

No. 3380 10:55 AM

Date: December 2, 1984

Approved: Héctor Luis Acosta
Secretary of State

By: [Signature]
Assistant Secretary of State

COMMONWEALTH OF PUERTO RICO
General Services Administration

BIDS REGULATIONS

OF THE

GENERAL SERVICES ADMINISTRATION

Final

COMMONWEALTH OF PUERTO RICO
General Services Administration

BIDS REGULATIONS

TO establish the procedure to be followed in the Government for any formal bid for the acquisition or disposal of its property; to establish the internal organization that will implement the procedure of formal bids and to repeal Regulation No. 5 of the General Services Administration, "Formal Bids Regulations" of June 8, 1979, as amended.

BIDS REGULATIONS

TABLE OF CONTENTS

	Page
PART ONE - GENERAL RULES	
SECTION A. - INTRODUCTION -----	1
ARTICLE 1. - SHORT TITLE -----	1
ARTICLE 2. - SOURCES OF THE LAW -----	1
ARTICLE 3. - PURPOSE -----	1
ARTICLE 4. - SCOPE -----	2
ARTICLE 5. - INTERRELATION WITH OTHER RULES AND REGULATIONS -----	2
ARTICLE 6. - CONSTRUCTION OF WORDS AND PHRASES -----	3-7
SECTION B. - BIDDERS REGISTRY	
ARTICLE 7. - CREATION OF REGISTRY -----	7-17
ARTICLE 8. - PENALTIES -----	18
PART TWO - BOARD OF BIDS	
ARTICLE 9. - CREATION -----	19
ARTICLE 10. - JURISDICTION -----	19
ARTICLE 11. - SEAT -----	19
ARTICLE 12. - COMPOSITION -----	19-20
ARTICLE 13. - TERMS -----	20
ARTICLE 14. - VACANCIES -----	20
ARTICLE 15. - OPERATION OF BOARD -----	20-21
ARTICLE 16. - SESSIONS, QUORUM, ATTENDANCE AND DOCUMENTS -----	21-22
ARTICLE 17. - POWERS AND DUTIES -----	22-25

	Page
PART THREE - PUBLIC BIDS	
SECTION A. - COMMENCEMENT OF PROCEDURE	
ARTICLE 18. - PROCEDURE -----	26
ARTICLE 19. - DEFINITION -----	26
ARTICLE 20. - COMMENCEMENT -----	26
ARTICLE 21. - OBLIGATIONS OF AGENCIES -----	26
ARTICLE 22. - REQUISITION -----	27-28
ARTICLE 23. - CONDITIONS EXEMPTING FORMAL BID -----	28-29
SECTION B. - CALL FOR BIDS	
ARTICLE 24. - TIME -----	30
ARTICLE 25. - PERSONS INVITED -----	30
ARTICLE 26. - CALL PROCEDURE -----	30-33
ARTICLE 27. - PERSONS INVITED -----	33
ARTICLE 28. - AMENDMENTS TO BID DOCUMENTS -----	33-34
ARTICLE 29. - CANCELLATION OF BID CALL -----	34-35
ARTICLE 30. - IMPEACHMENT OF BID CALL -----	35-37
SECTION C. - BID DOCUMENTS	
ARTICLE 31. - DEFINITION - BID DOCUMENTS -----	38
ARTICLE 32. - CONTENTS -----	38
ARTICLE 33. - INSTRUCTIONS: DEFINITION -----	38
ARTICLE 34. - INSTRUCTIONS - PREPARATION -----	38
ARTICLE 35. - TYPES OF INSTRUCTIONS -----	39
ARTICLE 36. - SPECIFICATIONS: DEFINITION -----	40
ARTICLE 37. - SPECIFICATIONS - PREPARATION -----	40
ARTICLE 38. - TYPES OF SPECIFICATIONS -----	41

III

	Page
ARTICLE 39. - CONDITIONS: DEFINITION -----	41
ARTICLE 40. - PREPARATION OF CONDITIONS -----	41
ARTICLE 41. - TYPES OF CONDITIONS -----	42
ARTICLE 42. - GENERAL CONDITIONS -----	42-43
ARTICLE 43. - PREPARATION AND PUBLICATION OF GENERAL CONDITIONS -----	43
ARTICLE 44. - SPECIAL CONDITIONS -----	43
ARTICLE 45. - PARTICULAR CONDITIONS -----	43
SECTION D. - PRESENTATION OF PROPOSALS	
ARTICLE 46. - DEFINITION -----	44
ARTICLE 47. - DEADLINES -----	44-45
ARTICLE 48. - PROPOSAL SUBMITTAL -----	45-48
ARTICLE 49. - BOARD OBLIGATIONS -----	49
ARTICLE 50. - DELIVERY PROCEDURE -----	49-51
ARTICLE 51. - METHODS OF MAKING PROPOSAL -----	51-53
ARTICLE 52. - AMENDMENTS PRIOR TO OPENING -----	53-55
ARTICLE 53. - WITHDRAWAL OF PROPOSALS -----	55-56
SECTION E. - OPENING ACT	
ARTICLE 54. - OPENING ACT: PURPOSE -----	57
ARTICLE 55. - PUBLICITY OF ACT -----	57
ARTICLE 56. - FUNCTION OF BOARD -----	57
ARTICLE 57. - FUNCTION OF SECRETARY -----	57
ARTICLE 58. - OBLIGATIONS OF ATTENDANTS -----	57
ARTICLE 59. - OPENING AND READING -----	57-59
ARTICLE 60. - DUTIES OF SECRETARY SUBSEQUENT TO OPENING ACT -----	59-62

	Page
SECTION F. - EVALUATION AND RECOMMENDATION	
ARTICLE 61. - BID RECORD RECEIVAL -----	63
ARTICLE 62. - TERM TO STUDY AND EVALUATE -----	63
ARTICLE 63. - EVALUATION REPORT -----	63-65
ARTICLE 64. - OFFICE LIMITATION -----	65
SECTION G. - AWARD	
ARTICLE 65. - STUDY -----	66
ARTICLE 66. - TERM FOR MAKING AWARD -----	66
ARTICLE 67. - AWARD PROCEDURE -----	66
ARTICLE 68. - GENERAL ORDER TO PROCEED WITH AWARD -----	66-67
ARTICLE 69. - GENERAL AWARD RULES -----	67
ARTICLE 70. - SPECIFIC AWARD RULES -----	68-73
ARTICLE 71. - DECISION -----	73-74
ARTICLE 72. - AWARD NOTICE -----	74-76
ARTICLE 73. - AWARD CANCELLATION -----	76-77
ARTICLE 74. - AWARD REVIEW -----	77
SECTION H. - CONTRACTS	
ARTICLE 75. - NOTICE TO OFFICE -----	78
ARTICLE 76. - REFUSAL TO COMPLY WITH CONTRACT -----	78-79
ARTICLE 77. - BREACH OF CONTRACT -----	79
PART FOUR - GENERAL PROVISIONS	
SECTION A. - DOCUMENTS	
ARTICLE 78. - SCOPE OF PUBLIC NATURE OF BID DOCUMENTS -----	80
ARTICLE 79. - CONSERVATION PERIODS -----	80

	Page
SECTION B. - DELEGATION	
ARTICLE 80. - DELEGATION TO BOARD -----	82
SECTION C. - TEMPORARY PROVISIONS	
ARTICLE 81. - TEMPORARY EFFECTIVENESS OF BIDDING BOARDS OF AGENCIES -----	82
ARTICLE 82. - FORMS AND DOCUMENTS -----	82
ARTICLE 83. - PROCEDURE -----	82
SECTION D. - FINAL PROVISIONS	
ARTICLE 84. - GOVERNMENT EMPLOYEES LIMITATION -----	83
ARTICLE 85. - PENALTIES -----	83
ARTICLE 86. - REPEALS -----	83
ARTICLE 87. - EFFECTIVENESS -----	83

PART ONE
GENERAL RULES

SECTION A: INTRODUCTION

ARTICLE 1.- Short Title

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

ARTICLE 2.- Sources of the Law

The General Services Administrator promulgates these Regulations pursuant to the powers conferred upon him by subdivisions h, j, and p of Section 14, Section 16, Section 17, Section 18, Section 19 and Sections 20 and 21 of Act No. 164 of July 23, 1974, as amended; subdivision 6 of Section 4 of Act No. 5 of December 8, 1955, as amended and the powers inherent to his office.

ARTICLE 3.- Purpose

These Regulations are adopted for the purpose of establishing the procedure to be followed in every public bid for acquisition or disposal to be carried out by the Administration in order to acquire the goods and services of the agencies of the Executive Branch; to create the internal organizations which shall be in charge of the administration of said procedure; to delegate some of the functions of the Administrator which are deemed necessary to be delegated for a more efficient administration of the proceedings; and for other purposes inherent to the functions established by these Regulations.

To safeguard the interest of the Government and in compliance with the provisions of our juridical order, all acquisitions or disposal made, in order to insure a better competition on behalf of the Government, shall be carried out by way of a public bid.

ARTICLE 4.- Scope

The provisions of these Regulations shall be applicable to every employee or officer of the Government; to every private person who takes part, directly or indirectly in the bids of the Government; and to every employee or officer of any governmental entity who voluntarily submits to the jurisdiction of the Administration.

ARTICLE 5.- Interrelation with other rules and regulations

The provisions of these Regulations are applicable exclusively to the acquisition of goods, works or services; or to the sale of property through the formal bid procedure; but they shall not be construed individually. The stages prior or subsequent to said procedure, the criteria for determining whether to use or not the procedure established herein and all other aspects connected with the acquisition of goods, works and services or the sale of goods in the Government shall be governed by the rules established or that may be established by the Administrator in the following regulations:

1. Regulations for the Acquisition by the Government of the General Services Administration
2. Regulations for State Surplus Property of the General Services Administration
3. Regulations for the Board of Review of the General Services Administration
4. Regulations for Delegate Buyers of the General Services Administration
5. Regulations for Official Receivers of the General Services Administration

6. "General Conditions for Contracting of Public Works and Other Related Documents"

7. Any other policy to be adopted by the Administrator on these matters.

ARTICLE 6.- Construction of Words and Phrases

1. In General

The words and phrases used in these regulations shall be construed according to the context and meaning established by common and ordinary usage.

