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COMMONWEALTH OF PUERTO RICO
General Services Administration

ACQUISITION REGULATIONS

OF THE

GENERAL SERVICES ADMINISTRATION

Final

COMMONWEALTH OF PUERTO RICO
General Services Administration

ACQUISITION REGULATIONS

TO establish the rules that shall regulate Government acquisition of goods, works and services; to distinguish between methods of Government acquisition; to prescribe acquisition procedures; to establish the steps to be taken when executing the contracts subsequent to the formal bid, informal bid, open market, or negotiation procedures; to delegate some of the functions of the General Services Administrator; to fix responsibilities and obligations; to establish penalties and to repeal Regulation No. 6 of Government Acquisition of June 18, 1979, as amended.

GOVERNMENT ACQUISITION REGULATIONS

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PART ONE
GENERAL RULES

SECTION A: INTRODUCTION

ARTICLE 1.- Short Title

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

ARTICLE 2.- Source of the Law

These regulations are adopted pursuant to the powers conferred on the General Services Administrator by subdivisions j and p of Article 14, Article 16, subdivision b of Article 17, subdivision a of Article 18, subdivision a of Article 19 and Section 21 of Act No. 164 of July 23 of 1974, as amended, known as the "General Services Administration Act" and subdivision b of Section 4 of Act No. 5 of December 8, 1955, as amended, known as the "Public Documents Administration Act".

ARTICLE 3.- Purpose

These regulations are adopted for the purpose of establishing within one sole legal body the substantive rules governing the acquisition of chattels, works and services in the Executive Branch.

ARTICLE 4.- Rules of Construction

1. Tense, Gender and Number

The words and phrases used in these regulations shall be construed according to the context and meaning of common and current usage.

The present tense shall include the future; the masculine gender shall include the feminine and the neuter, except in those cases where such interpretation is absurd. The singular number includes the plural and the plural includes the singular.

2. Abbreviations and Definitions

The words and phrases used throughout these regulations are defined in this subdivision. When in order to achieve greater clarity, terms have been defined in other sections, it has been expressly indicated. The words and phrases listed below are short terms or definitions of the following:

- 1) Administration - General Services Administration
- 2) Administrator - General Services Administrator or his authorized representative.
- 3) Assistant Administrator - Any of the Assistant Administrators of the different Areas of the Administration. Unless specifically indicated it shall be understood that their functions can not be delegated.
- 4) Assistant Administrator for Purchases - The Assistant Administrator of the Purchases, Services and Supplies Area of the Administration.
- 5) Assistant Administrator for Transportation - The Assistant Administrator of the Transportation and Maintenance of Motor Vehicles Area of the Administration.
- 6) Assistant Administrator for Construction - The Assistant Administrator of the Construction, Conservation and Maintenance of the Public Buildings Area of the Administration.
- 7) To acquire - To procure, obtain or attain services or goods in existence or chattels and works that may be brought into existence through any of the means and methods established in these regulations.
- 8) Petitioning Agency - Any Government agency that may be bound by law to use the services of the Administration or those which,

although not being bound to do so, voluntarily request said services; in which case they become subject to the regulations and controls established by the Administration. The Administration shall be considered as another petitioning agency.

- 9) Warehouse - Any of the supplies Warehouses established or to be established in each one of the Areas in charge of supplying the agencies the chattels necessary for their operations, such Warehouses being, of the Purchase Area for office and cleaning materials and official forms; of the Transportation Area for motor vehicle materials and parts; of the Construction Area for construction materials, parts and equipment and any other Warehouse that may be established in the future.
- 10) Area - Any of the Administration Areas which are: Administration Area, Purchase, Services and Supplies Area, Construction, Conservation and Maintenance of Public Buildings Area, and the Transportation and Motor Vehicle Maintenance Area.
- 11) Change Notice - Any amendment subsequent to the remittance of an Acquisition, Service or Commencement Order.
- 12) Abandoned Goods - Anything that is found or reaches the hands of the Government without its legitimate owner being identified, or when the latter fails to claim it or refuses to receive it within the term established by law.
- 13) Confiscated Goods - Anything that any of the Government agencies authorized by law to do so, may seize because it was used to help in, or carry out, the commission of one of the offenses expressly mentioned in the law authorizing the seizure.

- 14) Expendable Goods - Anything that is consumed when used.
- 15) Chattels - Anything that is susceptible of being moved by itself or by another force or person and that may be fungible or not, such as, but not limited to, the following: medicines, food, office material and equipment, construction material and equipment, land, sea, and air transportation means, its parts and accessories, material for its maintenance; printing or reproduction equipment, machinery and material; equipment, machinery and material related to the electronic data processing means; school and medical equipment and material, and any other material equipment or machinery necessary for Government operation.
- 16) Certification - Document issued by the corresponding officer or employee in which it is stated that any of the requirements prescribed for any of the procedures established in these regulations has been complied with; or stating any information necessary to carry out said procedure; or stating that the goods, services or work object of the contract has been received or accepted, in accordance with the terms and conditions of the contract or stating the terms of said contract that may have been breached.
- 17) Businessman - Any person engaged in the selling or leasing of goods or services lawfully in the market.
- 18) Purchase
 - a) Means by which the Government acquires a thing or work in exchange for a payment in money.
 - b) Set of goods, works or services, grouped together, because they have same purpose, common suppliers or because it is for the

best public interest.

- c) The term "purchase" is used in fiscal documents for the term "acquisition" indistinctively.
- 19) 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.
- 20) General Conditions for the Contracting of Public Works - "The General Conditions for the Contracting of Public Works and Other Related Documents" approved October 27,1976.
- 21) Contractor - Person with whom the Government has a contract in effect.
- 22) Contract - Document or set of documents containing the specifications and conditions agreed upon by the Government and a contractor.
- 23) Data Processing - Processing of information by electronic means.
- 24) Delegate Buyer - Officer or employee authorized by the Administrator to purchase and who shall be in charge of the purchasing function in each agency and whose functions are governed by the provisions of the "Delegate Buyers Regulations" of the Administration.
- 25) Purpose of a Work - Purpose for which a work is performed or the use given or to be given to a building.
- 26) Day - Working Day
- 27) Other Countries Dignitaries - Every official representative of a Government of another country, such as Heads of State, Consuls or Officers of any of Government branches of their country.
- 28) Emergency (Urgency) - Both terms shall be considered synonymous in these regulations. Emergency or urgency shall mean that situation

which gives rise to unexpected or unforeseen public needs requiring immediate action on the part of the Government because the life, health or safety of its people are 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 expire and every opportunity to acquire the property, work and services desired may be lost thereby adversely affecting the public interest.

- 29) E.P.A. - Environmental Protection Agency
- 30) Specifications - Group of physical, functional, esthetic and quality characteristics of the goods, works or services requested.
- 31) Evidence - Anything used as proof in a civil or criminal case before the Courts of Justice and which remains under the custody of the Court before and during the hearings or after the case is finally disposed of pending to be claimed by its legitimate owner.
- 32) Invoice Voucher - Form sent to the successful bidder or supplier together with the Order to invoice the Government, in due time, for whatever was supplied, delivered or executed.
- 33) Bond - Guarantee or amount of money deposited to insure the performance of a contracted obligation.
- 34) Prominent Personalities - Persons who are outstanding because of their achievements in the intellectual, professional, artistic or sports world, whose performances have given glory to their country or given them international fame.
- 35) Regulatory Board - Counseling body of the Administrator in the drafting, revision and approval of specifications.

- 36) Board of Review - Board of Review of the General Services Administration.
- 37) Board of Bids - The Board of Bids of the Administration or of the petitioning agency authorized and appointed by the Administrator to conduct bids and which acts as administrative body to study, evaluate and award bids, its functions being governed by the "Bid Regulations" of the Administration.
- 38) LCC Criteria - "Life Cycle Cost Criteria" - Criterion to determine the cost of the life cycle of an equipment which consumes energy.
- 39) Bidder - Natural or juridical person who participates or may participate in a particular bid as bidder presenting his proposal.
- 40) Successful Bidder - Natural or juridical person to whom one or more items in a bid has been awarded.
- 41) Luxury - Any good, work or service acquired in the Government in excess of the limits established in these regulations and the austerity rules and control established by the Secretary of the Treasury.
- 42) Microphotography - The application of photographic processes to produce copies in very reduced sizes to be read by enlarging them.
- 43) Funds Obligation - To separate and reserve from the budget assignments an amount of money deemed to be necessary to cover certain disbursements.
- 44) Work - Any construction work, reconstruction, alteration, extension, improvement, repair, conservation or maintenance of any structure, without being limited to buildings corresponding to functions prescribed by law to be discharged by an agency.

- 45) Order - Written document issued by the Administration or the Buyer, requesting the contractor to commence, continue, stop, deliver, terminate, render a service or construct a good or work object of a contract.
- 46) Pool - That part of the Government fleet assigned to each one of the Government agencies.
- 47) Surplus Property - Any Government chattel that is in such conditions as to render it unusable or that is being held by an agency which has no use for it or the use of which has been discontinued in the Government.
- 48) Executive Branch - It shall mean all the departments, agencies and instrumentalities of the Executive Branch, except the public corporations and political subdivisions of the Commonwealth of Puerto Rico.
- 49) Official Receiver - Officer or employee of a petitioning agency in charge of receiving the goods, works or services and whose functions are governed by the "Official Receiver Regulations" of the Administration.
- 50) Bidders Registry - Registry of suppliers stating the natural or juridical persons accepted in the Administration to contract with the Government upon compliance with the requirements established by the Administrator.
- 51) Contracting Rules - Rules that shall govern the construction contracts of the Administration which, upon approval, shall have the force of law. Until the Administrator approves the "Contracting Rules" of the Administration they shall be governed by the "General

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

- 52) Review - Petition requesting the Board of Review to reevaluate any decision rendered by the Board of Bids or by the Assistant Administrator.
- 53) Requisition - Document in which the petitioning agency describes the good, service or work in which it is interested.
- 54) Only Supplier Available - The only 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 requested; Only Source.
- 55) Only Source of Supply - The existence of only one supplier.
- 56) Assessed Value - Value assigned by an expert to goods, after discounting percentages for usage, years in existence and other aspects.

ARTICLE 5.- Jurisdiction

The provisions of these regulations apply to any acquisition transaction conducted in the Executive Branch by any body which is bound by law to use the services of the Administration or which voluntarily requests them.

ARTICLE 6.- Scope

Any Government officer or employee to whom the Administrator has delegated acquisition functions or to whom he has issued an appointment of Buyer shall have to comply with the provisions of these regulations.

ARTICLE 7.- Interrelation With Other Rules

The provisions of these regulations shall not be construed individually. They comprise the stages before and after formal bids which

shall be conducted according to the "Bid Regulations" of the Administration; some stages in the informal bid procedure and the steps to be taken when the bid mechanisms are not used.

Upon construing the rules contained herein, such other rules as are provided in any other regulation in effect concerning the question of acquisition in the Executive Branch shall be taken into consideration.

As a general rule, all the rules established in the Civil Code of Puerto Rico, 1930 edition, as amended, as to the acquisition methods mentioned in these regulations are applicable, except in those cases where they are expressly distinguished in these regulations or in special laws.

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

PART TWO

SUBSTANTIVE RULES GOVERNING ACQUISITION

IN THE EXECUTIVE BRANCH

SECTION A: IN GENERAL

ARTICLE 8.- Acquisition Methods

The following are hereby recognized as the acquisition methods for the Executive Branch:

1. Purchase and its modalities described hereinafter
2. Barter
3. Lease
4. Donation
5. Transfer

ARTICLE 9.- Method Determination

Agency Heads shall determine which acquisition method shall be used for each one of their needs, using the following guidelines:

1. Criteria
 - a. The budget appropriations available to them for the requisition made,
 - b. Powers conferred on them by the law creating their agency as to the method chosen, and
 - c. The rules approved by the Administrator to regulate the transactions under the method chosen.

2. Discretion of Administration

Provided it is not prohibited by a special law, the Administration may substitute the method chosen by the head of the agency when in

its opinion it is for the best interest of the Government. In such cases it must notify the head of the agency before processing the requisition.

