contract.

ARTICLE 101: GENERAL OBLIGATIONS

To ensure the good administration of contracts as well as faithful compliance with the rules established in these regulations, the agencies and the contractors shall faithfully discharge the following:

1. Petitioning Agencies

- a. They shall plan requisitions, so they may be executed in conformance with the provisions of these regulations and all other rules in effect, concerning the subject matter involved;
- b. When scheduling their programs, they shall avoid conflicts with the terms established for handling calls and bid awards, in order to avoid creating emergency situations, which may force the waiving of the formal bid procedure;
- c. They shall handle the requisitions as efficiently and as rapidly as possible, to avoid administrative negligence, delay or forgetfulness, resulting in economic loss for the Government;

- d. They shall obligate enough funds before initiating requisitions handling, in order to ensure funds available to cover disbursements, when purchase orders are issued;
- e. No acquisition transactions shall be conducted without issuing the corresponding orders against contracts in effect, or before they are formalized;
- f. They shall notify the Administration and the Department of the Treasury of the whole acquisition transaction, even if it is paid by the Official Disburser;
- g. They shall maintain control of the orders issued, goods pending receipt, services pending rendering, and works pending execution, of receipts issued and executed and payments made. This information shall be submitted to the Administration on a monthly basis;
- h. They shall avoid all duplication of requisitions or in the issuance of orders, by centralizing everything related with acquisition in the appointed Delegate Buyer.

2. The Contractors

All contractors in favor of whom an order is issued, under any of the types of contracts established in these regulations, shall notify the Office of Purchases and Contracts of the Administration, within twenty-four (24) hours of having received the first order against each contract they may have in effect.

SECTION D: BREACH OF CONTRACT

ARTICLE 102: BREACH OF CONTRACT

Breach of any of the contract executed with the Administration or with the Government shall be understood to occur given one of the following circumstances:

1. Violation of any of the terms of the contract, or the laws and regulations applicable to the type of contract involved.
2. Refusal to correct any irregularity committed and indicated.

ARTICLE 103: CLAIMS CONCERNING BREACH OF CONTRACT

1. Initial Requirement

When a contractor refuses to accept or service a purchase, a service, commencing order, or notice of change issued to him, he shall immediately and verbally be required compliance, and if he should refuse, the following procedure shall be in order.

2. Notification

After reviewing the goods, the services in progress or finished, or the work being executed, if applicable, the petitioning agency, beneficiary of the contract, or acquainted with the breach of contract is obligated to notify the breach in the following manner:

- a. The person expressly authorized for it by the Head of the agency, in conformance with the instructions established in these regulations concerning contract administration, shall communicate in writing, by telephone, or personally with the contractor, as soon as possible, and shall require

compliance with the contract. When making such a demand, the person in charge of this activity is obligated to inform the contractor of the irregularity committed, and shall have to give him a reasonable amount of time to correct or comply with the terms and conditions of the contract.

- 1) In cases of works executed or being executed, the terms shall be established in the "General Conditions For the Contracting of Public Works", the "Rules for Contracting" of the Administration or terms established in the contract regulating the work.
- 2) When the irregularity or non-compliance entails not having delivered on time, regardless of whether the delivery is complied with subsequently, the corresponding penalties shall be imposed for late delivery.

3. Refusal to Comply With the Contract

If once the term given to contractor for correcting the irregularity or complying with the terms of the contract lapses, said contractor refuses, or has not taken any steps indicating that he intends to correct the irregularity in which he has incurred, it shall be presumed that the contractor breached the contract and the following procedure shall be in order:

- a. The Delegate Buyer of the agency shall send him, by certified mail with return receipt requested, the "Breach and Demand Notice" in the form provided by the Administration.

- 1) Simultaneously, the Administration shall be sent a copy of said form accompanied by contract record file and any other relevant documentation, which shall be accompanied of the following:
 - a) Descriptive report of the contract terms the contractor has breached.
 - b) List of the evidence held by the agency to prove breach of contract, at appropriate time.
 - (1) This account should include photographs, reports, statements, and other documents, if available.
 - c) An account and copy of all the oral and written claims made to the contractor, date of when effected, and name of the person who made them.
 - d) Those petitionary agencies enjoying the services of a lawyer, shall refer to him the notification to the Administration, before sending it to the Administration, with the purpose of having him evaluate the quality of the evidence in possession of the agency, in order to determine if the same is sufficient and adequate to ensure that the position adopted by Government is solid, in case of having to file to Court claim against the contractor.

4. Action by the Administration

a. Evaluation of Evidence

The corresponding Assistant Administrator shall evaluate the evidence received from the petitioning agency, and if the same is convincing, he shall proceed in the following manner:

1) Authorization to the Buyer

The corresponding Assistant Administrator shall authorize the Buyer to proceed to acquire the good, the work, or the service from any registered bidder available to make the delivery, execute the work, or render the service.

The agency shall be notified of this authorization through the Delegate Buyer, by the fastest means available; and if in the judgment of the Assistant Administrator, the situation warrants it, the Administration shall directly handle the acquisition.

The authorized Buyer shall proceed with the following:

a) Acquisition in the Open Market

The acquisition in Open Market shall be made in conformance with the following steps:

(1) Bidders Selection

From the registered Bidders he shall choose the one that can satisfy the need of the agency

at that time. If the agency is not in a hurry, three (3) Bidders shall be chosen and prices requested from them.