The voices used herein in the present tense also include the future; those used in the masculine gender include the feminine and neuter, except in such cases where the construction makes it absurd; the singular number includes the plural and the plural includes the singular.

2. In Particular

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

- 1) Administration - The General Services Administration
- 2) Administrator - The Administrator of the General Services Administration, or his authorized representative.
- 3) Assistant Administrator - The Assistant Administrators of each one of the Areas of the Administration.
- 4) Petitioning Agency - Any Government Agency which by law is bound to use the services of the Administration or those which, although not bound to do so, request them voluntarily, in which case they shall be subject to the regulations and controls of the Administration. The Administration shall be considered as another petitioning agency for its internal needs.

- 5) Areas - Each one of the Areas which is part of the Administration; that is, Purchases, Services and Supplies Area; Construction and Conservation of Public Buildings Area, Transportation and Maintenance of Motor Vehicles Area and Administration Area, as well as Programs for Leasing of Premises, Administration of Public Documents, Counseling for the Information System, Surplus Property and Printing Office.
- 6) Change Notice - Any amendment subsequent to the remittance of a Purchase or Service Order or to the commencement of a Public Work.
- 7) Purchase - The means by which the Government acquires goods, service or work in exchange for the payment in money.
- 8) Buyer - Any person, officer or employee of the Government authorized by the Administrator to purchase, in the name of the government, and to whom an appointment of Delegate Buyer or Subdelegate Buyer has been issued.
- 9) Delegate Buyer - Any officer or employee authorized by the Administrator to purchase or who shall be in charge of the purchasing function in each agency and whose functions are governed by the provisions of the "Regulations of Delegate Buyers" of the Administration.
- 10) Day - Working Day.
- 11) Emergency (Urgency) - Both terms shall be considered synonymous in these regulations. Emergency or urgency shall mean such situation as shall entail unexpected or unforeseen public needs and which require immediate action on the part of the Government because the life, health or safety of the people is in jeopardy or there is danger that the public service or property of the Government be suspended or affected, or if the term to use the funds is about to ex-

pire and any opportunity to acquire the goods, works and services requested may be forfeited thereby adversely affecting public interest.

- 12) E.P.A. - Environmental Protection Agency.
- 13) Specifications - Group of physical, functional, esthetic and quality characteristics of the goods, works or services requested.
- 14) Bond - Guarantee or amount of money deposited to insure the performance of a contracted obligation.
- 15) Government - The Executive Branch of the Commonwealth Government, excluding, in the corresponding programs, the public corporations, municipalities and any other agency which is expressly exempt from procuring its goods, works and services without the intervention of the Administration. In the Public Documents Administration Program the term Government shall include the municipalities and public corporations.
- 16) Impeachment - Petition to the Assistant Administrator to review the specifications and conditions contained in the bid call documents.
- 17) Head of Agency - Secretaries, Administrators and Directors of agencies.
- 18) Board - The Board of Bids of the Administration appointed by the Administrator to execute bids which shall act as the administrative body of study, evaluation and award of bids and the functions of which are governed by the "Bids Regulations" of the General Services Administration.
- 19) Regulating Board - Counseling body of the Administrator in the drafting, revision and approval of specifications.
- 20) Board of Review - The Board of Review of the General Services Administration.

- 21) LCC Criteria - "Life Cycle Cost Criteria" - Criterion to determine the cost of the life cycle of an equipment which consumes energy.
- 22) Successful Bidder - Natural or juridical person to whom one or more items of the bid is awarded.
- 23) Bidder - Natural or juridical person who takes part or may take part in a particular bid as bidder offering his proposal.
- 24) Work - Any work in the construction, reconstruction, alteration, addition, improvement, repair, conservation or maintenance of any structure, without it being limited to buildings corresponding to functions prescribed by law to be discharged by an agency.
- 25) Office - The Purchase Office of the Administration which is the unit in charge of implementing the "Acquisition Program", as well as initiating such steps as will facilitate the award of bids and which end up with the acquisition proceedings in the Government.
- 26) Item - Breakdown of each one of the goods, works, or services requested in the bid.
- 27) Reasonable Price - The reasonable price of any article or service regulated by the Consumer Affairs Department shall be the one fixed by the latter.
- 28) President - The person named to preside in each of the Boards of the General Services Administration.

- 29) Bidders Registry - Registry containing the names of the natural or juridical persons accepted in the Administration to contract with the Government as having complied with the requirements established by the Administrator.
- 30) Official Receivers - The officer designated by the Secretary of the Treasury to receive values in the name and representation of the Government.
- 31) Contracting General Conditions for the Construction of Public Works - Uniform rules governing the contracting of public works in the agencies of the Executive Branch.
- 32) Category - Group of items based on general characteristics or descriptions. Each category may be broken down in items based on specifications.
- 33) Review - Petition requesting the Board of Review to reevaluate any decision rendered by the Board of Bids or by the Purchase Office.
- 34) Secretary - Each of the Secretaries of the Boards of the General Services Administration.
- 35) Only Supplier Available - The sole natural or juridical person who is available to supply the good, render the service or execute the work sought at the time and under the conditions required.
- 36) Sole Source of Supply - The existence of only one supplier.

SECTION B: BIDDERS REGISTRY

ARTICLE 7.- Creation of Registry

A Bidders Registry is created and the same shall be classified according to the goods, work or service offered by each bidder.

The Administrator shall be in charge of said Registry.

1. Use and Purpose of Registry

The Registry is adopted for several purposes; to wit:

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

2. Call for Creation of Registry

The call shall be published once a week for two (2) consecutive weeks, in different newspapers of general circulation, in Spanish. This call shall be directed towards all possible bidders interested in participating in bids of the Government and it shall be published under the signature of the Administrator at least once a year.

In addition to the call, but not in substitution thereof, the Administration shall order the use of other means of communication, whenever he deems it to be necessary.

a. Call Content

The call shall indicate to the interested persons where all necessary documents are available.

3. Registry Content

The Registry shall contain the following information:

- a. Name of business;
- b. Name of owner;
- c. Social Security Number;
- d. Representatives authorized to appear on his behalf at the bids as well as in any other transactions with the Administration;
- e. Title of said representative;
- f. Postal address and physical location of the business and telephone numbers;
- g. Goods, works, or services offered, performed, rendered, or interested in;
- h. Any other information that the Government deems pertinent.

4. Requirements for Inclusion in Registry

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

- a. He shall submit an annual financial report certified by an Authorized Public Accountant;

- b. At least one banking and business reference including the term and type of relationship with the entity;
- c. If it has tax exemption, copy of the Decree;
- d. Submit Incorporation Certificate;

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

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

- e. List of contracts or sales entered into during the last five (5) years with state or municipal Government instrumentalities.
- f. List of the contracts or sales it has had in the last two (2) years with private enterprises;
- g. Certification under oath that it has not had to answer for breach of contracts on its part in the last five (5) years, be it through court order, administrative decision or application of the "General Conditions for the Contracting of Public Works";
- h. In the case of a person who wishes to avail himself of the benefits of the "Preference Act", he must furnish a copy of the Board of Preference Certification pursuant to the provisions of Act No. 103 of June 24, 1977, as amended, and the regulations adopted under it;
- i. Detailed description of the goods, works or services offered or interested in;

- j. Experience and years of service of being established;
- k. Copy of the licenses, permits, and authorizations held for operating the business and necessary for the sale of its products, rendering of services or work performance;
- l. Insurance policies in effect and their coverage;
- m. Federal and State Health Department certificates, when applicable;
- n. The signature of the person authorized to do business shall be submitted;
- o. The Administrator may request, at his discretion, additional information if he deems it necessary.

5. Entry in the Registry

Entry in the Registry is not automatic; it shall depend on the evaluation and determination made by the Administrator or his authorized representative.

a. Procedure

1) Application: Remittance and Receival

Applications shall be distributed in the agency personally or by mail to those who so request them.

At the time the application is received it shall be verified to see that it is fully filled out and accompanied by the additional documents required. In case these are not included, the interested person shall receive communication by the most rapid means available and he shall be required to send the information or documents missing.

2) Remittance to the Administrator

When the application submitted by the interested bidder has been fully filled out and accompanied by the corresponding complementary documents, the record of said application shall be referred to the head of the agency.

3) Decision

a) The Administrator shall determine the system he shall use to evaluate the applications before him, but the system established shall apply to all applications.

b) Term

The Administrator shall decide on the inclusion of the bidder in the Registry within the next fifteen (15) days after receiving the record.

c) Notice to the Bidder

The interested bidder shall be notified of the decision of the Administrator within five (5) days.

(1) Inclusion

The notice of inclusion shall contain the following information:

- (a) Date of effectiveness of inclusion in the Registry.
- (b) Registered Bidder's responsibilities.
- (c) Rights to which he is entitled as registered bidder.

(2) Rejection

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

6. Appeal in case of Rejection

When the Administrator refuses the entry of any bidder in the Registry, the latter may request reconsideration before said head of agency within the next five (5) days after receiving the notification.

7. Obligations of Persons Included in the Registry

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

a. Maintain up to date the information furnished for the consideration of their inclusion in the Registry.

b. Maintain in effect a bid bond according to the subject matter of the bids in which he is interested in participating for the amount the head of the agency fixes, except when construction works or services are involved, the amounts shall be established by the "General Conditions for the Contracting of Public Works and Other Related Documents".

1) This policy may be precluded if in lieu thereof the person chooses to post an individual bid bond for each bid in which he participates.

c. To keep in effect a public liability policy in the amount set by the Administrator, except in the construction works or attached services which shall be governed by the amounts set in the "General Conditions for the Contracting of Public Works and Other Related Documents".

8. Rights of Persons Included in the Registry

All registered bidders shall have a right to the following:

a. To be invited to every Bid Call concerning the category or categories for which he is registered.

b. To have his name included in the Official Bidders Registry which the Administrator shall circulate among the Delegate Buyers.

- c. To be invited to every seminar, conference, or special training offered by the agency related to purchases and bids, when applicable; provided the bidder assumes the proportional cost of the printing and postage of the invitation to the activity.

9. Bidder's Record

A record of every bidder shall be kept. This record shall consist of the following:

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

10. Use and Control Systems

The Administrator shall establish the use and control system of the Registry.

11. Period Registry Evaluation

The Administrator shall evaluate the Registry at least once a year to determine which aspects thereof need updating.