SECTION B: PURCHASES

ARTICLE 10.- Definition

Method of acquisition by virtue of which one party, the seller, agrees to deliver a particular thing and the other party, the Government buyer, agrees to pay for it a specific price in money or symbol representing it.

ARTICLE 11.- Criteria for Determining When to Purchase

It shall be decided to acquire by purchase when there exists a real need according to the following:

1. General Criteria

- a. That there does not exist an immediate or reasonable possibility of using a less expensive method,
- b. That it involves chattels that are fungible, necessary for the daily work of the petitioning agency,
- c. That it involves the replacement of a unit which the head of the agency deems to be necessary to carry out the agency's functions and that specific funds have been assigned to said agency for such purpose,
- d. That it involves a unit that is going to replace another which has been totally or partially destroyed as the result of an accident, fire, vandalism or excessive use, provided there are funds available to make the substitution.

2. Special Criteria

- a. Construction Materials

- 1) That they are going to be used and are necessary for one or more works or specific projects in the amounts or time specifically requested.
 - 2) That the Administrator has approved the project or work.
 - 3) That there be funds available and appropriated to cover said purchase.
- b. Computers, Microfilm Equipment and Related Equipment
- That a feasibility study has been made showing that said purchase is necessary and the Administrator has approved it.
- c. Printing Equipment and Machinery
- 1) That it is necessary for the expansion or improvement of an existing reproduction center.
 - 2) That it is necessary for establishing a reproduction center.
 - 3) That it be authorized by the Administrator.
- d. Construction Equipment and Machinery
- That the Administrator deems it to be necessary for the development of improvement or conservation programs carried out by the Administration.
- e. Transportation Means
- 1) That more than three (3) years shall have elapsed without having acquired a new unit for the petitioning agency;
 - 2) That the unit to be replaced has been in use in the Government for more than five (5) years or has covered more than eighty thousand (80,000) miles from its existence, whichever occurs first;

3) That the fleet will be increased in order to improve the services rendered by the Government.

f. Services

Services shall always be leased wherefore no acquisition of services should appear transacted as purchase.

ARTICLE 12.- Purchase Limitations

Even if there exist criteria tending to show that it is proper to acquire by purchase an equipment, machinery or any means of transportation, such purchases are to be limited in the whole Government irrespective of the origin of the funds and purposes of use, by the following:

1. General Limitations

a. Alternatives

No purchases shall be made when other resources of the Government or other means of acquisition may be used which are less expensive to achieve the purposes sought.

b. Expansion and Improvements

No purchase shall be made for program expansion unless a study has been conducted by the technicians of the petitioning agency or of the Administration showing the need for the expansion or improvement, which must be approved by the Administrator.

c. Energy Consumption

If it consumes electric energy or fuel, the "Life Cost Cycle Criteria" ("L.C.C. Criteria") shall be taken into consideration as to the lowest cost at the time of the award pursuant to the federal energy conservation legislation.

d. Standard Specifications

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

e. Cost

1) Special Equipment

Its cost shall not exceed the one established by the Administrator as maximum for the type of construction, data processing by electronic means or microphotography, machinery or vehicle, even though there may be funds assigned or available for it.

a) Mode of Establishing Them

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

2) Other Equipments, Works and Services

For other goods, works and services the cost shall not exceed the amount assigned by the agency.

f. Luxury

Unnecessary equipment accessories or materials of such high quality as to make them more costly shall not be acquired when there are others less costly available which may serve the same purposes, pursuant to the provisions of the Accounting Act of the

Commonwealth of Puerto Rico and the rules for luxury purchases adopted by the Administrator and the Secretary of the Treasury.

2. Special Limitations

a. Budgetary and of Expenses

The Secretary of the Treasury and the Director of the Budget and Management Office may establish, at their discretion and in consultation with the Administrator, such additional special limitations and criteria as they deem to be reasonable in order to safeguard the best economic interests of the Government.

b. Cultural Controls

Upon purchasing any chattel which, because of its origin, nature, or purpose, is related to the cultural interests of the Government, said purchase shall have to be approved by the Executive Director of the Puerto Rico Institute of Culture, or his authorized representative.

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

ARTICLE 13.- Purchase Handling

1. Procedure

Upon acquiring by purchase, one of the following procedures shall be used, depending on the circumstances giving rise to the purchase:

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

2. Procedure Determination

In order to determine under which of the procedures the purchase shall be handled, the rules established in these regulations shall be followed.

ARTICLE 14.- Types of Purchases

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

1. From the Administration Warehouse
2. Directly under Contract
3. Special

ARTICLE 15.- Purchases from the Administration (Warehouse)

1. Definition

Purchases from the Administration shall be those that the petitioning agencies make directly from the Administration Warehouse for the acquisition of office material, cleaning articles or printed official forms.

2. When Proper

Administration purchases shall be made when the petitioning agencies try to acquire any chattel, regularly and ordinarily consumed, which is included in the catalogue distributed by the Administration.

3. Obligation of the Administration

The Administration shall see that its Warehouse maintains an inventory of the goods regularly and ordinarily consumed according to their nature and to the expected average consumption.

a. Catalogue

The Administration shall annually publish and distribute among the petitioning agencies a catalogue containing the items and their

selling price.

4. Handling

The purchases from the Administration Warehouse shall be handled by means of Requisitions in accordance with the procedure established herein.

ARTICLE 16.- Direct Purchases Against Contracts

1. Definition

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

2. When Proper

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

3. Person Handling Direct Purchases

Direct purchases shall only be carried out by the Administrator or his authorized representatives in the Administration and by delegate buyers of other agencies, who, in such cases, shall not be subject to the amount limitation.

4. Procedure

Direct purchases shall be handled through the issuance of orders as provided in these regulations.

ARTICLE 17.- Special Purchases

A special purchase is a modality of purchase under a contract handled through an exclusive bid for one agency against which only one or several orders are issued, the number of which is previously set. They shall be issued by the Office or by the Buyer expressly authorized by the Administrator.

SECTION C: PURCHASES BY INSTALIMENT

ARTICLE 18.- Definition

Purchases by Installment is a type of purchase established in Civil Law by virtue of which something is acquired the use and enjoyment of which commences immediately, but its payment is made on set terms by partial or time payments.

ARTICLE 19.- When Proper

An installment purchase is proper when the following circumstances are present:

1. That the cost of what is to be acquired is so excessive that immediate and full disbursement of such amount would adversely affect the Government interests;
2. That what is to be acquired be equipment or machinery the life span of which exceeds five (5) years;
3. That there be no other way of acquiring it within the circumstances surrounding its purchase;
4. That the amount to be acquired be so great as to warrant such modality.

ARTICLE 20.- Limitations

Installment purchases shall be limited by the following controlling rules:

1. That the petitioning agency have the power to enter into said type of transaction;
2. That the Budget and Management Bureau Director authorize it and certify future sources of income;
3. That should interest rates be included, they shall not exceed the

legal rates prevailing in the market established by the Secretary of the Treasury for private transactions;

4. That no financing, handling or any other kind of special charge shall be paid.

SECTION D: TRADE-IN

ARTICLE 21.- Definition

Trade-in purchase is a type within the purchase established by Anglo-American law, through which something new is acquired for which payment is made in one of the following:

1. Forms of Payment

a. Full Payment

Something similar, used, previously assessed or having its assessed value credited to the payment, is delivered, and the difference is paid in money.

b. Installment Payment

At the time of the transaction the used item, the assessed value of which is credited to the payment, is delivered and the difference is paid in installments, in amounts previously determined and agreed upon for a specific determined period of time.

ARTICLE 22.- When Proper

The trade-in transaction is proper when the same conditions established for Barter are present.

ARTICLE 23.- Limitations

The trade-in transaction is limited in the same way as the barter. No trade-in by installments shall be conducted unless in addition to the Administrator's approval, the Secretary of the Treasury also approves it and if the installment period exceeds one (1) fiscal year, the Budget and Management Bureau Director must also approve it, all in accordance with the rules that said officers may prescribe for such purposes.

SECTION E: BARTER

ARTICLE 24.- Definition

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

ARTICLE 25.- When Proper

Acquisition through barter may be conducted when the following conditions are present:

1. That the goods given in payment has depreciated considerably or depreciates rapidly;
2. The assessed value given to the item be reasonable according to the criterion of the Administrator;
3. That the use of the item given in payment be discontinued by the Government;
4. That the Administrator consider the transaction to be beneficial to the Government;
5. That the goods be declared surplus in conformance with the "State Government Surplus Property Regulations".

ARTICLE 26.- Barter Limitations

Acquisition through barter may be conducted only if said transaction has been approved and authorized by the Administrator, according to the rules which, in consultation with the Secretary of the Treasury, he may

establish for such purposes.

ARTICLE 27.- Handling

Barter shall be handled according to the provisions of these regulations.

1. Persons Handling Barter

Barter shall be handled by the Administrator.

SECTION F: LEASE

ARTICLE 28.- Definition

Means of acquiring goods, works or services for the Government through which one party agrees to execute a work or render a service or give the enjoyment or use of an item for a particular period of time at a specific price.

ARTICLE 29.- Criteria for Determining Whether Acquisition by Lease is Proper

Acquisition by lease applies in the following cases:

1. Special Criteria

a. Vehicles

1) Heads of Agencies

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

- a) That there be an imminent need
- b) That there be no available vehicles in the agency pool
- c) That there be no available vehicles in the Transportation Area of the General Services Administration.

2) Visitors

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

3) Emergencies

When in order to meet emergencies it be necessary to use specially equipped vehicles, provided that the following cir-

cumstances are present:

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

4) Other Officers or Employees

When there be no pool vehicles available to conduct a particular business for a specific period of time that does not exceed the maximum established by the Administrator.

b. Construction, Printing, Photocopying, Computer and Microfilming Equipment or Machinery and Other Related Equipments

1) When the purchase price is so high that disbursement not be justified by reason of the following:

- a) Because it is susceptible of being modernized constantly
- b) Because it is not to be used permanently.

c. Other Equipment

Unless the Administrator expressly establishes other criteria, said equipment shall be governed by the general rules.

d. Services

When the service involved can not be rendered by the Government, by employees of the petitioning agency, by employees of the Administration, or by any other governmental body.

2. General Criteria

a. Use Period

When the use to be given to the leased item be for a short or

particular period and it would be too onerous for the Government to acquire the same for a longer period than what is really needed.

b. Unforeseen Situations

Except for the provisions relating to the vehicles, when an unforeseen situation is involved which arises in such a way that there is no time to comply with the terms provided for any other method of acquisition.

c. Determination by the Agency Head

When any head of a petitioning agency may have the need for it in order to comply with programs he has been developing or because of urgent needs in his agency, and upon previous justification to the Administrator, the latter should authorize it.

d. Discretion of the Administrator

When the Administrator deems it to be reasonable.

e. Special Funds

When the funds available provide that the item may be acquired exclusively by lease.

ARTICLE 30.- Lease Limitations

Every lease transaction is limited to the following:

1. In the case of vehicles, they may not be leased:
 - a. For periods in excess of ninety (90) consecutive days for the same purpose, except when helicopters, airplanes and vessels are involved.
 - b. If they do not meet the requirements established by E.P.A.
2. In other transactions no lease may be executed
 - a. When there is an existing contract

- b. When an installment purchase is involved
- c. When it is for acquiring luxury equipment
- d. When the Administration or any other Government agency can execute the work, render the service or deliver the goods requested or similar ones.

ARTICLE 31.- Handling

Leases shall be handled following one of the procedures established herein.

ARTICLE 32.- Types of Lease

There are several types of lease that may be executed in the Government, depending on the entity in charge of granting the lease, and in the case of services, depending on the number of persons who shall render the service.

- 1. Goods and Services, in general: From whom acquired
 - a. From the Administration
 - b. From other agencies of any of the Government Branches
 - c. From private contractors
- 2. Services: Who Renders them
 - a. Unipersonal
 - b. Multipersonal

ARTICLE 33.- Lease from the Administration

1. Definition

Leases from the Administration are those requested so that the Administration render a service or authorize the use of a good for a limited period.