(2) Price Request, Quotations, and Award

The Buyer shall request quotations through the fastest means available. Proposals may be accepted verbally, but the Successful Bidder shall have to confirm his proposal in writing.

(3) Issuance of Open Market Order

If the bidder can supply the good, render the service, or execute the work under the same terms and original conditions even though the price may vary, an Open Market Order shall be issued, in compliance with what the Administrator may establish to such effect.

(a) Treasury Department Notification

The Buyer shall send a copy of the Administrator's authorization with the Open Market Order to the Secretary of the Treasury, so he may authorize payment.

b. Negotiation

If the Buyer cannot obtain equal conditions and specifications in the Open Market, subsequent to consultation with the unit in his agency generating the requisition, he

shall refer it to the Administration, so it may proceed to negotiate a contract with the registered bidder who at the time may perform, render, or deliver the work, the service, or the good requested.

c. Formal Demand to Contractor

1) Step to be Taken by the Assistant Administrator

The corresponding Assistant Administrator shall notify the Contractor, with copy to the petitioning agency and to the contractor insurance company, the action he plans to take which may be one or more of the following:

- a) Annul the contract;
- b) File a claim for damages suffered by the Government;
- c) Payment of the difference in price;
- d) Suspension from the Bidders Registry for a term of no less than six (6) months nor greater than two (2) years;
- e) Any other penalty provided in the law, the applicable regulations or the contract.

2) Contents of Demand

The formal demand to be sent to the contractor and his insurer by certified mail with return receipt requested must contain the following:

- a) Terms of the contract, number and date of same;
- b) Breached contract clause;
- c) Date of order he has refused to serve;

- d) Warning that he shall be liable for the excess paid based on the price he offered, in addition to any other corresponding penalty;
- e) Notification of a period of time given him to show cause for which the case should not be submitted to the Secretary of Justice for judicial claim due to breach of contract;
- f) Amount that he should reimburse for payment in excess and/or damages and expenses for the negotiation within the term set for it.

(1) Copy of this notification shall be sent to the Secretary of the Treasury for his records and to the contractor's Insurer.

3) Contractor's Position

If the reasons the contractor has for not complying with the order are not contemplated nor sustained by the contract, the claim shall proceed giving him a term for submitting the payment for the various items. Once said term has passed, if the total payment has not been received from the contractor or his insurer, the Administrator shall proceed against both, by referring the case to the Secretary of Justice for the corresponding judicial claim.

PART V: TEMPORARY MEASURES AND FINAL PROVISIONS

ARTICLE 104: DOCUMENTS, PROCEDURES, AND TEMPORARY EFFECTIVENESS

All forms, documents or special procedures not covered in these regulations, dealing with the same subject matter, even though they may have been approved under other regulations not revoked by these, shall maintain their effectiveness until new forms are issued, and new procedures approved.

ARTICLE 105: VIOLATIONS AND PENALTIES

Any Government official or employee submitting incorrect or fraudulent information in order to unduly acquire a good, a work, or a service or for other purposes which are not in the best interest or beneficial to the Government, may have any one of the penalties in these regulations applied to him.

Subsequent to an investigation to such effect, any person determined by the Administrator to have incurred in a violation of any of the provisions of these regulations, shall be subject to one or more of the following penalties:

1. He may be subjected to being prosecuted as established in Article 32 of Public Law 164 of July 23rd, 1974, as amended, known as the "General Services Administration Act". Said Article, in its second paragraph, provides that any person violating any one of the regulations issued under said law shall have incurred in a misdemeanor and if convicted, shall be sentenced to pay a fine of no less than fifty dollars (\$50.00) nor greater than two-hundred and fifty dollars (\$250.00),

or jailed for a term of no less than one (1) month nor greater than six (6) months, or both penalties at the discretion of the Court.

2. A civil suit may be filed against him to recover the amount at issue, as provided by Section 8 of Public Law Number 96 of June 29, 1954, as amended, known as the "Purchases and Supplies Act". Said Section provides that any purchase order or contract executed in violation of that law or the regulations adopted under it, shall be null and void, and if any public funds were invested, their total amount may be recovered in a suit file for such purposes on behalf of the Government.
3. He may have his appointment as Delegate Buyer, or any other special appointment related to the Government purchase procedure or system, suspended or revoked.
4. The case may be referred to the Head of the agency of the person involved, said Head of agency can, at his discretion, proceed to impose on said person one of the sanctions authorized by Article 6 of Public Law Number 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act".

ARTICLE 106: DEROGATIONS

Sections 15, 16, 17, 18 of the August 18, 1949 Regulations concerning "Motor Vehicle Acquisition", approved under Public Law Number 49 of August 4, 1947; the 1st of July of 1963 Regulations "Establishing the Procedures for Purchases and Supplies of Services", approved under Public Law Number 49 of August 4, 1947; and Sections I, II, II, IV, V, VI, VII and IX of Regulations Number 2 of the Administration "For

Control of Purchases under Public Law Number 96, of June 29, 1954", "Regulations Number 4 of September 1st, 1977", and any other rule in effect on the date these regulations are approved; are hereby repealed.

ARTICLE 107: EFFECTIVENESS

These Regulations shall enter into effect thirty (30) days after filing them with the Commonwealth of Puerto Rico State Department according to the provisions of Public Law Number 112 of June 30th, 1957, as amended, better known as the "Regulations Act of 1958".

APPROVED IN SAN JUAN, PUERTO RICO, on the *15th* day of *June* of 19


LEOPOLDO MERCADO SANTINI
ADMINISTRATOR