12. Obligation of the Agency

a. Publication of Lists

At the beginning of each fiscal year and after establishing the

Registry, the Administrator shall publish the lists of Registered Bidders by category, or update the same and shall distribute them among the petitioning agencies of the Government.

13. Obligation of Agencies

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

14. Obligation of Buyers

Every Delegate Buyer who issues purchase orders as a consequence of an informal bid, open market, or emergency purchases or any other acquisition procedure, may only issue orders to registered bidders in the official lists.

Except in such geographical areas where the registered bidder can not make delivery, the purchase may be made from among those responsible bidders in said areas. In these cases, compliance must be had with the purchase procedure with respect to the amount of money.

15. Absence of Registered Bidder

When a call to bid is issued for categories where are no registered bidders, a call shall be issued through the newspapers. In the instructions of the bid documents, the bidders shall be advised as to the requirements they shall have to meet in order that their proposals can be evaluated. Said bidders shall have to comply with the requirements established by the Administrator as binding on all Government bidders.

16. Unregistered Bidders

The Board can not refuse a bid submitted by an unregistered bidder. It must grant said unregistered bidder ten (10) days from Opening of the Bids to submit all the required documents in order to be included in the Bidders Registry.

17. Present Bidders

a. Reevaluation and Automatic Registry

Those bidders already registered with the agency at the time the Registry is initiated who show their responsibility in complying with the effective contracts may be automatically included in the Registry without need of submitting themselves to the formal evaluation procedure, provided they comply with the requirements established in these regulations.

b. Automatic Inclusion Notification

The Administrator agency shall notify the bidders by such means as he deems most convenient, that they shall be automatically included in the Registry. This notification shall contain the following information:

- 1) Adoption of new regulations.
- 2) Adoption of a new Bidders Registry.
- 3) The decision to include them automatically on the basis of a satisfactory experience with them.
- 4) Inclusion of an official application form to be filled out for the record file.
- 5) Request for the submittal of the additional documents required for the record. If the same were already in his record, update them, if applicable. This provision refers to the documents mentioned in subdivision 4 of this article.

- 6) Rights to which they are entitled as registered bidders.
- 7) Warning to the effect that the determination to include them automatically is subject to the submittal on their part of the necessary documents for the record wherefore if within fifteen (15) days after receiving the automatic inclusion notification, they do not answer nor submit the required documents, it shall be understood that they are not interested in being included in the new Registry.

c. Exclusion Decision

If upon reevaluating the record of a bidder registered at the time, the Administrator determines that he should not be included automatically in the Registry, he must proceed with the following notification:

- 1) Adoption of new regulations,
- 2) Adoption of new Bidders Registry,
- 3) Remittance of copy of the application and instructions on how to complete it,
- 4) Warning to the effect that he shall not be considered registered under the new regulations for which reason he shall have to submit a properly filled-out application to be reevaluated according to the new rules.

18. Temporary Registry

The Registry of automatic inclusion of bidders shall continue in operation until the new registry is adopted. The first list of registered bidders shall be published and circulated not later than six (6) months after these regulations become effective.

ARTICLE 8.- Penalties

Any person interested in being included in the Bidders Registry who furnishes fraudulent, false or negligent information; or any officer or employee who upon evaluating the applications, knowingly and maliciously admits fraudulent or false information, such fact having been proven at a hearing for such purposes, shall be considered guilty of violations of these regulations and shall be imposed one or several of the penalties, as the case may be:

1. He shall be disqualified to participate in bids for a period of not less than two (2) years nor more than ten (10) years, at the discretion of the Board;
2. Foreclosure of the bond;
3. His case shall be submitted to the Department of Justice for its criminal prosecution or civil claim, as the case may be;
4. In the case of Government employees or officers, a report shall be submitted to the Administrator for the proper sanction pursuant to the provisions of the "Public Service Personnel Administration Act", Act No. 5 of October 14, 1975, as amended.

PART TWO
BOARD OF BIDS

ARTICLE 9.- Creation

The Board of Bids of the General Services Administration is hereby created with the powers and duties provided in these regulations. The Board shall answer directly to the Administrator.

ARTICLE 10.- Jurisdiction

The Board shall have jurisdiction over the awarding of all the bids to be conducted for the Executive Branch.

ARTICLE 11.- Seat

The seat of the Board shall be wherever the Administrator so determines.

ARTICLE 12.- Composition

The Board shall be composed of three (3) regular members for full time and appointed by the Administrator. None of them may undertake any function connected directly or indirectly with the acquisition or sale procedure in the Government. None of them shall have any relation with the public policy of purchasing goods and services for the agency.

1. Kinds of Members

The members of the Board shall be classified as follows:

a. Regular Members

The regular members shall be the three (3) appointed by the Administrator with voice and vote always and they shall be designated thus: a President and two additional members. They shall attend all the award meeting of the Board.

b. Substitute Members

Shall be those designated by the head of the agency to substitute any permanent member who can not attend any meeting for any reason.

2. Officers

The Board shall have the following administrative officers: a Secretary designated by the Administrator and a Collector appointed by the Secretary of the Treasury and recommended by the head of the agency. They shall not count for quorum, nor shall they have the right to participate in the deliberations of the Board or to vote.

ARTICLE 13.- Terms

Members of the Board shall discharge their duties and hold their positions until the head of the agency provides otherwise.

ARTICLE 14.- Vacancies

Only the head of the agency may substitute the vacancies in the Board of Bids appointed by virtue of these regulations.

ARTICLE 15.- Operation of the Board

The head of the agency shall provide the proper mechanisms to facilitate the operations of the Board, including personnel, equipment and space resources.

1. Budget

The head of the agency shall provide the necessary funds for the Board operations.

2. Personnel

The President shall determine personnel needs such as secretaries, technicians, office clerks, messengers and others. He shall notify his personnel needs to the Administrator so that he may assign the neces-

sary personnel in accordance with the rules established by Act No. 5 of October 14, 1975, known as "Personnel and Public Service Administration Act of Puerto Rico", as amended.

ARTICLE 16.- Sessions, Quorum, Attendance and Documents

1. Sessions

Because it is a full-time body, it shall be understood that the Board shall be in permanent session.

2. Quorum

Two of the three members shall constitute quorum.

3. Attendance

The members of the Board are bound to attend personally all the meetings.

4. Documents

Record of the outcome of the Board meetings shall be kept in the following documents:

a. Award

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

1) Approval

The awards must be approved by a majority of the attending members.

2) Contents

The award shall consist at least of the following parts: summary of the proposals, and grounds for the award or rejection of each item.

3) Signatures

The award shall bear the date and signature of all the members who participated in the award and it shall be certified by the Secretary.

Any member may dissent and he may render his dissenting vote which shall be part of the record.

b. Agreement

Any decision of the Board not related to an award shall be recorded in a document entitled "Agreement".

1) Approval

Agreements shall be approved by a majority of its members.

2) Contents

The agreement shall contain the following:

- a) Persons attending meetings;
- b) Date, hour and place of meeting;
- c) Matter discussed;
- d) Brief statement of agreement;
- e) Signature of attendants approving the agreement;
- f) Signature of attendants not approving the agreement;
- g) Certification by the Secretary.

ARTICLE 17.- Powers and Duties

1. The powers and duties of the Board shall be the following:

- a. Adopt a seal;
- b. Evaluate the proposals and award the bids;
- c. Request advice from employees of agency;
- d. Adopt rules and procedures for internal functioning;
- e. Take corrective measures to prevent future breach of contracts;

- f. Evaluate the Bidders Registry with the Administrator at least once a year.
2. The powers and duties of the President shall be the following:
 - a. Ensure the normal functioning of the Board;
 - b. To see that Board members faithfully discharge the duties of their office;
 - c. Conduct Board proceedings;
 - d. Represent the Board;
 - e. Call and preside over the Board meetings;
 - f. Review and adopt as his own the recommendations of Board members;
 - g. Submit to the Administrator a Monthly Report containing bids awarded and those pending award;
 - h. Submit to the Administrator the Annual Report of the Board;
 - i. Submit such additional reports and recommendations as he may request;
 - j. Recommend to the Administrator any personnel appointment for the Board;
 - k. Discharge all functions and duties inherent to his office, or expressly mentioned in other provisions of these regulations.
3. The functions of the Secretary shall be the following:
 - a. To answer directly to the President;
 - b. To have custody of all the information contained in the books, records, files and documents of the Board;
 - c. Keep record of all the correspondence received or sent out by the Board;
 - d. Receive and open the correspondence, dispatch it and keep it under custody;

- e. Receive, keep in custody and see to the adequate handling of the bid records;
 - f. Call Board meetings;
 - g. Notify bid awards and agreements of the Board to the interested parties;
 - h. Certify the agreements and the awards whenever adopted and any other document of the Board;
 - i. Custody of the Board seal;
 - j. Attend Board meetings to take the minutes and state in the record the Agreements and Awards;
 - k. Draw up the Record, Minutes, Agreements, Awards and Reports for the President's approval;
 - l. Submit to the Board a Monthly Report concerning the bidders invited to the bids who have not attended and the reasons given for their non-attendance. When the bidder does not justify his failure to quote in one or all the items, he shall recommend the exclusion of said bidder from the Registry in the item or items he failed to quote;
 - m. Fulfill all functions and duties inherent to his office or those expressly mentioned in other provisions of these regulations.
4. The functions of the Collector shall be the following:
- a. Collect all bid bonds received with the proposals;
 - b. Issue receipts for the bonds received;
 - c. Deposit the bonds in the corresponding bank account, or in his safety deposit box, as the case may be;
 - d. Prepare a report for the Board as to the bonds received from each bidder at each bid;

- e. Submit a report to the Official Disburser of the agency after the bid is awarded on bid bond status;
- f. Comply with other duties of his designation and with the regulations of the Secretary of the Treasury.

PART THREE
PUBLIC BIDS

SECTION A: - Commencement of Procedure

ARTICLE 18.- Procedure

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

ARTICLE 19.- Definition

The public bid is the means to acquire or sell, used by the Government, through which the greatest number of bidders who meet the requirements established in these Regulations are requested to offer bids and terms according to requested specifications and conditions, thereby stimulating commercial competition as a consequence of which the Government may acquire the best goods, works, and services at the best prices and conditions possible, or dispose of its surplus property at the prices most beneficial to Government interests.