2. Services

The agencies under the jurisdiction of the Administration are bound to acquire the services the latter renders whenever they are necessary.

a. Types of Services

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

1) Printing

Printing services are requested for the printing of all documents, publications, books, brochures, posters, information or forms needed by the agencies in order to perform their work efficiently.

a) Scope

The printing service includes the printing as such and the related services such as artwork, design, drawing, photographs and their development, lithography, typography and everything related to and necessary in the work before and after printing, such as distribution and others.

b) Requisition Procedure

Printing service is requisitioned through the procedure established herein.

2) Investigation

Investigation services are those rendered in connection with vehicle accidents or connected with the other services or programs of the Administration for compiling evidence which will be used to fix responsibilities and determine the actions to be taken.

a) Requisition Procedure

Investigation services are automatically rendered as soon as the petitioning agency notifies the irregularity giving rise to said investigation.

3) Custody

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

a) Requisition Procedure

Custody services are automatically rendered by administration as soon as the agency delivers the goods to the Administration.

Custody service may only be contracted from private enterprise by the Administration.

4) Fleet Repair and Maintenance

Fleet repair and maintenance services are rendered by the Administration shops and may be requested through the issuance of orders in accordance with the provisions of the "Fleet Management Regulations" and these regulations.

5) Orientation

Orientation, consultation, training and other services are rendered whenever necessary to implement one of the Administration programs.

a) Rendering Procedure

Orientation services are rendered in accordance with what

the Administrator may provide for each particular case.

6) Transportation and Conveyance Services

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

a) Annual Contracts

The Administrator shall determine the need to maintain these contracts in effect annually or if it should be justified that the same be executed for each occasion, as the need may arise.

b) Travel Tickets

The acquisition of travel tickets for air, sea or land transportation by public or private means for one person or a group of persons, shall be governed by the rules established to that effect by the Secretary of the Treasury and the Director of the Budget and Management Office to whom, by virtue of this provision, the Administrator delegates control of such transactions.

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

ARTICLE 34.- Lease Against Contracts

1. Definition

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

a) Special Limitation

Any natural or juridical person leasing goods to the Government must have complied with the provisions of Act No. 20 of May 8, 1973, as amended, with the regulations promulgated thereunder and with any other rule approved for such purposes hereafter.

2. When Proper

Leases against contracts may be executed when the Administration does not have the good available or can not render the service requested.

3. Handling

In order to lease against contracts orders shall be issued against them pursuant to these regulations.

ARTICLE 35.- Lease from Government Dependencies

1. When Proper

Goods and services may be leased from other Government dependencies, municipalities or public corporations, when the Administration is unable to do so upon the approval and authorization of the Administrator.

ARTICLE 36.- Private Services Lease

Services may be leased from the private sector when the Administration is unable to render them, subject to the provisions established herein.

1. Unipersonal Services

a. Definition

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

1) Professional and Nonprofessional

Professional services shall mean those rendered by a person who must have a university degree and license to practice in the field accrediting him as holder of the degree; and that upon rendering such service the person must use more than sixty percent (60%) of his time in mental work of analysis, study, evaluation, judgment and discretion.

2) Manual

3) Specialized, technical and skilled

4) Semi-skilled and unskilled

5) Others

2. Multipersonal Services

a. Definition

Multipersonal services are those rendered by juridical persons, groups or entities and shall depend on more than one person for their rendering. They may be recruited by reason of the reputation, name and prestige of a single person, but their rendering shall depend on the work of more than one person at a time or of several persons in a chain of activities, rendering different services.

3. Mixed Services

They are those multipersonal services recruited on the basis of

the knowledge or reputation of a professional person, but which require nonprofessional work in a chain for their rendering, or that as a consequence thereof it may be necessary to subcontract nonprofessionals such as the services of engineering, publicity and others. They must be approved by the Administrator.

SECTION G: DONATION

ARTICLE 37.- Definition

Means by which the Government acquires something, a service or a work by an act of liberality of the person who gives it free of charge and without conditions.

ARTICLE 38.- When Proper

Donations of chattels, services, or work may be made if their use or usefulness keeps close relation with the functions and services rendered by the Administration.

ARTICLE 39.- Persons Who May Make Donations

Any natural or juridical person, associations and any private or public entity legally capable to execute contracts may make donations.

ARTICLE 40.- Donation Limitations

1. No agency under the jurisdiction of the Administration may accept donations of equipment, machinery, materials, goods or services which should be procured through the Administration.
2. Donations of money shall be governed by the rules established by the Secretary of the Treasury.

ARTICLE 41.- Conditioned Donations

1. Definition

Conditioned donations are those given

- a. Subject to the occurrence or presence of certain circumstances, or,
- b. to be used for a set period, or,
- c. to be used for a fixed purpose.

2. Limitations

Conditioned donations of goods, works, or services that have relation

to the functions or services rendered by the Administration or which the petitioning agencies are bound to procure through the Administration must be approved by the Governor pursuant to the provisions of Act No. 36 of June 9, 1975, as amended, following the procedure established herein to that effect.

ARTICLE 42.- Handling

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

1. Money

When the donation is in money, the procedure established by the Secretary of the Treasury shall be followed.

2. Conditioned

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

SECTION H: TRANSFERS

ARTICLE 43.- Definition

The Government may acquire chattels by transfer of title or possession thereof pursuant to the provisions of the laws that provide for the transfer thereof to the Government.

1. Laws Providing for the Transfer of Goods to the Government

- a. Act No. 39 of June 4, 1960, as amended known as the "Uniform Vehicle, Mount, Vessel, and Plane Seizure Act".
- b. Act No. 88 of May 31, 1967, as amended known as the "Acquired Goods Act".
- c. Act No. 2 of January 20, 1956, as amended, known as the "Excise Act of Puerto Rico".
- d. Act No. 17 of January 19, 1951, as amended, known as the "Weapons Law of Puerto Rico".
- e. Act No. 143 of June 30, 1969, as amended, known as the "Alcoholic Beverages Act of Puerto Rico".
- f. Act No. 4 of June 23, 1971, as amended, known as the "Controlled Substances Act of Puerto Rico".
- g. Act No. 17 of May 15, 1948, as amended, known as the "Number and Other Illicit Games Act".
- h. Rule 251 of the "Criminal Procedure", as amended.
- i. Act No. 134 of June 28, 1969, as amended, known as the "Puerto Rico Explosives Act".
- j. Act No. 94 of October 17, 1976 of the Congress of the United States.
- k. Any other law expressly authorizing the Government to take possession, confiscate or seize goods.

ARTICLE 44.- How Confiscated Goods Become Government Property

1. Government Right - How it Arises

Pursuant to the provisions of Act No. 39 of June 4, 1960, as amended, known as the "Confiscation Act" the Government acquires goods as a consequence of confiscation, in the following manner:

- a. When fifteen (15) days have elapsed from the date of notice of the seizure and appraisal of the property and the owner or any person interested in the same has not impeached the confiscation.
- b. When, upon impeachment of the confiscation, no bond has been posted within twenty five (25) days after notice of the seizure and appraisal of the property.

ARTICLE 45.- How Abandoned Goods Become Government Property

1. Government Right - How it Arises

When an abandoned property has been in possession of the Puerto Rico Police for more than one (1) year, and the corresponding edicts have been published in the newspapers, and no person has appeared to claim and prove his title over the property in question, according to the provisions of Act No. 88 of May 31, 1967, the ownership title automatically passes to the Government.

ARTICLE 46.- How Goods Used as Court Evidence Become Government Property

1. Government Right - How it Arises

If the terms established in Rule 251 of the Rules of Criminal Procedure have elapsed without the legitimate owner of a property used as evidence in a case claiming it, ownership title to such goods shall automatically pass to the Government.

ARTICLE 47.- Surplus Federal Property

The Government shall also acquire goods by way of transfers made to it by the Federal Government of new or used property, according to the procedures established by law and regulations to that effect.

PART THREE
ACQUISITION PROCEDURES

SECTION A: ACQUISITION DOCUMENTS AND PRELIMINARY HANDLING

ARTICLE 48.- Initiation of Acquisition Procedure

Acquisition procedure commences when any agency has the need for a good, a work or a service in order to carry out its functions and prepares a requisition order. The interested unit that has the need, within the agency, shall requisition the Delegate Buyer of the corresponding agency by any internal means provided.

The Buyer shall proceed to analyze and evaluate the requisition in accordance with the directives given by the Administrator to that effect and subject to the provisions of these regulations.

ARTICLE 49.- Method Selection

Upon determining the method and procedure, the buyer of the petitioning agency shall be guided by the following:

1. Use of Form

From the contents of the Requisition the Buyer shall determine the method of acquisition involved, taking as guidelines the provisions of these regulations and the directives that the Administrator may issue to that effect.

ARTICLE 50.- Preparation and Evaluation of the Requisition

1. Preparation

Upon filling out or revising the requisition that was generated by the unit within the agency, the Buyer shall have to comply with the following rules:

a. Form

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

b. Purpose

The purpose of filling out the requisitions is to furnish the necessary information to the Administration in order that it may prepare the bid documents adequately, if the situation so requires specifically. In the other cases, it must have the record up-to-date, making sure at all times that there is uniformity in the specifications, terms and conditions of what is requisitioned; as well as a clear picture of what the petitioning agency requested so that it may be supplied as exactly as possible what it requested.

c. Contents

The requisition shall contain the following information:

- 1) Description of what is requisitioned;
- 2) Justification, whenever necessary;
- 3) Method of acquisition recommended and reason therefor;
- 4) Recommended specifications;
- 5) Conditions must be met by what is requisitioned;
- 6) Certification of Funds by the Head of Finances of the agency or his authorized representative; and
- 7) Any other necessary information the petitioning agency may have.

2. Evaluation

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

- a. He shall verify whether what is requisitioned is a good, work or

service which the Administrator has stipulated may only be provided by the Administration;

- b. He shall verify whether there is an existing contract for what is requisitioned;
- c. Whether what is to be acquired, regardless of the amount involved, is a specialized good, work or service.

ARTICLE 51.- Procedure Selection

1. General Rule

Any acquisition by purchase or lease, or the special modalities contained in the purchase, shall have to be handled through a formal bid. All other acquisition methods shall not be handled through formal bids, but through the special procedures established herein.

2. Exceptions to the General Rule

Purchases, leases and purchase modalities transactions may be conducted without formal bid when one of the exempting causes of said procedure established by law or by regulations is present.

a. Procedure determination

In these cases the Buyer shall handle the requisition pursuant to the provisions of these regulations or of the "Delegate Buyers" depending on the exempting cause of the formal bid.

3. Formal Bid Exemption Rules

a. Laws

The following laws containing formal bid exemption provisions apply to transactions conducted pursuant to these regulations.

- 1) Act No. 164 of July 23, 1974, as amended, known as the "General Services Administration".

b. Regulations and Other Administrative Rules

For the acquisition of chattels, works or services without public bids, it is necessary that it be so authorized by law.

4. Formal Bid Exemption Conditions

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

a. As provided by section 16 of Act No. 164 of July 23, 1974, as amended, known as the "General Services Administration Act".

1) To establish by regulation the procedure to carry out purchases without public bid, whenever any of the following circumstances arises:

a) An emergency: as defined in the regulations.

b) The amount involved does not exceed four thousand dollars (\$4,000).

c) Purchase is made from the State or Federal Government of the United States of America, or any foreign country.

d) The minimum prices are fixed by law or competent governmental authority.

e) When there is only one supply source.

f) No proposal is offered in a bid and there is a risk of losing the opportunity to acquire the necessary supplies or non-professional services.

g) When purchase is made from a Commonwealth agency.

b. As provided in Section 423 of the Political Code of Puerto Rico, 1902 ed., as amended .

1) Works whose cost does not exceed twenty five thousand dollars

(\$25,000) and services whose cost does not exceed ten thousand dollars (\$10,000).

2) Works which, even though they exceed said amounts, have not been able to be contracted, after having tried it by means of a bid, if the Administrator deems it to be more convenient that they be constructed by administration.

a) If the Administrator chooses to call a new bid, he may vary the original specifications, conditions or terms in an attempt to obtain greater competition.

3) Works which, regardless of their cost, are declared to be of absolute necessity or urgency by the Administrator.

4) Works requiring special care in their execution from a technical point of view, provided that the Administrator so determines by resolution.