ARTICLE 20.- Commencement

The public bid procedure is initiated when the agency has the need of acquiring some goods, works or service and submits its requisition.

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

ARTICLE 21.- Obligations of Agencies

Upon making its requisition it shall be the obligation of every agency to have all the necessary information for the adequate determination of the action to be taken and the review of the specifications and conditions, as well as the award of the bid at the proper time.

ARTICLE 22.- Requisition

1. Definition

The requisition is the document containing an exact description of what is requested, be it goods, works, or services, recommended specifications thereof and any other condition which the agency may need for the transaction to be executed in due time.

2. Drafting

Requisitions must be prepared by the Delegate Buyer of the Agency.

3. Contents

The requisition shall contain the following:

- a. An exact description of what is being requested;
- b. Recommended specifications;
- c. Standard specifications;
- d. Particular conditions of what is being requested;
- e. Justification concerning program or unit need within the agency for which it is sought;
- f. Use to be given;
- g. Certification of funds;
- h. Any other information which the petitioning agency may deem useful.

4. Office Obligation

- a. The Office shall have to review the requisitions received to make sure they comply with the requirements established by the laws, regulations of the agency and of the Treasury Department, and with any other rule applicable to the type of transaction involved.
- b. The Office shall submit recommendations to the Administrator as to the action to be taken.

c. The Office shall return the requisition

- 1) for lack of information;
- 2) failure to include specifications;
- 3) failure to indicate amounts;
- 4) failure to be signed;
- 5) lack of funds;
- 6) for anything else that he deems to be necessary for the purchase.

5. Terms

If the requisition before his consideration must be processed by means of a formal bid, the Office shall have the bid call documents ready within a reasonable period of time.

6. Bid Record and Numbering

When the bid call documents are ready, the Office shall number the bid according to the bid numbering system approved by the head of the agency for such purposes.

ARTICLE 23.- Conditions Exempting Formal Bid

In the following cases the Office need not have a formal bid:

1. An emergency: as defined in the regulations.
2. The amount involved does not exceed four thousand dollars (\$4,000).
3. Purchase is made from the State or Federal Government of the United States of America or from any foreign country.
4. The minimum prices are fixed by law or competent governmental authority.
5. There is only one supply source.
6. No proposal is presented at the bid and there exists the danger of losing the opportunity of acquiring the necessary nonprofessional supplies or services.

7. When the purchases are made from an agency of the Commonwealth of Puerto Rico.
8. The works the amount of which does not exceed twenty five thousand dollars (\$25,000) and the services the amount of which does not exceed ten thousand dollars (\$10,000).
9. The works for which, although exceeding said amounts, it has been impossible to obtain a contract after having attempted to obtain one by the bid procedure, if the Administrator deems it ~~more~~ advisable that they be constructed by administration.
10. The works which, no matter their amount, are declared to be essentially necessary or urgent by the Administrator.
11. The works which require special care in their execution from a technical point of view, provided it is so determined by the Administrator.
12. The works which are executed in buildings which, because of the use to be given, require extreme measures of security and protection for the building in itself or for its occupants and it is so declared by the Governor of Puerto Rico by Executive Order.
13. Where professional and consultant services are involved which do not require bid procedure and the work to be performed does not constitute a position.

SECTION B.- CALL FOR BIDS

ARTICLE 24.- Time

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

ARTICLE 25.- Call Handling

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

1. Office Report

On a daily basis, when the Bid Documents are ready, the Office shall send, in writing or verbally, depending on the urgency, to the Office of the Secretary, the following information:

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

ARTICLE 26.- Call Procedure

The call shall be made by publication in a newspaper or by invitation, as determined by the Regulations.

1. In General

All kinds of call shall comply with the following:

a. Signature

Call shall bear the signature of the Administrator.

b. Term

A reasonable term shall be provided for the study of the bid documents, which shall not be for less than three (3) days, from the time the call by invitation is received to the deadline for submitting the proposals.

In those cases where the head of the agency understands that there is need to acquire the article (s) or service (s) within a short time because of the need of the agency to render its services, a term for not less than twenty four (24) hours may be allowed for the study of the bid documents.

c. Contents

The call shall consist of the following:

- 1) Date of call.
- 2) Number of bid.
- 3) Purpose of bid.
- 4) In construction bids:
 - a) Name of project;
 - b) Location of project;
 - c) Description of project.
- 5) In construction and service bids:
 - a) Term within the work shall be performed or the service rendered.
- 6) Conditions or requirements bidders must meet.
- 7) In the bids called by publication or when it may not be feasible or economical for the Government to send the documents by mail:
 - a) Specific instructions for locating or obtaining the bid doc-

uments, including physical address and specific place where the documents shall be delivered and the telephone number.

- b) Date and hour of the last day for picking up the bid documents.
- 8) Date and deadline time for the bidder to submit his proposal.
- 9) Date and hour of bid opening. Although the last date for delivery may be fixed as the opening date, the hours should not coincide and they shall always be indicated in the call.
- 10) Expenses to be paid, if any.
- 11) In bids by invitation, the complete bid documents shall be included in said invitation as well as the call itself which shall contain the information indicated herein, provided it is not burdensome for the Government in which case they shall be handed personally in the Office of the Secretary.

2. Call by Newspapers

The call shall be made by newspaper when there is no registry available; when the interests of the Government are best protected or when it is required by a special law. The call shall be made as provided below:

a. Publication

The call shall be made by publishing a notice of not less than four inches wide by four inches long (4" X 4") in two newspapers of general circulation at least once.

3. Call by Invitation

The call by invitation shall be made in one of the following manners:

- a. By sending the complete bid documents by mail;
- b. By hand delivering the documents;
- c. By calling the bidder by phone to pick up the bid documents.

In addition to the provisions in subdivisions a., b., and c. a copy of the invitation shall be posted in the "Bidders Bulletin Board" in the agency.

ARTICLE 27.- Persons Invited

1. Call by Newspaper

Bids whose calls have been made by publication in the newspaper shall be opened to all persons interested who comply with the bidder requirements.

2. Call by Invitation

Bids whose calls are made by invitation shall be sent to the bidders included in the Bidders Registry stipulated in Part One of these regulations, in conformance with the subject matter under which they registered.

ARTICLE 28.- Amendments to Bid Documents

1. When Applicable

The amendments to the bid documents shall be applicable subject to compliance with stipulations herein.

a. Date

Amendments to the bid documents shall be made only if they are made prior to the Opening Act.

b. Circumstances

Amendments shall be made only:

- 1) When the petitioning agency submits amendments;
- 2) When in the opinion of the Administrator the terms established are not reasonable;
- 3) When a substantial and incorrigible error in the bid documents is discovered;

- 4) When it is sought to increase or decrease the terms or amounts or to change conditions or specifications;
- 5) When the call is impeached.

2. Approval

Amendments must be approved by the head of the agency.

3. Notice of Amendment

The amended document shall be notified by the Office through publication of a notice in a newspaper of general circulation or through its remittance by certified mail with return receipt to the bidders invited, depending on the type of the original call that was made.

ARTICLE 29.- Cancellation of Bid Call

Bid Call may be cancelled subject to the following:

1. Before the Opening Act

The cancellation must be made at any time prior to the Opening Act.

- a. If there unexpectedly arises any of the conditions exempting the bid procedure;
- b. For any cause that the Administrator considers has been duly justified by the petitioning agency;
- c. As a consequence of impeachment of the bid call.

2. After the Opening Act

The bid call may be cancelled after the opening by the Office as well as by the Bid Board when there exist the conditions indicated by these regulations in its article 63, subdivision 4.

3. Approval

The cancellations must be approved by the Administrator.

4. Notification

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

ARTICLE 30.- Impeachment of Bid Call

If a bidder interested in participating in a bid does not agree with the final terms under which the bid is called, he may impeach the terms thereof in accordance with the following:

1. Filing of Petition

Said petition may be filed only if there exists one of the following circumstances:

- a. That he disagrees with the Instructions, Specifications or Conditions of the Bid on the ground they are restrictive.

2. Scope of Petition

This petition may not be used when in disagreement with the contents of the standard specifications, over which matter only the Regulatory Board shall have jurisdiction, in accordance with what may be established in the Regulatory Board Regulations.

3. Term

Any impeachment of the bid call shall be filed before the head of the agency within three (3) days following the date the call was mailed.

Any impeachment mailed or filed before the Assistant Administrator after said term shall be rejected.

4. Contents

The petition for impeachment of the bid call shall be filed in original and two (2) copies, typewritten or printed and it shall contain the

following:

- a. Bid number;
- b. A detailed statement indicating the specific parties, specifications or conditions the terms of which are impeached;
- c. The specific grounds and arguments on which the impeachment is based, including documentary evidence and necessary material which show and prove that the allegations made to impeach the bid call are valid and true;
- d. A clear indication of the remedy and action sought;
- e. The signature of petitioner or his authorized representative.

5. Effect of Petition

The Auxiliary Administrator shall pass on the validity of the impeachment and decide the same on its merits.

As a consequence of this petition the transactions on this particular bid shall be stayed, and subsequent terms shall be counted from and after the final decision of the Auxiliary Administrator who shall decide within three (3) days after receiving the impeachment.

6. Result of Petition before the Auxiliary Administrator

As a consequence of the petition filed before the Auxiliary Administrator the latter may take one of the following actions:

- a. Dismiss the petition and order the continuation of the procedure;
- b. Amend the call and issue a new call;
- c. Cancel the call.

7. Notification

The decision rendered by the Auxiliary Administrator shall be simultaneously notified in writing to the bidders invited.

8. Petition on Appeal

If the petitioner is not satisfied with the decision of the head of the agency, he may appeal to the Board of Review of the agency within three (3) days following the date the decision was mailed. The petitioner shall send a copy of his appeal to the head of the agency and comply with the provisions of the Regulations of the Board of Review of the agency.

SECTION C.- BID DOCUMENTS

ARTICLE 31.- Definition, Bid Documents

The Bid Documents is a set of documents delivered to the bidders interested in making quotations, in which everything necessary to facilitate the preparation of their proposals shall be stipulated.

ARTICLE 32.- Contents

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

ARTICLE 33.- Instructions: Definition

The instructions shall be the guidelines indicating to the bidders how to prepare their proposals.

ARTICLE 34.- Preparation of Instructions

1. Persons Preparing Them

The Administrator shall assign the persons who shall be in charge of preparing and drafting them.

The instructions shall be the same for all the bidders in a bid. In order to insure their similarity they shall be formally adopted in an official form.

2. Office Obligation

Once the Instructions have been approved by the Administrator, the Office shall have the obligation to see that all the bids called shall include the General Instructions and the corresponding Special Instructions.

ARTICLE 35.- Types of Instructions

1. General

The General Instructions shall be the guidelines given to the bidders subject to the provisions herein stipulated.

a. Contents

General Instructions shall contain provisions on the following:

- 1) How to make the proposals, such as preparation, delivery and others pursuant to the provisions of Section D of Part Three of these regulations.
- 2) Requirements to be met by bidders.
- 3) As to provisions established in the regulations and other rules governing the bid procedure, or acquisition or sale contracts with the Government which the Administrator may indicate as necessary or advisable to insure their effective compliance by the bidders.
 - a) The following regulatory provision shall always be included in the General Instructions.
 - (1) "The Government shall not be considered bound by any award until the corresponding contract shall have been signed."

2. Special

The Special Instructions shall be warnings or special notices made to the bidders, indicating changes, suggestions or commission of errors and other matters which the Board or experts believe should be indicated to the bidders or in which the Administrator may be interested to include in the bid to facilitate the evaluation and award of the proposals.

ARTICLE 36.- Specifications: Definition

Bid specifications are a set of physical, functional, esthetic characteristics as well as of quality of each one of the products, materials, equipment, works or services requisitioned and which shall be contained in the descriptive part of what is requested in the Bid documents and clearly identified as "Specifications".

ARTICLE 37.- Preparation of Specifications

The standard specifications shall be drafted by the Regulatory Board; special ones shall be drafted by the Office or petitioning agency, in which case they shall be revised by the Office except as provided by Article 22, subdivision 3, paragraph b.

1. Office Obligation

The Office shall not accept nor process any requisition which does not include the minimum specifications of the matter requisitioned except in those cases expressly authorized by regulation.

a. Review

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

- 1) That they are up-to-date;
- 2) That they are clear, precise and complete;
- 3) That they are not restrictive;
- 4) That they contain what is basically necessary to describe what is requested.

ARTICLE 38.- Types of Specifications

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

1. Standard Specifications

Specifications known as "Model" or "Standard" are those published in the "Specifications Model of the Regulatory Board" and which shall be adopted by the Administrator upon the recommendation of the Regulatory Board.

a. Purpose

The purpose thereof is that everything acquired by the Government shall have the same degree of quality and that there be uniformity in the description of what was requisitioned and acquired.

2. Special Specifications

"Special Specifications" shall be drafted by an expert on the matter when no specification standard or model for an equipment, material, work or service requisitioned has been adopted or those approved do not apply to the requisition.

ARTICLE 39.- Conditions: Definition

The conditions of a bid are the terms under which the goods are to be delivered, the work executed or the service rendered.

ARTICLE 40.- Preparation of Conditions

The Conditions shall have to be based on the rules regulating the acquisition in the Government. When making its requisition, the petitioning agency shall select those provisions applicable to the requisitioned matter and shall be responsible for including them.

ARTICLE 41.- Types of Conditions

Every bid shall contain three (3) types of conditions: General, Special and Particular.

ARTICLE 42.- General Conditions

General Conditions are those based on the rules of acquisition or disposal that the agency may need.

The General Conditions must always be included in all the Bid Documents, but may vary in details depending on the bid subject matter.

1. Contents

General Conditions shall involve the following matters:

- a. Bid Bond
- b. Performance Bond
- c. Trademarks
- d. Model
- e. Samples
- f. Inspection Certificate
- g. Packaging Quality
- h. Content and Weight
- i. Delivery Date
- j. Storage
- k. "General Conditions for Public Works Contracting and Other Related Documents"
- l. Any other required condition
- m. Other matters contained in the Acquisition Regulation, the State Surplus Property Regulation or in any other related rule approved by the head of the agency or by the Secretary of the Treasury.

n. Any other requirement that the head of the agency deems necessary in order to safeguard the best interests of the Government with the successful bidder.

ARTICLE 43.- Preparation and Publication of General Conditions

General Conditions shall be drafted by the Office in coordination with the person designated by the head of the agency for such purposes.

ARTICLE 44.- Special Conditions

Special Conditions shall be those established depending on the goods, works or service to be acquired or disposed of and which, on the basis of the experience in evaluating, awarding or administering contracts, it is concluded that, in particular circumstances, said special conditions should be adopted.

ARTICLE 45.- Particular Conditions

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

SECTION D: - PRESENTATION OF PROPOSALS

ARTICLE 46.- Definition

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

ARTICLE 47.- Deadlines

1. For Pick-Up or Receival of Bid Documents

The Bid Documents shall be delivered to the bidders speedily, safely and in equal conditions.

When the Call is made by newspaper, it shall clearly indicate the place, date and hour for picking up the Bid Documents.

When by invitation, the documents may be sent with the call. In those cases which may be burdensome for the Government, only the bid call may be sent, clearly indicating the place, date and hour for picking up the documents.

2. For Delivery or Submittal of Bid Documents

a. In normal cases

The bid call shall have to clearly indicate the place, date and hour for the bidders to deliver or submit their proposals. Said date should establish a reasonable term which shall not be less than three (3) days subsequent to the publication date of the last notice or mail remittance of the Call.

b. In special cases

When the call is hand delivered by messenger in special cases a term which shall not be less than twenty-four (24) hours for submitting their proposals shall be granted.

The deadline for submitting the proposals may be the same day of the opening, but the hours may not coincide. If in the opinion of the Office it is more beneficial for the Government or at the request of the Board, different dates may be established for the delivery and the opening.

3. Envelope Opening

The Secretary shall not receive any bid after the commencement of the opening of the envelopes containing the bidders' proposals.

ARTICLE 48.- Proposal Submittal

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

1. Official Form

Bidders shall submit their proposals in the official forms furnished by the Administration, in original.

a. Reproductions

The bidders may reproduce the official form by photocopy, if necessary.

b. Additional Sheets

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

c. Different Models

The Office shall be responsible to see that the corresponding form is used for each different matter object of a bid. Notwithstanding what is stated herein, the Administrator may adopt a uniform form for any matter susceptible to being acquired or sold through a bid. If adopted, the Office shall incorporate it to its work.

2. Sealed and Identified Envelopes or Packages

It shall be strictly the obligation of every bidder to submit his proposal in envelopes or packages, both sealed, which shall be identified in its exterior. Offers for only one Bid will be allowed per each package or envelope.

a. Contents

The identification shall contain the following information:

- 1) Bid subject matter
- 2) Bid number, date and hour of delivery and opening
- 3) name of project
- 4) name of bidder
- 5) telephone number and address

b. Noncompliance in Identification of Envelope or Package

Any proposal received without proper identification as herein established, shall be handled as regular correspondence. Once opened according to the normal handling of regular correspondence, the Secretary shall communicate with the bidder and return the envelope as received so that he may comply with the provisions established in these regulations. The Secretary shall make a photostatic copy of the envelope as evidence and draw-up a record.

1) Board Release

Under these circumstances the Board shall not be liable if the sender loses his opportunity of submitting his proposal on time; nor may the bidder demand that notice be taken of his proposal or charge that his proposal was disclosed or opened ahead of time.

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

3. Signature

The proposal shall be signed in permanent ink or ball point pen in the space provided in the form furnished.

a. Signature Procedure

The person signing shall comply with this requirement as follows:

- 1) he shall print his name
- 2) sign it
- 3) shall indicate under what capacity he signs and the office or position he holds.

b. Signer

The proposal shall be signed by the person who has his name registered in the Bidders Registry.

c. Alterations

Every proposal shall be written in a legible, clear, complete and accurate manner.

Any proposal written in an illegible or ambiguous manner shall not be considered by the Board.

Any erasure, strike-out, annotation or any correction in the documents must be initiated by whomever signs the proposal if he wishes the Board to consider it.

3. Address

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

4. Price Quotation Unit

Proposals shall be made in dollars and cents by items.

Proposals stated in percentage terms, in reference to possible prices fixed by government authorities, in undetermined or determinable prices or in amount of money or percentages in excess of the highest or lowest quotation, shall not be considered.

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

ARTICLE 49.- Board Obligations

The Board is bound to safekeep all proposals, according to what is herein established.

1. Record

The Secretary shall keep record of all the proposals received or submitted.

a. Contents

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

- 1) Name of sender
- 2) Address of sender
- 3) Date and hour received or submitted
- 4) Identification of depository where it is kept

a) Depository

The Board shall maintain in a depository locked with key for each bid, all the envelopes or packages of the proposals received. The Secretary shall have the custody of these depositories in which the proposal envelopes of each bid shall be kept sealed until opening day thereof and each depository shall be identified with a permanent number and the number of the specific bid.

ARTICLE 50.- Delivery Procedure

Delivery of the bidders' proposals shall be executed according to the provisions herein:

1. Place of Delivery

Delivery shall be made at the Office of the Board or at any other place expressly stipulated in the specific bid for which the proposal is being submitted.

2. Manner of Delivery

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

a. Personally

1) Who May Submit

Any person whether employed or not by the bidder may submit the proposal to the Board.

2) Obligation of the Secretary

It shall be the obligation of the Secretary to issue a receipt indicating the date and hour of delivery and the number of the bid for which said proposal is received as well as to enter this information in the Correspondence Book of the Board and in the record of the bid in question.

b. By Mail

When the proposal is sent by mail, the return receipt of the federal post office shall serve as the bidder's receipt. If the bidder sends his proposal without registering it, it shall be at his own risk and no receipt shall be issued.

The Secretary shall make the corresponding entries in the Correspondence Book of the Board and in the record of the bid in question.

3. Bid Receiver

It is the function of the Secretary to receive the Board documents. It shall be the obligation of the Board to provide him with the means that will assure him that there shall always be an officer authorized by him, available to receive the proposal envelopes and to issue the receipts. No Board member shall receive the proposals.