5) Works performed in buildings which because of their purpose require extreme security and protection measures for the building itself or for its occupants and the Governor of Puerto Rico has so declared by Executive Order.

c. When professional and counseling services not requiring a bid are involved and the work to be executed does not constitute a position.

ARTICLE 52.- Buyer's Function in Preliminary Stages of Acquisition

Procedure

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

ARTICLE 53.- Remittance of Requisition to the Administration

1. When Proper

After making the corresponding determinations, the Buyer shall refer the requisition before his consideration to the Administration for its handling, or authorization to handle it at his agency level in the following cases:

- a. When it has been determined that the procedure to be followed must be a formal bid;
- b. When the special procedure to which the requisition must be submitted, so requires it;
- c. When it falls within the range of the amount assigned, but which, because of its specialization, the Buyer deems it pertinent that it be submitted to the Administration.

2. Manner of remitting Requisition

The complete requisition filled out in detail shall be sent to the Administrator through the Delegate Buyer of his agency, indicating the term or approximate date when what was requisitioned is needed and making sure that it contains all the specifications, terms and conditions adequately and correctly.

3. Grouping

The Delegate Buyer of the agency shall group all the similar requisitions of his agency and those which are common, repetitive and of continuous use shall be referred once a year and not in stages and recurrently, in conformance with the provision established in the "Delegate Buyers Regulations" of the Administration.

ARTICLE 54.- Evaluation of Requisition in the Administration

When the acquisition requisition of a petitioning agency is received in the Administration, the same shall be evaluated in order to verify the following:

- a. Whether what is requisitioned may be given, loaned or performed by the Administration;
- b. In the case of vehicle requisitions, whether vehicles in use may be assigned, instead of acquiring new ones;
- c. In the case of computers, whether the needs of various agencies may be grouped; and
- d. Any other determination deemed to be proper.

ARTICLE 55.- Action by the Purchase Office

After the preliminary determination is made the requisition shall be referred to the Purchase Office of the Administration.

1. Definition

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

2. Structure

The Office is structured in the Administration by units in charge of goods, works and services that are commonly acquired in the Government.

3. Components

The Office shall be composed of Administration personnel holding positions and jobs of Purchase Specialists, Purchasing Agents and other positions.

4. Requisition Handling

The requisition shall be sent to the unit corresponding to the matter of the requisition where it shall be handled in the following manner:

a. Determination of Method and Procedure

- 1) The Office shall determine whether the method of acquisition chosen is the most convenient; and whether the procedure is the most adequate.

b. Contents Determination

After determining the procedure to which the requisition shall be submitted, the contents of such requisition shall be fully verified as to its correctness and compliance with the rules approved by the Administrator.

In making the evaluation of the contents of the requisition under the circumstances herein indicated, the Office shall follow the guidelines stated below:

1) Amendments, Corrections and Additions

It may require additional information, changes, corrections and alterations to the requisition submitted by the petitioning agency, in which case all activity shall be stopped until the information requested is received. The petitioning agency shall furnish the information within the term set in the communication by the Office Director.

a) Agency Refusal to Amend, Correct or Add Information

The requisition shall be sent back to the petitioning agency when it does not furnish the information within the term fixed

for such purposes and for all purposes the Requisition shall be considered as if it had never been presented to the Administration and the agency Buyer shall be barred from handling it by means of any other procedure.

2) Discrepancies between the Petitioning Agency and the Office

No requisition shall be handled in which there exist discrepancies between the petitioning agency and the Office. In order to avoid that this situation obstruct the work of the petitioning agencies, the following action shall be taken:

a) Discretion of the Office

The Office shall prepare and submit to the consideration of the petitioning agency the corrected, amended or expanded Requisition, in accordance with the rules established by the Administrator for the matter in question. Said amended requisition shall be submitted to the petitioning agency with an explanation of the reasons for making such amendments so it may serve as a guide and orientation for future requisitions.

b) Discretion of the Petitioning Agency

The petitioning agency shall accept or reject the corrected Requisition indicating the reasons it had for rejecting it.

c. Rules for Solving Discrepancies

If the petitioning agency rejects the corrected requisition, the discrepancy shall be solved as follows:

- 1) If it is based on the procedures to be followed or the specifications of what is requisitioned, the position of the Office shall

prevail, provided that it insures the best interests of the Government and the widest competition.

- 2) If it is based on the special conditions that the petitioning agency wants fulfilled, or on the amount of separate funds, or its origin, the position of the petitioning agency shall prevail, and in the cases of amount of funds, the amounts shall be readjusted to agree with the needs and payment possibilities of the agency.

d. Preparation of Documents

Taking as a basis the approved Requisition, the Office shall prepare the Bid Documents, in accordance with the terms established in these regulations and in the "Formal Bid Regulations".

ARTICLE 56.- Steps Within the Procedure Selected

Once the Bid Documents have been prepared, there shall be taken the steps following the acquisition procedure chosen in accordance with the provisions of the Formal Bid, "Delegate Buyers" regulations or these regulations, whichever applies to the situation.

ARTICLE 57.- Bid Documents

The Bid Documents is the set of documents that shall be delivered to the bidders interested in quoting and which shall contain all that is necessary to facilitate to them the preparation of their proposals.

1. Person Preparing It

a. Formal Bid, Open Market and Special Procedures

The Bid Documents shall be prepared by the Office, but the Delegate Buyer of the petitioning agency shall have to submit the Requisition with the most correct, complete and accurate information.

1) Exceptions

Situations may arise in which for a specific transaction, the Administrator delegates on a Buyer or on any other officer or employee, the conducting of these procedures, in which case the Bid Documents shall be prepared by the Buyer expressly authorized to do so by the Administrator.

b. Informal Bid

The Buyer or the Office shall prepare the Bid Document depending on who shall handle it.

ARTICLE 58.- Instructions

The instructions shall be guidelines offered to the bidders for the purpose of helping them to present and prepare their proposals. The Office shall adopt and publish them, indicating those applicable to each procedure. These guidelines shall be based on the provisions established in the rules governing the acquisition, sale and procedures related thereto and they shall be of the following kind:

1. General Instructions

The General Instructions shall contain provisions as to how to prepare and deliver the proposals and the requirements that the bidders must meet and others, all in accordance with the provisions of the Bid Regulations of the General Services Administration.

2. Special Instructions

The Special Instructions shall be warnings or indications to the bidders.

The Office is bound to prepare Special Instructions documents adopted from the rules established in these regulations, in the Bid Regulations

of the General Services Administration or in any other rule.

ARTICLE 59.- Specifications

1. Definition

The specifications of a bid are a group of characteristics of each one of the goods, works or services requisitioned.

2. Kinds

The specifications of a bid may be of two (2) kinds: standard and special.

ARTICLE 60.- Standard Specifications

1. Definition

The specifications of a bid are a group of physical, functional, esthetic characteristics and of quality of each one of the products, materials, equipment, work or services requisitioned and which are contained in the descriptive part of what is requisitioned in the Bid Documents and clearly identified as "Specifications".

2. Use

These standard specifications shall be used in each category applicable to every bid conducted by the Board or by any agency conducting bids by virtue of delegation and express authorization conferred on it by the Administrator.

3. Alteration

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

Reconsideration may be requested only by a petition filed with the Regulatory Board itself in accordance with the procedure the Administrator may establish for such purposes.

ARTICLE 61.- Special Specifications

1. Definition

Special specifications shall be drafted for a good, work, or service requisitioned when no standard specification has been adopted or those approved do not apply to what is requisitioned.

2. Drafting

Special specifications shall be drafted, insofar as possible, in conformance with the general rules contained in the Specification Pattern published by the Regulatory Board and they must comply with the minimum state and federal requirements of safety and quality.

3. Use

Special specifications shall be used only in the specific bid for which they were drafted.

4. Obligation of the Drafting Body

When a special specification is drafted, the unit originating it shall submit copy thereof to the Office, as the case may be, and to the Regulatory Board for future reference or use thereof.

5. Identification

Special specifications shall be so identified in the bid documents.

ARTICLE 62.- General Binding Conditions

The following General Conditions are hereby established as binding conditions to be included in all the Bid Documents, according to the subject matter of the bid. The Office is bound to indicate, describe, detail and clearly explain the manner of complying with each one of these conditions.

1. Bid Bond

a. Definition

The bid bond shall be a provisional security to be posted by the bidder for the purpose of guaranteeing to the Government that it shall uphold its proposal throughout the whole bid procedure. This includes from the opening date to the issuance of the purchase order or the signing of the contract when such is the case.

b. Bond Posting

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

- 1) money in legal currency;
- 2) certified checks;
- 3) money orders;
- 4) United States or Commonwealth Government bonds or of any of their public corporations;
- 5) savings certificates;
- 6) mortgage notes on bidder's property completely free of charges and liens, certified by the Registry of Property on a date close to the Bid opening;
- 7) Bid bonds issued by insurance companies authorized to do business in Puerto Rico, and
- 8) backing of another person or entity which binds his property as collateral for the bidder by any of the means stated in the previous subdivisions.

c. Time for Bond Posting

The bid bond shall be posted in one of the following two (2) occasions:

- 1) At the time of presenting the proposal;
- 2) annually, in a lump sum, at the time of recording it in the Registry. This amount shall always cover the whole amount of one or of all the bids it is backing at that time.

d. Amount

The amount of the bid bond shall depend on the type of the bid involved. The Administrator may increase or decrease the amount as he may see fit on behalf of the Government.

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

1) Ten Percent (10%) of the Total Proposal

A ten percent (10%) of the total proposal bid bond shall be posted in the following bids:

- a) construction work;
- b) acquisition of construction materials, and
- c) acquisition of construction equipment.

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

A ten percent (10%) of the total proposal bid bond shall be posted in the following bids:

- a) acquisition of vehicles, parts or services for them.

3) Fifteen Percent (15%) of the total proposal bid bond shall be

posted in the following bids:

- a) office material purchases;
- b) office equipment purchases;
- c) merchandise and medicines and all types of chattels;
- d) multipersonal services.

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

A twenty percent (20%) of the total proposal bid bond shall be posted in the following bids:

a) Unipersonal services

e. Refund or Withholding of Bid Bond

The bid bond posted in money, certified check, money order or bank draft by unsuccessful bidders shall be refunded to their legitimate owners after the award notice is made, except that in sale bids, the bonds belonging to the three highest bidders shall be withheld and where the award was impeached, the bond of the successful bidder as well as of the person presenting the impeachment shall be withheld until the execution of the contract.

1) Effect of Withholding in Impeachment Cases

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

2) When and How Bid Bond shall be Refunded

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

Under no circumstances shall the bid bonds be refunded by hand.

f. Refund of All Bid Bonds

When the Board agrees to cancel the bid, or the bid award or execution of contract are not in order, all the bid bonds shall be refunded by the corresponding Disburser in accordance with the provi-

sions of the Formal Bid Regulations

g. Bid Bond Withdrawal

The bidder to whom the bid has been awarded may withdraw his bid bond in the following cases:

- 1) If within fifteen (15) days after having been notified of the award, he is informed that the bid award has been cancelled.

h. Breach of Contract

If within the execution of a contract, the contractor shall breach the same, the competent authority is bound to immediately notify the Administrator of such breach. If the charge is proved to be true, the Administrator shall order that the bidder be stricken from the Registry for a period of time of not less than one (1) year nor more than three (3) years and such bidder can not participate in any other bid for agencies in the Executive Branch for the some period of time, irrespective of the action that may be taken against the bidder to claim the breach of contract. In these cases the action taken shall be in harmony with the provisions of articles 102 and 103 of the Acquisition Regulations of the General Services Administration.

i. Amendments: Effect on Bid Bonds

When proposals are amended, if the amendment entails an increase in the proce of the original proposal, it shall be the duty of the bidder to adjust the bond according to the new amount. Otherwise his original proposal shall be maintained in effect and the amendment shall not be considered.

2. Performance Bond

The Performance Bond shall be the security of the bidder with which he assures the Government that he will comply with the terms of contract.

a. Person Posting It

Only the successful bidder shall post a performance bond on a bid awarded to him.

b. Posting Procedure

The bond shall be posted in the same manner as the bid bond as provided in this article, subdivision 1. b.

c. Amount

The amount of the bond shall vary depending on the subject matter of the bid, as established herein.

1) Vehicles or Parts Acquisition

The amount of the Performance Bond shall be the same as the Bid Bond.

2) Sale of Vehicles, Their Parts, Office or Construction Material and Equipment

In sale bids, no additional bond shall be required other than the balance of the proposal.

3) Construction Works

a) The amount of the bond shall be equivalent to fifty percent (50%) of the total cost of the construction work or contract.

(1) The bond involved in this provision is the performance bond. Nothing provided herein shall prevent that other bonds be required in these contracts.

4) Acquisition of Office Material and Equipment, of Construction Material and Equipment, Merchandise, Medicine and Any Other Type of Fungible Chattels

Performance bond shall not be less than fifteen percent (15%) of the total amount of the projected purchase.

5) Acquisition of Electronic and Electromechanic Equipment

Performance bond shall not be less than fifteen percent (15%) of the total cost of the equipment.

6) Services

The performance bond shall be twenty five percent (25%) of amount of the proposal or of the projected maximum amount; except that in such cases where the service is offered by a natural person (unipersonal services) no bond shall be required.

d. Failure to Post Performance Bond - Effect

Unless it has been stipulated that no performance bond shall be required in the particular contract in question, failure to post it in full, or failure to post it within the term of fifteen (15) days from the date required to do so, shall give rise to the foreclosure of the bond and the contract shall be awarded to the next successive bidder. The provisions herein in no way preclude the Government from claiming damages sustained and breach of contract.

3. Trademarks and Model

a. Prohibition

No reference as to specific trademarks such as "trademark 'X' or similar approved" or other similar references shall ever be made in the bid document.

b. Duty of the Bidder

In order that the proposals submitted be considered, it is the duty of the bidder to mention the trademark of the product or equipment and model offered; as well as to include copy of the manufacturer's literature.

c. Duty of the Trademark Representative

If the bidder who offers a specific trademark is the exclusive representative of the trademark he offers, it is his duty to so mention it in the proposal, besides indicating the percentage of additional discount that he shall offer to the Government if the latter purchases the article directly from him and not from another salesman. When making his proposal the exclusive representative agrees not to intervene in the delivery orders if another bidder is awarded the bid. If he does, he must pay damages sustained by the Government, if any.

4. Samples

a. The bidders are bound, when required, to submit samples showing what they shall deliver, at the proper time, if the bid is awarded to them:

- 1) Free of charge to the Government;
- 2) In the amounts required;
- 3) Carrying the original tag identifying the trademark of the product; and in the container required in the bid or in its commercial container;
- 4) Delivered before the opening, if so required
 - a) When a sample is required and the same is not delivered within the term required, said proposal shall not be considered.
- 5) Accompanied by the manufacturer's literature.

b. Examination

The samples shall be examined by the Office.

- 1) If during the examination process, they are destroyed or worn out, the Government shall not be liable for their cost.

c. Pick-up

If after the examination, the samples are not destroyed or wholly worn out, the bidder is bound to pick them up within ten (10) days after having been notified to do so by the Office.

- 1) If after said term has elapsed, the bidder fails to pick up the samples they shall become the property of the Government pursuant to the "State Surplus Property Regulations". In the case of a successful bidder, his samples may be retained for the adequate administration of the contract. In case they are returned, the successful bidder shall keep them available for inspection at any time during the effectiveness of the contract.
 - a) Everything indicated in this subdivision concerning the samples, shall not be applicable in those bids in which the object in question can not be physically presented, such as machines, heavy equipment, transportation vehicles, but an equipment demonstration may be required for all bidders alike.

5. Merchandise Inspection

In those bids in which it is specifically required, the bidder is bound to deliver a certificate of inspection with his proposal.

a. Delivery Procedure

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

b. Certificate Content

The certificate shall contain the following information:

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

a) Codification Content

Codification shall contain the letters, numbers, and symbols, or a combination thereof, normally embossed by the packing entity, in any one of the ends of each package, to indicate the month, day and year of packing, the last day the article may be used, that is, expiration date, as well as any other pertinent information.

b) Automatic Rejection

The Office shall not accept any article without codification.

- 4) Proof that the product covers the requirements of quality of the federal and state specifications.

6. Container Quality

Container in which any merchandise is supplied, must be completely new and vacuum sealed and in the cases of metal containers without any showing of rust.

Cardboard, sack, wood, containers, boxes or any other kind, must be kept in good condition.

7. Duty of Bidder

a. Contents and Weight

It shall be the duty of the bidder to furnish the correct information as to the net weight, contents and number of units per

cardboard box or containers of his product, even if it has not been expressly requested in the bid document.

- b. Any bidder who exclusively represents the article(s) in the bid must submit such evidence.

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

8. Deliveries

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

In the bid documents the bidder shall be required to inform in his proposal the dates on which the merchandise shall be delivered; and in the case of public works or services, the date projected for the commencement of the work or the service and the date the work shall be delivered or the service terminated.

- b. Place of Delivery

It shall be the duty of the Office to inform the bidder the place of delivery, in the bid call document.

- c. Pick-up Date

The successful bidder in a sale bid is bound to pick up the merchandise or the goods awarded in his favor within five (5) days after having received notice of the pick-up, at his own cost and risk. If he fails to do so, it shall be awarded to the second bidder and the difference between the latter's proposal and the bidder to whom it was originally awarded shall be absorbed by his bond. He shall also be charged for the storage of the goods during the days elapsed between the date set for the pick-up and the

date the second bidder picked up the goods.

9. Storage

In case that the bidder who sells to the Government has to store the supplies to be delivered, the Government shall not be liable for the price the bidder pays for storage nor for the profit he may fail to obtain.

10. Discounts

The discount offered by the bidder as incentive for the acceleration of payment in due time, when the bid is awarded to him, shall not be considered in the evaluation of the proposal for the award.

11. Taxes

The price offered by the bidder shall not include state taxes.

12. General Conditions for the Contracting of Public Works and other Related Documents

In public work bids it shall be stated, and the bidder shall so certify, that he is acquainted with the "General Conditions for the Contracting of Public Works and Other Related Documents" approved October 27, 1976, which are part of all contracts, or agreements executed by the Government in the field of public works construction. The Administration shall include in the Bid Documents copy of those conditions and specifically the ones applicable to each bid.

13. Preference Act

The bidder interested in having the benefits granted by Act No. 103 of June 24, 1977, known as "Government Purchases Preference Act", applied to him, shall include in his proposal a copy of the resolution of the Board of Preference.

If any bidder should alter documents in order to enjoy the benefits of this Act, he shall become ineligible to participate in future bids for a term determined by the Board, which shall not be less than two (2) years, and such bidder can not participate in any other bid for agencies in the Executive Branch for the some period of time, and in cases involving a decision by a competent court for said action, the ineligibility period shall begin to run subsequent to having served the sentence or paid the fine, as the case may be.

To be re-entered in the Registry, said bidder shall have to formally request the Administrator through the reinstatement procedure that may be provided to that effect.

14. Federal Energy Conservation Act

Every bidder who offers equipment, machinery or vehicle consuming electric energy or fuel for their operation shall state, upon making his proposal, that his equipment, machinery or vehicle, complies with the requirements provided by the Federal Energy Conservation Act. In awarding these bids, the Board shall adhere to the federal rules for consumption, conservation and use of the good involved and it shall not be cause for impeachment where the bid is awarded to a bidder offering a more expensive good, if the ones offered by the other bidders do not comply with the rules established by said Act.

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

a. In these types of bids, the bidders are bound to submit, as a minimum, the following information as applicable:

1) Hardware characteristics

For this item the bidder shall submit information relating to the architecture and capacity of the central process unit

("CPU"); the speed of the printers and of the tapes and discs, including the recording density of these units and such other characteristics as may be required in the specifications.

2) Software characteristics

For this item the bidder shall submit the following information:

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

3) Direct or Indirect Assistance (Support) Offered by the Manufacturer of the Equipment

For this item the bidder shall submit the following information:

- a) The direct technical assistance offered for the development and implementation of the different applications on the equipment offered;
- b) General assistance that the manufacturer offers in the area of software maintenance;

- c) Availability of manuals as to the equipment and its applications;
- d) Existence of back-up facilities for emergencies and testing time;
- e) Closeness of personnel and of equipment of the manufacturing firm to the purchasing or leasing agency;
- f) Availability of analysts and programmers; and
- g) Any other assistance that may be relevant to the petitioning agency.

4) Training

For this item the bidder shall submit the following information:

- a) Quality and quantity of courses offered;
- b) Physical facilities and human resources available, including their name, preparation and experience.
- c) Levels for which courses are designed; and
- d) Duration thereof.

5) Maintenance

For this item, the following information shall be submitted:

- a) Preventive and remedial maintenance schedule;
- b) Extra charge for remedial maintenance outside working hours;
- c) Quantity and quality of personnel available; and
- d) Minimum time to begin providing this service.

6) Costs

For this item, the bidder shall furnish the following information:

- a) Alternatives between rental or lease of equipment;

- b) Purchase price and plans;
- c) Service provided by vendor;
- d) Total cost represented by the installation and operation of system, including personnel, training, space, transportation, insurance and other aspects related to the equipment chosen and its software programs;
- e) Trade-in Value.

7) Interrelation with Other Equipment

Under this item the bidder shall indicate to what other hardwares or softwares in the market can his equipment be integrated.

16. Construction or Service Bids

a. The bidder shall have to submit the following information:

- 1) Economic and human resources;
- 2) Experience in the service to be rendered;
- 3) Organization and equipment with which he can count for the work;
- 4) List and qualification of the personnel to be used and
- 5) Examination of the plans and work site.

a) All bidders shall have to visit the work site in order to be informed of the conditions under which the same shall be executed and become acquainted with the nature, extent, quality and quantity of the work or service that he shall perform and the materials to be supplied. No work shall be performed if a study of the ground on which the same shall be erected has not been made.

17. Bids in General

The Office is bound to indicate to the bidders in the bid documents

that they must state, under oath, the following:

- a. That they have not come to any agreement with a particular person, corporation or firm to submit various proposals under different names or proposals in combination with another bidder.
- b. That no employee of the Administration has any monetary interest in his proposal.

ARTICLE 63.- Conditions

1. Definition

All the bids shall contain conditions which are the terms under which it is sought that the good be delivered, the work performed or the service involved rendered.

2. Type

a. General

1) Definition

The General Conditions are those based on the acquisition rules of the Administration. They must always be included in the Bid Documents and they may change in details, depending on the object of the bid.

2) Drafting Responsibility

The General Conditions shall be drafted by the Administration.

b. Special

1) Definition

They are those that may be established depending on the good, work, or service acquired or is sold, and on the basis of the experience had in evaluating, awarding or administering contracts, it is concluded that their adoption is advisable.

2) Drafting Responsibility

The Administrator shall draft them for their adaptation and inclusion in the bid documents.

c. Particular

1) Definition

The Particular Conditions are those expressing the specific needs of the petitioning agencies.

2) Drafting Responsibility

The petitioning agency shall draft them.

SECTION B: PURCHASE PROCEDURES

ARTICLE 64.- Types of Procedures

When acquiring by means of purchase, the latter may be handled through any of the following procedures, depending on the circumstances surrounding the transaction at the time the latter is to be executed.

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

ARTICLE 65.- Formal Bid

1. Definition

Formal Bid is the procedure that shall be followed in the Government in order to acquire any good, work or service exceeding four thousand dollars (\$4,000) or any construction work exceeding twenty-five thousand dollars (\$25,000) or any service attached to it exceeding ten thousand dollars (\$10,000).

2. Handling

The formal bid procedure is handled in accordance with the provisions of the "Bid Regulations" of the Administration and the rules contained in these regulations.

ARTICLE 66.- Informal Bid

1. Definition

Informal Bid is the procedure to be followed when the acquisition transaction to be performed is exempt from being handled by formal bid as provided in Article 51, subsection 4 of these regulations.