4. When a Proposal Envelope is not Susceptible of Evaluation

The Office of the Secretary shall not refuse to receive a proposal envelope even when it is submitted under conditions that the regulations provide it shall not be susceptible of evaluation. In these cases, the Secretary shall proceed as follows:

a. Noncompliance with Delivery Term

Every proposal envelope that is received after the date and hour fixed for the delivery thereof, which shall be verified by checking the date and hour of the Board clock and not the postage machine of the bidder or of the post office, shall be returned unopened by the Secretary unless the bid has been without bidders. In these cases the unopened envelope will be referred to the Board in order that said Board opens it and determines action to be followed. The Board may decide to study the offer for any possible award as long as it benefits the public interest.

b. Noncompliance with Other Requirements

If the proposal arrives on time but open, broken or its envelope is so deteriorated that there is indication of the possibility that it may have lost some documents, the Secretary may communicate with the bidder and request him to verify the contents of the envelope and determine whether it contains all the documents and whether he is interested in submitting it, but the decision and formal delivery on the part of the bidder shall have to be made before the filing deadline. The date of the original receipt of the envelope shall not be considered

as the filing date.

ARTICLE 51.- Methods of Making Proposal

The bidders shall make their proposals only as stated herein.

1. Basic Proposal

"Basic Proposal" shall mean the proposal that the bidder is bound to make for each category or item for which he is interested in bidding.

Even though the bidder adds or makes a total computation of the proposals made by him in a bid, he has the obligation to enter in the space provided therefor, next to each item, his proposal for the same. This proposal shall be made in dollars and cents.

a. Effect of Omission of Basic Proposal

No bid document shall be accepted in which no basic proposal for each item bid has been made.

If unit prices have been entered for some items and for others they have been omitted, it shall be understood that the bidder is interested in bidding only for those items next to which he entered the unit price, that is, the basic proposal.

In those on which he is not interested in bidding, he shall so indicate in writing next to the corresponding item.

2. "All or Nothing" Proposal

a. Definition

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

b. Types

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

1) With discount

The bidder shall enter next to the items he groups together and to the sums of the items a reduced price with the phrase "All or Nothing" next to it, or a percentage.

2) Without Discount

The bidder shall enter next to each item he groups together and to the sum of the items the phrase "All or Nothing". An award in favor of the "All or Nothing Proposal" may be made only if the group of items for which he bid complies with the specifications and conditions and total an amount less than the total amounts submitted by the other bidders who complied with the specifications and conditions and offered the lowest prices in the same items.

3. Lump Sum Proposal

In addition to the Basic Proposal the bidder may submit a "Lump Sum" proposal as follows: next to the total of the categories for which he bid, the bidder shall also offer a reduced figure over the original sum or indicate a percentage discount.

a. Effect of Making "Lump Sum" Proposal

The Board may consider and accept the individual items of any proposal disregarding the "lump sum" proposal if it is so convenient to the Government, according to its opinion; but in such case, said items shall not be susceptible to the discount. If the Board accepts the "lump sum" proposal and the latter was made on the basis of total amount,

the reduced amount shall be distributed on a pro rata basis among the items. If the proposal had been made on a discount percentage basis, the percentage shall be applied to each item.

4. No Proposal Made

If the bidder is not interested in making a proposal he shall return the invitation with a note to that effect.

The bidder shall attach to the explanatory note the reasons he has for not making the proposal as well as notifying whether or not he is interested in being invited to future bids. If he fails to include this information, he shall be taken out of the Registry.

5. Nonresponsive Proposals

In making his proposal, the bidder shall confine himself to offering the goods, works and service requested within the specifications and conditions stipulated in the bid Documents.

The Board shall not consider any proposal which adds or eliminates specifications or conditions requested. Nor shall it consider any proposal offering alternatives of goods, works or services which are different but similar to the specifications requested. Nor shall it consider proposals containing phrases, paragraphs or comments that will render the proposal ambiguous as to its meaning, incomplete or inaccurate.

Proposals that alter, modify, vary or change the conditions requested shall also be rejected.

ARTICLE 52.- Amendments Prior to Opening

1. Types

There are two basic types of amendments: those arising as a result of error and those arising as a result of modifications in the proposals,

both effected prior to the Opening Act.

a. Error

When a bidder realizes that he has committed an error in a proposal, he should so notify in writing and make sure to submit its correction to the Board before the opening of the bid, if he wishes that his amended proposal be considered.

1) Error in Addition of Totals

Errors in the additions shall not be taken into account since the Board shall adhere to the figures in the items. If a bid should be awarded, the Board shall make the corresponding correction in the total.

b. Modifications in Proposals

1) When Proper

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

- a) When the Bid Documents are amended.
- b) When the bidder so requests.

2) Term

The proposals must be modified before the bid opening.

2. Amendment Procedure

The proposals shall be amended in writing and in those cases where the amendments are made on account of the bidder, they shall be accompanied with any information which tends to show the reason therefor, if in the bidder's opinion it is necessary to make it known to the Board.

a. Delivery

The amended proposals shall be delivered in the same manner as

the original proposals.

b. Formal Requirements

Any envelope containing amendments to the proposals shall come duly identified, in the same manner as the original proposal, in addition to the phrase "Amendment".

The Board shall not consider any amendment which arrives after delivery date for the corresponding bid for failure to identify the envelope due to the bidder's negligence. No action may be taken against the Board.

ARTICLE 53.- Withdrawal of Proposals

The proposals may be withdrawn subject to the provisions herein.

1. Requirement

a. The notification of proposal withdrawal shall be presented by certified mail with return receipt or personally at the Office, stating the reasons for withdrawal. Under no circumstances shall verbal notifications be accepted.

b. The withdrawal notification should be delivered at the Board before the commencement of the Opening Act of the bid.

2. Effect of Unjustified Withdrawal

When a bidder withdraws his proposal by mail and it is shown by the federal postmark that the withdrawal was sent prior to the Opening Act and it should reach the Board after the Opening Act but before the award, the Board shall not consider that proposal.

If a bidder withdraws his proposal, but the postmark on the envelope shows the time and day subsequent to the Opening Act and it should have been received at the Board after the award in his favor, he must comply

with the contract and can not allege the belated withdrawal in his favor. In case he refuses to comply, the bid bond shall be foreclosed so as to respond for the excess amount that the Government shall have to pay to the second highest bidder.

SECTION E: OPENING ACT

ARTICLE 54.- Opening Act, Purpose

The Opening Act shall take effect in each bid in order that the interested parties may verify what proposals were received, whether they complied with the basic form requirements and to find out the amount and model, whenever proper, of each bid.

ARTICLE 55.- Publicity of the Act

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

ARTICLE 56.- Function of the Board

The Board shall not be constituted for the Opening Act and it shall not be required that any of its members be present.

ARTICLE 57.- Function of the Secretary

The Secretary or his authorized representative must be present in said act and he shall be in charge of the proceedings during the same and shall distribute the work among the Office personnel during the act.

ARTICLE 58.- Obligations of Attendants

1. Rules of Conduct

Any person who attends the Opening Act, must comply with the rules of conduct established by the Board for such purposes.

2. Attendance Registry

Every attendant at the Opening Act shall sign the Attendance Registry provided by the Secretary for such purpose. Upon signing said Registry he must state whom he represents and his position.

ARTICLE 59- Opening and Reading

The Opening Act shall proceed in the manner provided herein.

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

- 1) The number of the bid for which proposals shall be opened,
- 2) Bid subject matter,
- 3) Identification of the persons who are representing the bidders in the act.

1. Envelope Checking

The name of the sender of each envelope shall be read and it shall be checked with the list of envelopes received.

2. Opening

Each one of the proposal envelopes shall be opened in the presence of all the attendants.

3. Reading

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

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

4. Right of Attendants

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

5. Reading at Sale Bids

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

6. Closing of Opening Act

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

ARTICLE 60.- Duties of the Secretary Subsequent to the Opening Act

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

1. Opening Record

It shall be the duty of the Secretary to keep a record of all incidents in the Opening Minutes.

a. Term

The Minutes must be drawn up not later than twenty four (24) hours after the Opening Act.

b. Contents

The Minutes shall contain the following information:

- 1) Number and bid subject matter;
- 2) Date, hour and place of opening;
- 3) Number of proposals received;
- 4) Number of bidders for one or more items or how many did not bid;
- 5) Name of bidders invited who did not bid and reasons therefor;
- 6) Persons Attending Act;
 - a) Copy of the Attendance Sheet signed by those present at the Act may be made part of the Minutes.
- 7) Certification by the person in charge of the Act to the effect that the information publicly read was the one required by the regulations;
- 8) The person in charge of the Opening Act shall initial all proposals.

The Minutes shall be part of the record;

9) Any incident during the Opening or peculiarity noted in relation to any specification, condition, or bidder, or any other matter that the person in charge of the Act deems it pertinent to inform the Office and the Board.

c. Signature and Certification

The Opening Minutes shall be signed by the person in charge of the Act.

d. Tape Recording

If the Opening Act proceedings shall have been taped, the recording shall be kept intact and marked under the custody of the Secretary for a period of not less than six (6) months, unless the bid in question be under review of the Board of Review or of the Court in which case it shall be kept until a final and unappealable decision is rendered.

2. Collection

Immediately after the Opening Act, and within twenty four (24) hours subsequent thereto, the Secretary, if designated as Assistant Collector, shall proceed to formally receive the bid bonds.

a. Summons

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

1) Bond Collection

At the appointed hour, in the presence of the Secretary and the bid record being under the latter's custody, the Collector shall proceed to verify and formally receive the bonds.

a) Verification of Bonds

The Collector is under the obligation to diligently verify the bonds submitted and record them in the form thus provided.

b) Bond Receival

Bonds submitted shall be received by the Collector and shall be deposited in a special bond account or in his safe, according to the kind of bond submitted by the bidder.

In those cases in which the proposal has not been accompanied with a bond, the Collector shall so indicate so that it may be verified whether the bidder is exempt from it because he posted an annual aggregate bond.

2) Report

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

a) Report of Bonds Received

The "Report of Bonds Received" shall be part of the bid record and shall contain the following information:

- (1) Bid number;
- (2) Bid subject matter;
- (3) Percentage or fixed amount of bond requested;
- (4) Date of report;
- (5) Bidders list;
- (6) Type of bond submitted by each bidder;
- (7) Amount covered by said bond;
- (8) Number of receipt issued;

(9) Location of bonds;

(10) Certification of date and hour of remittance of receipts.

(a) The Collector shall send the receipts by mail to the address appearing in the proposal immediately after receiving the bonds.