2. Handling According to Amount

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

a. The "Delegate Buyers Regulations" of the Administration establishes the steps to be taken in the following:

- 1) Transaction from one cent (\$0.01) to five hundred dollars (\$500);
- 2) Transaction from five hundred dollars and one cent (\$500.01) to two thousand dollars (\$2,000.00);
- 3) Transaction from two thousand dollars and one cent (\$2,000.01) to four thousand dollars (\$4,000.00).

b. The following transactions are handled as established herein:

- 1) Transaction from one cent (\$0.01) to twenty five thousand dollars (\$25,000) to acquire construction work.
- 2) Transaction from one cent to (\$0.01) to ten thousand dollars (\$10,000.00) to acquire services attached to the construction.

c. Exception

When it is a question of acquiring any means of transportation, such as boats, motorcycles, helicopters, airplanes, even though the amount thereof is less than four thousand dollars (\$4,000.00) and parts and accessories, it shall have to be submitted to the Administrator for his approval and handling.

ARTICLE 67.- Informal Bid to Acquire Construction Work up to Twenty five
Thousand Dollars (\$25,000.00)

1. When Proper

The procedure up to twenty five thousand dollars (\$25,000.00) shall be followed only when it involves a construction work that the Construc-

tion Area of the Administration decides to execute by contract and the total amount estimated for said work does not exceed twenty five thousand dollars (\$25,000.00).

2. Administrator's Authorization

Any construction work to be executed by the Administration which is recommended to be performed by contract must be authorized by the Administrator.

3. Drafting of Bid Call

Once the Administrator has authorized that a work be performed by contract, the Informal Bid Call shall be prepared, making sure that the terms and conditions be uniform for all the bidders invited and that it shall include, or be accompanied by, the following information, when applicable:

- a. Name of the work;
- b. Number of the work;
- c. Location of the work;
- d. Description of the work to be executed;
- e. Purpose of the work;
- f. Petitioner or origin of the work;
- g. Specifications
 - 1) Detailed description of each one of the components of the work, such as the description of the materials sought to be used and others;
- h. Conditions
 - 1) Detail of the way and manner in which it is sought that the work be done and final delivery thereof be made, indicating each special condition;

- i. Exact date on which delivery of the work is required;
- j. Maximum amount of money estimated for said work;
 - 1) Said amount shall not exceed twenty five thousand dollars (\$25,000.00).
- k. Funds certification;
- l. Bonds and insurance necessary and the total amount thereof;
- m. Existing plans for the work, if any; and
- n. Date, place and time of Opening.

4. Approval of the Administrator

When the Call is prepared, the following shall be verified:

- a. That the specifications and conditions required comply with the construction rules established to that effect by the Administrator or by the "General Conditions for Contracting of Public Works and Other Related Documents".
 - b. That the Funds Certification Form containing the following information was attached:
 - 1) Origin of funds
 - 2) Number and date of the obligation and separation of funds;
 - 3) Number of account against which payment shall be made in due time;
 - 4) Manner in which it is proposed to make total payment, partial payments, if any, indicating the terms under which said partial payments shall be made;
5. Signature of the Finance Director or his representative.

Said form, approved by the Finance Director, shall form part of the Informal Bid Call and shall be part of the contract record which shall be executed in due time.

5. Bidders Selection

The person in charge of the preliminary steps of the informal bid shall make sure to verify that the bidders to be invited are duly included in the Bidders Registry of the Administration and he shall have to invite every bidder registered for the type of work involved. Except as provided in Article 7, subsection 14 of the Bid Regulations of the General Services Administration and in Articles 43, subsection 3, 44 subsection 3 and 45 subsection 3 of the Delegate Buyers Regulations of the General Services Administration.

6. Proposals

The bidders shall make their proposals in writing in sealed envelopes, identified with the number of the informal bid.

7. Opening

On the date, place and time set, the Opening, which shall be public, shall take place.

The person in charge of the Opening shall record in writing all the happenings of the Act.

8. Proposal Summary

The Administrator shall make the pertinent evaluations. Within the evaluation a breakdown or summary of the price quotations offered by all the bidders shall be recorded in the form provided therefor, including the following information, when applicable:

- a. Number of informal bid;
- b. Name and location of project;
- c. Corresponding region;
- d. Name of each bidder who presented a proposal;

- e. Price quoted;
- f. Indication as to whether or not it complies with said specifications and conditions
 - 1) If it does not comply, he must indicate which and why it does not comply with said specifications and conditions.
- g. Recommendation in favor of to whom the bid should be awarded and why, and the reasons why other proposals should be rejected;
- h. Date and signature of the person preparing the Summary; and
- i. Signature of the Administrator.

9. Award

The Administrator shall conduct the award.

a. Procedure

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

b. Steps Subsequent to Award

The Administrator or his authorized representative shall proceed, in conformance with the provisions of the Bid Regulations of the General Services Administration, to take the steps subsequent to the award of the Informal Bid, disregarding the terms established in said Regulations for the review of Formal Bids.

10. Contract

The contract shall consist of the following documents:

- a. Copy of the Bid Documents;
- b. Original of the successful proposal;
- c. Copy of Award Notice;
- d. Plans and other documents required in the bid call, conditions of the bid and those included in paragraph number 2.1.1. of Article 2 of the "General Conditions for Contracting of Public Works and other Related Documents";
- e. Copies of the Order establishing the execution of the contract as well as the date on which its administration is commenced;
 - 1) In public works contracts a "Commencement Order" shall be issued in the form provided by the Administration in substitution of a Purchase Order. The Administrator shall be the one who may issue the "Commencement Order" according to the circumstances of the case in particular.
- f. The additional documents necessary for the execution of the contract such as, insurance policies, bonds, authorization and others.

ARTICLE 68.- Procedure for Purchases from the Administration Warehouses

1. Handling

a. Funds Obligation

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

b. Forms

When making their requisitions to the Warehouse, the Buyers shall use the form "Warehouse Requisition" provided by the Administration for such purpose.

c. Approval and Remittance

The unit in charge of Finances of the petitioning agency shall approve the requisition after verifying whether there are funds available in the obligation.

The buyer shall send the requisition to the Administration Warehouse.

d. Dispatch

The Requisition to the Warehouse, once the sufficiency of funds in the obligation of the petitioning agency is corroborated, shall be dispatched.

1) Lack of Goods

When the Warehouse can not supply what is requisitioned by the agency because it does not have it available, it must take the proper steps to supply it.

2. Obligation of the Petitioning Agencies

It shall be the duty of the petitioning agencies to acquire from the Administration Warehouse the goods it supplies. No emergency requisitions shall be approved to acquire them or similar ones in the private sector.

ARTICLE 69.- Direct Purchases Against Contracts

1. Definition

Purchases directly against contracts are those made from the successful bidders of formal or informal bids, whether on short or long terms, having contracts in effect at the time the purchase is to be made.

2. Purchase Transaction

Purchases against contracts are directly made without the intervention of the Administration, through the issuance of a purchase order against the existing contract.

3. Limitations

Purchase orders issued against contracts that have been executed as a consequence of a formal bid, shall not be subject to the amount control of the Buyer issuing them.

4. Issuing Responsibility

Purchase orders shall be issued by the Delegate Buyers or by the Purchase Office in short-term contracts which only require one purchase order or special purchases.

5. Issuance Procedure

Purchase orders are issued on the forms provided thereof, making sure they are fully and properly filled out, containing the specifications, conditions, terms, funds certification and other necessary information.

After said forms are filled out, the orders shall be distributed as provided in the Delegate Buyers Regulations.

ARTICLE 70.- Open Market Purchases

1. Definition

Open Market is the term given to any of the acquisition procedures when a transaction is exempt from being handled through a formal bid.

2. When Proper

An open market purchase may be authorized when one of the following circumstances is present:

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

3. Handling

Open market purchases shall be handled through the Agency Buyer, by the Purchasing Specialist or Purchasing Agent of the Administration.

a. Limitation

When what is to be acquired involves a vehicle, printing equipment, construction machinery, computers or microphotography equipment, open market purchases shall be handled only by the Specialists and Buyers Agents of the Administration.

4. Handling Procedure

Open market purchases shall be handled depending on the cause giving rise to the use of that procedure, subject to the procedures established herein, which are the following:

- a. Only source;
- b. Purchases from the Government of the United States of America or of Foreign Countries;
- c. Emergency;
- d. Breach of Contract; and
- e. Others.

ARTICLE 71.- Purchases from Only Supplier

1. Definition

Only Source or Supplier purchases is a modality of Open Market Purchases which is followed when at the specific time the good is needed, the work or service can only be provided by one bidder.

2. When Proper

Only Supplier purchases are proper in the following cases:

- a. When there is only one bidder registered in the Bidders Registry,
- b. When there is no supplier in the Registry and there is only one supplier available in the market and he meets the requirements stipulated for Government bidders,
- c. Even though there are several registered bidders, yet at the place and time desired there is only one supplier willing to quote.

3. Handling

Only Supplier Purchases shall be handled by the Administration or authorized Buyer.

4. Procedure

a. Buyer

When Only Supplier Purchases are going to be made by a Buyer, he shall proceed as follows:

1) Certification and Request

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

2) Authorization

If the Administrator considers that it is proper he shall

authorize the purchase in writing.

3) Purchase Procedure

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

b. Administration

The Administration shall make Only Supplier Purchases in the following cases:

- 1) When irrespective of the amount involved, the Administrator considers that the best interests of the Government are protected.

ARTICLE 72.- Purchases from Governments or in Foreign Countries

1. From Governments

Purchases from the Government of the United States of America or from any foreign country shall be made only by the Administration through the open market procedure modality established herein.

a. Handling Procedure

1) Justification

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

2) Handling

If the Administrator considers that the requisition is duly justified, he shall order the Office to carry it out.

2. In foreign countries

Any transaction made with a foreign person or private enterprise having no representative in Puerto Rico must be justified before the Administrator and authorized by him and it shall only be carried out in the Administration.

ARTICLE 73.- Emergency Procedure

1. Definition

The emergency procedure is the modality of the open market to be followed in emergency cases.

2. General Authorization

When there is an emergency, the formal bid procedure shall be waived and the following procedure shall take place.

Certification

The petitioning agency shall have to submit to the Administrator by any means of communication available a justification establishing the emergency.

a. Contents

Said justification shall consist of three (3) parts:

- 1) Reason for the emergency shall be indicated: whether it was an act of God, vandalism or negligence or some unforeseen situation and the act, date, time and place shall be specified.
- 2) The damage caused or to be caused shall be indicated, stating specifically what is in danger and the reasons the head of the agency has to reach that conclusion, expressly pointing out how it affects the services rendered by the Government through its agency.

- 3) Certification of the head of the agency to the effect that he is aware of the existence and adverse effect of the emergency.

b. Justification Submitted

- 1) Acts of God or vandalism

When the emergency be caused by a foreseeable but inevitable Act of God which jeopardizes the life, health and security of the people or of the services rendered by the Government, or is caused by vandalism, the head of the petitioning agency may authorize his Delegate Buyer to proceed with the purchase, regardless of the amount involved, unless what is to be acquired is a land, air or sea transportation vehicle.

Such a determination shall be notified immediately and verbally to the Administrator.

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

- 2) Acts of Negligence

In cases where the emergency is caused by negligence, by action or omission of an officer or employee, the emergency justification shall have to be submitted in writing to the Administrator before any transaction is carried out.

c. Approval

- 1) Acts of God or Vandalism

The Administrator shall approve or disapprove the transaction.

- a) If the Administrator does not approve the transaction, it shall be the duty of the head of the agency to justify his action before the Secretary of the Treasury, who shall determine whether or not to make the payment.

2) Acts of Negligence

If the Administrator approves it, he may authorize the Delegate Buyer of the agency to proceed with the acquisition of the good, work or services, regardless of the amount, or he may determine that the purchase be made in the Administration.

- a) If the Administrator disapproves, the corresponding proceeding shall be followed according to the amount involved.

ARTICLE 74.- Procedure for Acquiring Luxury Goods, Services or Works

Whenever it is sought to acquire luxury goods, works or services, the Administrator's approval shall be requested, through the following procedure:

1. Acquisition Requisition: Additional Documents

The requisition must be accompanied by a certificate from the head of the agency, in which the following must be stated:

- a. All the reasons why the acquisition of luxury work, good or service should be authorized;
- b. Officer or employee who shall have direct use or control of the good, the program which shall benefit from the service or work and the officer or employee who shall administer the work or service;

- c. Specific use or purpose;
- d. Origin of funds to be used;
- e. Funds obligation;
- f. Explanation why something similar, not a luxury, can not be acquired;
- g. Manner in which the Government shall benefit by acquiring what is requisitioned;
- h. Authorization of the Secretary of the Treasury.