3) Remittance to the Office

Once the certified Minutes and the Collector's Report are included in the bid record, the Secretary shall send by hand the bid record to the Office. This remittance must take place as soon as possible from the date of the Opening Act.

SECTION F. - EVALUATION AND RECOMMENDATION

ARTICLE 61.- Record Receipt

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

ARTICLE 62.- Term for Study and Evaluation

The Study, Evaluation, and Final Report of the Office shall have to be submitted to the Administrator for his approval within a reasonable period of time.

ARTICLE 63.- Evaluation Report

1. The Office must include in its Report a brief, complete and accurate analysis concerning each one of the proposals received and subject to evaluation.
2. The Office shall carefully evaluate the specifications, conditions and price of each one of the proposals.
3. The evaluation made by the Office must be confined solely and exclusively to evaluating the specifications and conditions contained in the bid documents.
4. In its evaluations the Office must always consider the difference in prices of the bidders' proposals before recommending and when the successful bidders' price is higher than one of the other bidders and the same is considered to be unreasonable, it shall be the duty of the Office to study again the case in order to determine whether restrictive, ambiguous or unnecessary specifications and/or conditions have been stipulated for

the use or purpose for which the work, goods or service is acquired and which gave arise to the rejection of the proposal of the lowest bidder.

In this case the Office shall hold a new bid with new and broader specifications.

5. Upon making a recommendation in favor of a bidder, the specific reasons for making the award to that bidder and not to the others, must be indicated.

6. Ties

When two or more bidders submit identical bids in specifications, conditions and prices and upon the Office evaluating them, it decides that they are the best proposals received, it shall proceed as established in this subdivision.

a. Notification and Request

When a tie exists the bidders involved shall be summoned for the date set by the Office, which shall not be more than three (3) days after it make its determination, by any communication means available. This shall be entered in the record.

b. Summons Procedure

For the date and hour summoned, the tied bidders shall appear at the Office and deliver their new prices which has to be the lower, in a sealed envelope. In the presence of the bidders or their representatives the envelopes shall be opened.

1) New Ties

If upon opening the envelopes new ties arise, the same procedure of requesting new prices shall be followed.

7. The Office may include in its Report any comments or special recommen-

dations on other matters it may deem relevant to inform the Board, in addition to the recommendation of awards.

8. The Report that the Office shall have to render to the Bid Board with its corresponding recommendations for each one of the items shall be in writing. If after analyzing or studying the proposals, the Board should determine that it is necessary to delve into said study, it has the power to remand the case to the Office or summon whomever made the recommendation to broaden the same whether in writing or verbally of which minutes shall be drawn up and the same shall be part of the record.

ARTICLE 64.- Office Limitation

No person attached to the agency shall at any moment make public or private manifestations concerning the recommendations and contents of the Report or the possibility of the bid awards in question.

SECTION G. - AWARD

ARTICLE 65.- Study

Immediately upon receipt of the record from the Office, the Board shall begin the evaluation. The Office shall be available in case the Board wishes it to make clear any matter with the persons who were in charge of the preliminary evaluation.

ARTICLE 66.- Term for Making Award

The Board must make the award as soon as possible after receiving the record.

ARTICLE 67.- Award Procedure

1. Type of Meeting

The Award Act for acquisition or sale bids shall take place by means of a private meeting in which the Board is called to order. The Secretary shall draw up Minutes of all the incidences that take place in the meeting.

2. Attendants Allowed

In addition to the Board members, the award meeting may be attended by the authorized representative of the Office, any expert who has participated in the evaluation, or from whom the Board requests counseling in order to enlighten the Board in its deliberations and the Secretary will keep record of all the incidences.

ARTICLE 68.- General Order to Proceed with the Award

The Board shall have to first determine which proposals shall be taken under consideration for award, using as a guide the rules established in these regulations, the information contained in the Opening Act and the Collector's Report.

After making that preliminary determination, the Board shall proceed to verify which of the proposals, subject to evaluation, according to the Office

Report, have complied with the specifications and conditions requested in the bid.

Once it has been determined which proposals, upon complying with the regulation requirements, have offered what was requested in the specifications and conditions of the bid, the Board shall select the one whose price is the lowest. Upon doing so, the Board shall have to take into account the possible discounts and the application of percentages in relation to the "Preference Act". Discounts offered for prompt payments shall not be considered for award purposes.

ARTICLE 69.- General Award Rule

When awarding the bid, the Board shall adhere, in the first instance, to the following and only general award rule.

1. Acquisition Bids

The award in acquisition bids shall be made in favor of the bidder who has a good background of capacity and compliance which shall warrant to the Board that he will comply with the terms of the contract when granted at the proper time, provided his proposal meets the following requirements in the order established:

- a. That it complies with the specifications;
- b. That it complies with the conditions and other requirements established in the bid documents;
- c. That it is the lowest in price.

2. Sale Bids

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

ARTICLE 70.- Specific Award Rules

Upon evaluating the proposals before its consideration, the Board may come across a number of proposals that do not follow the general guidelines established, but that could be susceptible to evaluation, subject to some controls.

The following rules are adopted to offer the Board the guidelines that it must follow under the circumstances provided therein.

1. Adequate Competition

When in a bid there is submitted the quotation of only one bidder, and it is believed that his price is unreasonable, said proposal shall be rejected on the ground that there was no adequate competition.

When only one proposal is received, the Board may award the bid in favor of said bidder if his proposal complies with the specifications and conditions of the bid and the price is not unreasonable.

a. Rejection of Only Proposal

The only proposal received may be rejected, even though it meets the bid requirements, if the price offered is unreasonable, or if the bidder is not trustworthy according to the Board's criteria.

b. Procedure

In this case the Board shall authorized the Office to negotiate with the only bidder. If no agreement is reached, steps may be taken to acquire the goods or services in open market from other unregistered bidders.

c. Office Obligation

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

If the Board continually comes across bids for the same matter, in which only one bidder participates, the Board is bound to so inform the Administrator so that he may order an investigation aiming to identify the causes for the occurrence of said situation and take the preventive measures he deems proper.

2. Several Proposals by Same Bidder

When a bidder submits several proposals in separate envelopes for the same item under his name or under other names or pseudonyms, they shall be automatically rejected and said bidder shall be penalized by suspending him from the Registry or barring him from entering it or participating in future bids for a period stipulated by the Board which shall not be less than one (1) year nor more than three (3) years. The Board shall notify this determination to the Auxiliary Administrator so he may proceed accordingly. The bidder thus penalized may appeal to the Board of Review of the agency within five (5) days after receiving the Resolution of the Bid Board.

a. Alternative

Where in the bids for equipment, machinery or vehicles, a bidder could offer, because of the specifications, various models or styles, all of which comply with the specifications, he must choose one.

If the bidder should offer them, even though all of them comply with the specifications, the Board must reject them.

3. Conspiracy

When it is proved, because of the unreasonableness of the proposals, or because of an investigation made as a result of an affidavit presented before the Board by another registered bidder or by other reasonable cause, that two (2) or more bidders have agreed intentionally defraud

or harm the best interests of the Government, the Board shall reject their proposals and withdraw the bidders from the Registry for a term of not less than one (1) year nor more than three (3) years and such bidders can not participate in any other bid for agencies in the Executive Branch for the some period of time and the case shall be submitted to the Justice Department.

a. Proceedings

The Board shall establish the proceedings to be followed at the hearing of these cases.

b. Unjustified Complaint

If subsequent to the hearing, the Board should prove that the affidavit offered by the complaining bidder has been arbitrary, unfounded and maliciously presented, it shall refer the matter to the Justice Department for the proper action, under the provisions of the Penal Code of 1974, as amended, and shall withdraw said bidder from the Bidders Registry for a period of not less than one (1) year nor more than three (3).

4. Collusion

Where it is proved in a bid that all the bidders reached an agreement with the intention of defrauding or harming the best interests of the Government, all the proposals shall be rejected. The Bid Board may order the purchase from another bidder.

If these bidders are found guilty of the aforesaid charge, they shall be suspended from the Bidders Registry for a period of not less than one (1) year or nor more than three (3) years and such bidders can not participate in any other bid for agencies in the Executive Branch for the same period of time and the case shall be submitted to the Justice Department.

5. No Proposal (Deserted Bid)

When no proposal is received, the Board shall refer the record to the Office so that it may conduct the proper investigation and submit a Report to the Board, on the basis of which it may determine the action to be taken.

In this case it may order the purchase in the open market following the proceedings of the Acquisition Regulations.

6. Whole Reject

All the proposals received for one bid may be rejected in the following cases:

a. Rejected Proposals

1) Proposals shall be considered rejected when:

- a) they do not comply with the specifications
- b) they do not comply with the conditions
- c) they offer unreasonable prices
- d) there is collusion among the bidders

2) Proper Action

In case all the proposals are rejected the following shall proceed:

- a) In the case of construction work or services rendered by the agency, they may be carried out by administration.
- b) In the other cases, a new bid may be called
 - (1) If upon calling a new bid the original situación in which all proposals were rejected should arise, the procedure below shall be followed:

- (a) If the rejection was due to unreasonable price or noncompliance with the Conditions

The Office may be authorized to acquire the goods, construction work or service in question by negotiating the price or conditions or both with the rejected bidders who complied with the specifications, as established

by the Acquisition Regulations.

(b) If the Rejection was due to Noncompliance with the Specifications

The Board shall remand the case to the Office so that it may communicate with the petitioning agency in order to amend the specifications in harmony with the existing market conditions and shall call a new bid under the amended specifications.

No new bid shall be called if it is reasonably justified that time spent in the preparation and award thereof shall adversely affect the commencement, development and use of the work, goods or service according to what may have been determined consistent with the need or planning thereof.

In this case the acquisition of the work, goods or service shall be made in the open market.

In the absence of the aforesaid justification the procedure indicated in subdivision 6 of this article shall be followed in all its parts.

7. Cancellation by the State

All proposals may be rejected in a bid during any stage of the proceedings prior to the remittance of the purchase order provided the petitioning agency bases its petition on reasonable grounds in the following cases:

- a. When the available funds are not sufficient to cover the price offered in the lowest bid
- b. When the petitioning agent desists from the purchase
 - 1) In these cases no similar purchase may be made through the same or

other means during the current fiscal year.