2. Officer in Charge of Approving Luxury Purchases

The Administrator alone shall authorize the luxury acquisition requisitions if approved by the Secretary of the Treasury, as provided by the Commonwealth Accounting Act and upon complying with any other requirement established by law.

3. Payment

The Treasury Department shall not make any payment unless it has been handled in the Administration.

ARTICLE 75.- Installment Purchase Procedure

Installment purchases shall be handled pursuant to the rules which shall be established by the Administrator in consultation with, and upon the approval of, the Secretary of the Treasury and of the Budget Bureau Director.

When the installment periods in a purchase exceed one (1) fiscal year, said transaction shall not be carried out unless it is so provided by law.

ARTICLE 76.- Trade-in Procedure

Only those goods that have been declared surplus by the Administrator may be given in trade-in and the Trade-in contracts shall be handled as established in the "State Surplus Property Regulations" of the Administration.

ARTICLE 77.- Barter Procedure

1. Requisition

When a petitioning agency considers that in its best interests it should and can carry out a barter, it shall request authorization from the Administrator to do so. Said requisition shall contain the following information:

- a. Justification
- b. Purpose
- c. Goods to be bartered and
- d. Appraisal of the goods

2. Steps in the Administration

The Administrator shall send an agent of his office to appraise the goods and the latter shall submit his recommendation with an appraisal report within a period of not greater than ten (10) working days counted from the day the documents are received.

3. Approval and Authorization

The Administrator shall deny or approve the transaction in which case the goods shall be subjected to the procedure for declaring them surplus as established in the "Surplus Property Regulations" of the Administration.

a. Special Limitation

Barter Contracts shall always be executed by the Administrator and the following goods may be subjected to barter:

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

- 3) construction equipment or machinery;
- 4) microphotography equipment;
- 5) computers and other related equipments;
- 6) office or reproduction equipment;
- 7) any other equipment used by the agency.

4. Contract

The Barter contract shall be executed by using the contract form designed by the Administration and which is provided for that purpose.

SECTION C: LEASE PROCEDURE

ARTICLE 78.- Lease Rules

1. General Rule

The leases of goods or services are made through the same procedures used for purchases.

In those cases where there is an existing contract with the Administration to render the services, supply the goods, the agencies shall procure the same by having the Buyer issue orders, using the form provided by the Administration and following the same procedure as for direct purchases established herein; except that in the case of services, the orders shall be entitled "Service Orders".

2. Exception: Nonexistence of Contract

In those cases in which for the transaction by lease sought, there is no contract awarded by the Administration, if the amount involved does not exceed the limits set for the Buyer, an Informal Bid shall be conducted for the amount involved as established in the "Delegate Buyers Regulation" of the Administration. In case it exceeds the limits of amount authorized to the Buyer, a requisition shall be submitted with the following information:

- a. Number of units or amount of goods requisitioned by their type and description of services requisitioned
- b. Justification for lease
- c. Rent considered reasonable
- d. Projected period
- e. Estimated total cost
- f. Comparison of lease cost versus purchase and use cost of present

resources in the Government and in the agency

g. Funds obligation

ARTICLE 79.- Approval of Lease Requisition

Upon receiving the lease requisitions the Administrator shall determine whether to refer them to the office for their procedure or whether another available resource should be used to meet the agency need.

The evaluation of the requisition shall be made in order to determine whether the equipment, machinery or vehicle, or service requisitioned, in terms of time does not justify the investment required, if acquired through purchase. The lease requisition shall be approved, using as a basis the following criteria:

1. Market value of what is requisitioned.
2. Use to which it shall be destined.
3. Convenience of this type of acquisition.
4. Agency immediate need of what is requisitioned.
5. Lease term for what was requisitioned.
6. Preference for this type of acquisition over any other.
7. Any other criterion that the Administrator deems convenient for the best interest of the Government.

ARTICLE 80.- Lease Contract Requirements

In every lease contract granted with or without bid, the following clauses shall be included:

1. Public liability insurance provided by the lessor.
2. That the equipment, machinery or vehicle to be used shall be maintained in a similar way to those already in use by the Government.

3. The lessor shall provide maintenance except in such cases as the Administrator considers it to be more practical for the Government to assume that obligation.
4. In cases of vehicles equipped with two-way radio components, c.b., c.h.f., s.s.b., or any similar equipment, they may be acquired with all their accessory equipment in order that they may be able to perform their function without any extra part coming from another source.
5. When personal property leases are involved, evidence that the lessor complies with the provisions of Act No. 20 of May 8, 1973, as amended, known as the "Personal Property Lease Act" and that he complies with any other law in effect or that may be approved in the future regulating leases; as well as the other laws which govern private businesses, their owners and other related rules.

ARTICLE 81.- Procedure for Leasing Construction Services Up to Ten Thousand Dollars (\$10,000.00)

The services attached to construction works, such as, but not limited to, the rental and operation of heavy equipment, transportation thereof, and related services such as maintenance and the acquisition of parts; transportation, acquisition of fuel and lubricants and the purchase of construction materials, the amount of which does not exceed ten thousand dollars (\$10,000.00) shall be handled under the following procedure:

1. Requisition

The requisition shall be evaluated in order to determine whether or not it should be submitted to this procedure.

2. Certification of Funds

The Buyer who is in charge of processing the requisition shall make

sure that the funds against which payment is to be made, have been separated and assigned, and shall request certification of the account against which payment shall be made to the Head of Finances or his authorized representative.

3. Invitation

The greatest number of registered bidders in the nearest area to the site of the work shall be invited to present their proposals.

The invitation may be made by telephone, but a clear and written record shall be kept of the steps taken, including the following:

- a. name of the commercial enterprise;
- b. name of the person in said enterprise offering selling price and conditions;
- c. telephone number called to request the proposal;
- d. date and time when proposal was requested.

4. Award

The Buyer shall, on the same day, award the informal bid to the bidder who complies with the specifications and conditions requisitioned and whose terms and prices are the most beneficial to the Government.

5. Steps Subsequent to Award

a. Award notice

The award shall be notified to the successful bidder immediately by telephone and its verbal acceptance shall entail a commitment of performance on his part.

1) Review

These awards shall not be subject to review and they shall be transacted without being subject to the terms established for

the review of formal bids.

b. Purchase Order

The purchase order shall be issued within twenty four (24) hours after the informal bid is awarded.

6. Deliveries

When construction materials have been acquired, the delivery of which calls for installation or dumping in the project, or partial or complete deliveries in the project, the person in charge of the work shall be the Official Receiver thereof who shall act under a temporary appointment the handling of which shall be established by the Administrator through special procedure. The person in charge of the Regional Office shall certify the Receiver's signature in each receipt.

For the purpose of keeping the records up-to-date, a copy of the receipt issued shall be sent to the administrative unit thus informing it of all the reports so received.

7. Record

A public record shall be made of all the steps taken in the informal bid.

ARTICLE 82.- Procedure for Leasing Unipersonal and Multipersonal Services

1. Unipersonal

The unipersonal services shall be handled in conformance with the procedures established by the Administrator of the Central Personnel Administration Office for the contracting of private persons. Except in case of nonprofessional services, a request shall be presented to the Administrator and depending on the amount involved and the feasibility of the competition, a formal bid, informal bid or direct re-

cruitment shall be conducted. In all the cases, however, the general rule that no position shall be created in the contracts executed under this provision, shall be respected.

2. Multipersonal

Multipersonal services, whether professional or not, shall be handled by formal or informal bid depending on the amount involved.

a. Professional Services

Professional services to be rendered by entities or professional firms and which are related to the functions and services rendered by the Administration, such as data processing through electronic systems, microphotography, construction, transportation, printing, printed publicity and others, shall be recruited by formal bid.

1) Exceptions

Professional multipersonal services shall be exempt from bid in the following cases:

- a) When the amount does not exceed the limits established in these regulations.
- b) When the Administrator expressly exempts it.
- c) When the law regulating his profession or the canons of ethic of said profession prevent said professionals from appearing at public bids.
- d) When it is a case exclusively of counseling services.

SECTION D: DONATIONS

ARTICLE 83.- Donation Procedure

1. Form

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

2. Duty of the Agency Benefited

If the donation shall have been offered by means of a petitioning agency or by virtue of the action of interested parties within the petitioning agency, the latter shall submit the form in conjunction with the donor and an acceptance recommendation of the donation and a requisition for the use and enjoyment thereof.

3. Appraisal and Examination

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

In the case of works or services, the study shall deal with the capacity of the person or entity to perform the work or render the service involved.

On the basis of the Appraisal Report, Study of the Title or of the Feasibility rendered, the Administrator shall accept or reject the donation or authorize the acceptance or order the rejection thereof.

4. Contract

When the donation shall have originated in a petitioning agency, the latter shall send it to the Administration for its approval or authorization.

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

SECTION E: HANDLING OF GOODS THAT BECOME GOVERNMENT PROPERTY

ARTICLE 84.- Procedure in Relation to Seized Goods

When the period prescribed by law for the legitimate owner to recover his property shall have elapsed, without his having posted the corresponding bond or without a Court having ordered the return thereof, said property becomes Government property. The authority having seized it shall notify the Administration that said period has elapsed under the circumstances mentioned and shall authorize the disposal of said property. When the Administration receives said notice, it shall take the necessary steps to transfer the title to the Government as established in the State Surplus Property Regulations of the Administration.

ARTICLE 85.- Procedure in Relation to Act No. 88 of May 31, 1967, as amended

Once the terms prescribed by law have elapsed, the Police shall deliver the goods to the Administration and the latter shall make the corresponding registrations and accounting thereof as government property, subject to the procedure established in the State Surplus Property Regulations of the Administration. Upon making delivery, the Police shall certify and comply with all the requirements provided by law.

ARTICLE 86.- Procedure in Relation to Rule 251 of the Rules of Criminal
Procedure

Once the periods prescribed by Rule 251 have elapsed, the Court shall deliver the goods to the Administration for the corresponding action of registration and accounting thereof as Government property in accordance with the provisions established in the State Surplus Property Regulations of the Administration.

PART FOUR

CONTRACTS

SECTION A: AWARD

ARTICLE 87.- Types of Contracts

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

1. Contracts of Continuous Needs, of Indeterminate Amounts or Periods

These contracts are those by virtue of which the petitioning agencies are provided with articles and services of continuous and common use, which make it necessary to have always a contract in effect for each matter uninterruptedly.

Said contracts are awarded when at the time of the bid call the amount of goods to be used or the occasions when/^{the}services to be rendered or the work to be performed are requested during the effectiveness of the contract can not be determined accurately in numerical terms.

This type of contract shall always be the result of a formal bid. Upon calling the bid, the bidder shall be informed of the approximate amounts, according to consumption estimates of the agencies, and the bidders are advised that those figures may increase or decrease.

These contracts may be effective during the specific period set by the Administrator, depending on the conditions prevailing in the market and the Government needs, but it may never exceed one (1) year.

a. Contractors Obligations

The contractor with whom a contract of an indeterminate amount or period is executed shall have available for delivery to the

Government what was requisitioned by any of its agencies within the time established in the conditions of the bid.

b. Obligations of the Agencies

The petitioning agencies shall make sure to submit their estimates as accurate as possible so as not to have the successful bidder unnecessarily pressured to sustain greater market expectations than the real ones.

c. Scope of Government Liability

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

d. Renewal

In situations when a new contract for continuous needs can not be timely executed, the Administrator's authorization shall be requested for the renewal of the existing contract for the period they deem will take the execution of the new contract. This period shall never be for more than six months.

2. Immediate Delivery Contract

Immediate delivery contracts are those awarded for the purpose of issuing only one order against them, or several orders within a specific period of time.

ARTICLE 88.- Execution

The contract between the General Services Administration and the successful bidder shall be the bid call together with its contents of specifications and conditions required therein and the contract shall be executed as soon as the Administration accepts the bidder's proposal.