8. Other Criteria

In addition to the aforesaid general conditions, the Board is bound to consider jointly the following additional criteria included in the bid documents.

- a. Savings in the consumption of fuel or electric power of an equipment, according to the standards established by the "LCC Criteria";
- b. Equipment repair frequency;
- c. Equipment maintenance shop facilities;
- d. Spare parts cost;
- e. Factors affecting service such as availability of parts.

ARTICLE 71.- Decision

Once the proposals are evaluated, using the Office Report, the Board shall decide in favor of which bidder it shall make the bid award, as follows:

1. Procedure

a. Summary

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

b. Decision

Attending members shall vote in each item in favor of the bidder who complies with the specifications and conditions and whose proposal in general may be most beneficial to the Government. The Board shall establish the system to be followed in the voting.

2. Duty of the Secretary

It is the Secretary's duty to keep a record of all the incidences and to draw up the Minutes.

3. Effect of Award

The award made in favor of a proposal constitutes a tacit rejection of all the other proposals which may have been submitted by the bidders.

ARTICLE 72.- Award Notice

After the Board has awarded the bid, the Secretary must notify as promptly as possible, all the bidders who submitted bids, the petitioning agency, the Office and the Collector,

1. Method

The Award shall be notified to the bidders by means of a written notice entitled "Award Notice", which shall be sent by the most adequate means according to the Board instructions, to the address appearing in the proposal. The Secretary shall certify the date of said Notice.

2. Contents

a. General

The Award Notice shall contain the following information:

- 1) Date of Notice;
- 2) Date of Award;
- 3) Name and address of bidder;
- 4) Bid number;
- 5) Name of each bidder indicating the items awarded in their favor and the reason for rejecting the items not awarded to each one of them;

- 6) Warning to the effect that in case of not being satisfied with the award, he may request review thereof before the Board of Review of the agency within five (5) days from the posting date according to the federal mail office.
- 7) Warning to the effect that the award in cases of sale is susceptible of variation. If within five (5) days after notifying the highest bidder, the latter does not pick up and pay for the goods, the bid may go to the second highest bidder; for which reason the second and third bidders should remain available for the period indicated to maintain their proposals.

b. Successful Bidder

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

- 1) Documents to be submitted before execution of contract;
- 2) A reasonable time to submit them, according to the Board, in each case;
- 3) Warning to the effect that the award does not bind the Government until the contract is executed or the purchase order issued.

3. Report to Official Disburser

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

a. Purpose

The Collector is bound to submit to the Official Disburser a detailed Report of the status of the bid bonds so that he may return the bonds that should be returned.

b. Contents

The report to the Disburser shall contain the following information:

- 1) Bid number;
- 2) Date of Report;
- 3) Name of bidder;
- 4) Number of each receipt issued;
- 5) Type of bond presented;
- 6) Amount of bond;
- 7) Items awarded to each bidder;
- 8) Price offered by the bidder in each item awarded in his favor;
- 9) Amount to be charged to the successful bidder;
- 10) Total amount of items awarded to each bidder;
- 11) Amount to be reimbursed to unsuccessful bidders.

ARTICLE 73.- Award Cancellation

By unanimous agreement the Board may cancel the award before the execution of the contract for the following:

1. Reasons

a. Need

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

1) Limitation

In such cases the petitioning agency may not:

- a) Request authorization to acquire the goods, the construction work or the service through another procedure;
- b) Nor acquire the goods, construction work or service in question during the current fiscal year if it is not justified and approved by the head of agency.

b. Funds

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

- 1) are depleted
- 2) have been released to be used for another purpose

c. In the best interest of the Government as justified in writing by the head of the agency.

2. Effect

Neither the Board, nor the Agency, nor the Government shall be liable in any way in these cases.

ARTICLE 74.- Award Review

Any bidder participating in a bid may request, before the Review Board of the Administration, the review of the award made by the Bid Board or its cancellation, within five (5) days from the posting date according to the federal mail office, as provided by the Regulations of the Review Board of the Agency.

When the Award Notice is delivered by hand, the petitioner who wishes to file before the Board any action permitted by these regulations, should do so by filing it within three (3) days after receiving the notice.

1. Requirement

If the bidder who files the petition were the contractor of the existing contract, to be substituted by the new proposed contract, the effectiveness of his contract shall not be extended. In such cases no goods or services may be acquired from the petitioner.

SECTION H. - CONTRACTS

ARTICLE 75.- Notification to Office

1. Term

Five (5) days after having sent the Award Notice, the Secretary shall send to the Office a notification to the effect that no impeachment has been filed with the Board of Review so that the Office may proceed to execute the contract pursuant to the Acquisition Regulations.

2. Exception

In the event that the bid award had been impeached, the notification to the Office shall be made immediately after having received the final resolution of the Board of Review of the agency.

3. Bid Record Safekeeping

The Secretary shall keep the bid record until the Board of Review shall have decided the case or until it requests delivery thereof.

4. Contract Record

The proposal of the successful bidder in the bid documents constitutes the contract between the parties and, together with the other formal requirements in the Government, shall constitute the contract record, which shall be kept in the Office. Copies of orders against said contract shall be attached to said record. Each bidder shall have a contract record.

ARTICLE 76.- Refusal to Comply with Contract

If the successful bidder should refuse to comply with the contract when notified, the Office shall proceed as follows:

1. Board Notification

The Office shall immediately notify the Board of the successful bidder's refusal to comply with the contract.

2. Action in Order

The Board shall immediately choose one of the following alternatives:

- a. Award the bid to the second lowest responsible bidder which complies with the specifications and conditions;
- b. In the cases of services or construction works, to recommend the execution thereof by administration, in which case it shall so notify immediately the corresponding Office for its execution.

3. Penalties

Regardless of the action to be taken or recommended to be taken by the Board, the following penalties shall be imposed on the successful bidder who refuses to comply with the contract.

- a. His bid bond shall be foreclosed to cover the payment between the amount offered by him and that of the second bidder
 - 1) If the bid bond is not sufficient, action may be taken directly against the bidder in order to recover the difference
 - 2) He shall be withdrawn from the Registry for a period of not less than one (1) year nor more than three (3) years, in the discretion of the Board and can not participate in any other bid for agencies in the Executive Branch for the some period of time.

ARTICLE 77.- Breach of Contract

If during the execution of the contract, the contractor should breach it, the petitioning agency is bound to immediately notify the Administrator of said breach. If the charge is true, the Administrator shall order the elimination of the bidder from the Registry for a period of not less than one (1) year nor more than three (3) years, irrespective of the action taken against the bidder to recover because of the breach of contract or order including the forfeiture of the performance bond and can not participate in any other bid for agencies in the Executive Branch for the same period of time. In these cases the procedure shall be in harmony with the provisions established in the Acquisition Regulations of the General Services Administration.

PART FOUR
GENERAL PROVISIONS

SECTION A: DOCUMENTS

ARTICLE 78.- Scope of the Public Nature of Bid Documents

As a general rule, the bid documents and the contracts are public and, therefore, shall be accessible to the interested parties after the Proposal Opening.

1. Exceptions

Notwithstanding the above mentioned, the following documents shall not be considered public documents in relation to their accessibility to the bidders or third persons:

- a. Working papers drafted by the Board members individually during their deliberations or special studies and which are not part of the bid record.
- b. Persuasive, but not binding, reports of the counseling experts of the Board.

ARTICLE 79.- Conservation Periods

1. File

Every bid record shall be kept in the Central File, active and accessible until the first audit by the Comptroller of Puerto Rico.

2. Disposal

a. New Records

After the Comptroller's audit, the records shall be sent to the Central File of the Administration where they shall remain for a period of sixteen (16) years computed from the execution date of the contract,

at the end of which they shall be disposed of according to the Public Documents Disposition Regulations, approved pursuant to Act No. 5 of December 8, 1955, as amended, or any other future law which may be approved.

b. Records of Former Boards

Records of the bids granted by former Bid Boards in the agency as well as of the contracts executed before the approval of these regulations, shall be disposed of, if they meet the following requirements:

- 1) More than sixteen (16) years shall have elapsed from the execution of the contract,
- 2) They must have been audited by the Comptroller,
- 3) That the contracts executed by virtue of these bids are not in force,
- 4) That the contracts have no suits pending in the courts.

c. Records of Agencies with Delegations

The records in the Bid Boards of the agencies, if they comply with the terms established in subdivision b, shall be submitted to the disposal procedure mentioned, through the Administrator of Documents of the petitioning agency.

SECTION B. - DELEGATIONS

ARTICLE 80.- Delegation to Board

In order to perform the functions provided in these regulations, the head of the agency shall have to delegate to the Board members the corresponding powers and duties.

SECTION C. - TEMPORARY PROVISIONS

ARTICLE 81.- Temporary Effectiveness of the Bid Boards of the Agencies

The Bid Boards existing in other agencies at the effective date of these regulations shall continue their functions in the bids called and in process.

ARTICLE 82.- Forms and Documents

The present forms shall continue to be used. In the future, all the fiscal or necessary forms for the implementation of the stages of the procedures established herein shall have to be designed and referred to the head of the agency and the latter shall refer them to the Treasury Department for its approval.

ARTICLE 83.- Procedure

1. Internal

The internal procedures required by the Board may be adopted according to the Work Plan established by the Board. Until said forms are approved, the Board shall follow the present procedures of internal operation.

SECTION D. - FINAL PROVISIONS

ARTICLE 84.- Government Employees Limitation

No Government officer or employee who takes part in the bid or acquisition proceedings may have an economic interest in such proceedings.

Under no circumstances shall any person employed in the Government or any official thereof intervene directly or indirectly with the bidders in the preparation and drafting of their proposals.

ARTICLE 85.- Penalties

Any bidder, employee, officer or representative of the Government who violates the provisions of these regulations shall be sanctioned with the administrative, civil and criminal actions applicable to the facts in question.

ARTICLE 86.- Repeals

These regulations repeal the Formal Bid Regulations of June 18, 1979, as amended.

ARTICLE 87.- Effectiveness

These regulations shall take effect thirty (30) days after their filing with the State Department of the Commonwealth of Puerto Rico, according to the provisions of Act No. 112 of June 30, 1957, as amended, known as the "1958 Regulations Act".

Approved in San Juan, Puerto Rico on 24 day of the month of November , 1986.


BLAS CONTRERAS
Administrator