The Public Works and the Professional Services Contracts are the exception to the aforesaid inasmuch as they shall have to be executed in the legal manner commonly used in Puerto Rico. In these cases the contract is executed at the time it is signed by the parties.

ARTICLE 89.- Refusal to Execute Contract

If the successful bidder refuses to execute the Public Works or Professional Services Contract within three (3) days from the date he receives notice, the Administrator may apply Article 76 of the Bid Regulations of the General Services Administration.

In the other cases the execution of the contract becomes effective from the date on which the Administration notifies the Award Notice to the successful bidder. Article 76 of the Bid Regulations of the General Services Administration may be immediately applied to the successful bidder who refuses to comply.

1. Action to be Taken by Buyer or the Office

The Office shall proceed to summon the second bidder for the execution of the contract.

SECTION B: CONTRACT NEGOTIATION

ARTICLE 90.- Definition

The negotiation shall be that verbal or written transaction carried out by the Administrator at a meeting with the other contracting party to agree on the terms and conditions of the contract in order to obtain the best prices for the Government, subject to the rules established in this Article.

ARTICLE 91.- When Proper

A contract may be negotiated when one of the following circumstances exists:

1. If the Administrator considers that a new call would show the same result
2. When no proposals are received after a bid call has been issued on two (2) occasions
3. When the successful bidder did not sustain his proposal or refuses to execute the corresponding contract and there is no second bidder
4. When the contractor has breached the terms
5. When there is an emergency
6. When a professional service is involved which does not require a bid
7. When there is only one source of supply
8. When the time taken for the preparation and award of the new bid adversely affects the service intended to be rendered with the product bought at said bid.

ARTICLE 92.- Handling

The Administrator shall be in charge of the negotiation. He shall consult the expert on the subject matter prior to the negotiation and shall

have the information concerning the budget set for said contract up-to-date. When the Administrator expressly indicates it or requests it, an attorney from the Administration shall be present in said negotiation.

ARTICLE 93.- Period for Initiating Negotiation

The negotiation of a contract subsequent to a formal bid shall not be conducted before the expiration of the five (5) days period granted by the "Board of Review Regulations" of the General Services Administration for impeachment purposes has expired.

ARTICLE 94.- Procedure

The negotiation shall be conducted verbally or in writing, as the Administrator may determine.

A Record of Negotiation shall be drawn up as to the negotiation conducted and the same shall be part of the record file after approved and signed by both parties.

ARTICLE 95.- Points to be Considered when Negotiating a Contract

The negotiation shall be conducted in conformance with the specifications, terms and conditions established in the Bid Documents or in the Requisition.

ARTICLE 96.- Approval and Execution

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

1. Report

The Administrator shall prepare a negotiated contract project when it exceeds four thousand dollars (\$4,000), when it involves a construction work contract if it exceeds twenty-five thousand dollars (\$25,000), and when it involves a service attached to the construction, when it ex-

ceeds ten thousand dollars (\$10,000). This project shall be accompanied by an Explanatory Report which contains the grounds on which the award of the contract is recommended and it shall have to be signed by the contractor.

When it does not exceed four thousand dollars (\$4,000), twenty-five thousand dollars (\$25,000) nor ten thousand dollars (\$10,000), in construction cases, the contract shall be approved by the Administrator.

2. Decision of the Administrator

The Administrator approves the recommendation and shall proceed to award the contract.

3. Award

After the parties have reached an agreement, the contract shall be awarded by the Administrator.

ARTICLE 97.- Bar to Impeach Negotiation

The determination which entails this type of transaction shall not be subject to impeachment or review.

SECTION C: CONTRACT ADMINISTRATION

ARTICLE 98.- Definition

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

ARTICLE 99.- Responsibility of Contract Administration

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

In the construction works contracts the administration thereof shall be responsibility of the engineer in charge of the work.

In acquisition of goods contracts, the Official Receivers of each petitioning agency.

In services contracts, the Director of the Services Division of the petitioning agency or the person in whom he delegates or the Director of the unit receiving the service in the petitioning agency.

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

ARTICLE 100.- Scope of Contract Administration

To administer a contract entails the duty to see to the faithful compliance, on the part of the contractor, with each one of the contract clauses in the manner contemplated therein.

1. Functions

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

ARTICLE 101.- General Obligations

To ensure the good administration of purchases as well as the faithful compliance with the rules established in these regulations, the agencies shall faithfully comply with the following:

1. Petitioning agencies

- a. They shall plan their requisitions so that they may be transacted in conformance with the provisions of these regulations and of all the other existing rules concerning the subject matter;
- b. When scheduling their programs they shall avoid conflicts with the terms established for the procedures of bid calls and bid awards, thereby creating situations of emergency which may force the waiving of the formal bid procedure;
- c. They shall handle their requisitions as efficiently and rapidly as possible in order to avoid administrative negligence, delay, or omission, resulting in economic loss to the Government;
- d. They shall assign sufficient funds before initiating the requisition procedures in order to ensure that when purchase orders are issued there will be available funds to cover the disbursements;
- e. No acquisition transaction shall be conducted without the issuance of the corresponding orders against contracts in force or before such contracts are executed;
- f. They shall notify the Administration of every acquisition transaction.

- g. They shall keep control of the orders issued, of the goods pending receipt, of the services pending rendering, of the works pending execution, of the receipts issued and received and of the payments made. They shall submit this information to the Administration every month.
- h. They shall avoid all duplication of requisitions or of issuance of orders by centralizing everything concerning the acquisition in the person of the Delegate Buyer.

SECTION D: BREACH OF CONTRACT

ARTICLE 102.- Commission of Breach of Contract

Breach of any of the contracts executed with the Administration or with the Government shall be understood to have occurred when one or more of the following circumstances exist:

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

ARTICLE 103.- Claim for Breach of Contract

1. Initial Requirement

When the bidder awarded the contract refuses to accept or serve an order of purchase, of service, of commencing or notice of change issued to him, he shall be immediately and verbally required compliance and if he refuses, the procedure below shall be followed.

2. Notification

The petitioning agency which may be beneficiary of the contract, or becomes aware of the breach of contract, is bound, after reviewing the goods, the services in process or terminated, or the work being executed, to notify, if applicable, the breach in the following manner:

- a. The person who is expressly so authorized by the head of the agency, in conformance with the guidelines established in these regulations concerning contract administration, shall communicate in writing, by telephone or personally, with the bidder under contract as soon as possible and shall require compliance with the contract. When making this request, the person in

charge of making it, is bound to inform the bidder of the irregularity committed and must give him a reasonable period of time to correct it or comply with the terms and conditions of the contract. Of this action he shall leave written proof in the record.

- 1) In cases of works executed or being executed, the term shall be the one established in the "General Conditions for the Contracting of Public Works" and as established in the contract governing the work.
- 2) When the breach consists in having failed to deliver on time, the corresponding penalties shall be imposed for late delivery.

3. Refusal to Comply with the Contract

If the term given to the bidder under contract to comply with the terms of the contract has expired and he refuses or has failed to take any step showing that he intends to correct the irregularity committed, it shall be understood that the bidder breached the contract and the following action shall be taken:

- a. The Delegate Buyer of the agency shall send him by registered mail with return receipt the "Breach and Demand Notice" in the form provided by the Administration.
 - 1) Copy of said form attached to the record of the contract and of any other pertinent document shall be sent simultaneously to the Administration, which shall be accompanied by the following:
 - a) Descriptive report as to what contract term the contractor has breached;
 - b) Statement of the evidence the agency has in order to prove

the breach in due time

(1) This statement shall include photographs, reports, testimonies and other documents, if any.

- c) A statement and copy of all the verbal and written claims made to the contractor, date when made and name of the person who made them.
- d) Those petitioning agencies which are provided with an attorney, shall refer to him the notice to the Administration before sending it to the Administration in order that he may evaluate the quality of the evidence in possession of the agency for the purpose of determining whether the same is sufficient and adequate to make sure that the position to be adopted by the government is solid in case it must take judicial action against the contractor.

4. Action by the Administration

a. Evaluation of the Evidence

The Administrator shall evaluate the evidence received from the petitioning agency and if the same is convincing, he shall proceed as hereinafter provided.

b. Authorization to the petitioning agency

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

This authorization shall be notified to the agency by the fastest means available; and if in the judgment of the Administrator the situation warrants it, the Administration shall directly conduct the acquisition.

1) Acquisition in the Open Market

Acquisition in the open market shall be conducted in conformance with the following procedure:

a) Selection of the Bidder

From the registered bidders three (3) shall be chosen who may satisfy the agency's needs at that time and they shall be requested to present proposals.

b) Price Request, Proposals and Award

The Buyer shall request proposals through the fastest means available. Verbal proposals may be accepted, but the successful bidder shall have to confirm his proposal in writing.

c) Issuance of Order

If the bidder can supply the good, render the service or execute the work within the same original terms and conditions, even though the price may vary, an Order shall be issued.

(1) Treasury Department Notification

The Buyer shall attach a copy of the Administrator's authorization to the Order to the Secretary of the Treasury so he may authorize the payment.

2) Negotiation

If the Buyer were unable to obtain equal conditions and specifications in the market, after consulting with the unit of his agency which generated the requisition, he shall refer the latter to the Administration so that it may proceed to negotiate a con-

tract with the registered bidder who at that time may supply, execute or render the goods, work or service under new specifications or conditions.

c. Formal Demand to Contract

1) Action by the Administrator

The Administrator shall notify the contractor, with a copy to the petitioning agency and to the insurer of the contractor, the action he proposes to take which may be one or more of the following:

- a) Annul the contract;
- b) Claim damages sustained by the Government;
- c) Demand payment of different in price;
- d) Suspension from Bidders Registry for a period of not less than one (1) year not more than three (3) years, and such bidder can not participate in any other bid for agencies in the Executive Branch for the some period.
- e) Apply any other penalty provided by law, the regulations and in the contract;
- f) Notify all the Government agencies of the action taken.

2) Contents of Demand

The formal demand that shall be sent to the contractor, his insurer, and to the Treasury Department by registered mail with return receipt, shall contain the following information:

- a) Terms of contract, number and date thereof;
- b) Clause of contract violated;
- c) Date of order he refused to serve;
- d) Warning that he shall be liable for the excess paid on the basis of the price offered by him, in addition to any other cor-

responding penalty;

- e) Notification of a term to show cause why the case should not be submitted to the Secretary of Justice for judicial claim for breach of contract;
- f) Amount that he should reimburse for payment in excess and/or damages and expenses by virtue of the negotiation within the term set therefor.

3) Contracted Bidder's Position

If the reasons the contracted bidder has for not complying with the order are not contemplated nor sustained by the contract, the claim shall be initiated, giving him a term to present the payments for the various items. Once this term has elapsed, if the total amount has not been received from the contractor or his insurer, the Administrator shall proceed against both by referring the case to the Secretary of Justice for the filing of the corresponding judicial claim.

PART FIVE

TEMPORARY MEASURES AND FINAL PROVISIONS

ARTICLE 104.- Documents and Procedures, Temporary Effectiveness

Every form, document or special procedure not covered by these regulations dealing with the same subject matter, even if it shall have been approved pursuant to other regulations which have been repealed herein, shall maintain its effectiveness until new forms are issued and new procedures approved.

ARTICLE 105.- Violations and Penalties

Any Government officer or employee who submits incorrect or fraudulent information in order to unduly acquire a good, work or a service or for other purposes which are not in the best interest and benefit of the Government, may be subject to being applied any of the penalties in these regulations.

Any person who, after an investigation to that effect, is found by the Administrator to have incurred violations of any of the provisions of these regulations, shall be subject to one or more of the following penalties:

1. He may be subject to being prosecuted as established by Article 32 of Act No. 164 of July 23, 1974, as amended, known as the "General Services Administration". This article provides in its second paragraph that any person who violates any of the regulations issued under this Act, shall commit a misdemeanor and, if convicted, shall be sentenced to pay a fine not less than fifty dollars (\$50) nor more than two hundred and fifty dollars (\$250) or imprisonment in jail for a term not less than one month nor more than six (6) months or both penalties, in the discretion of the Court.

2. A civil action may be instituted against him to recover the amount in question. This section provides that any purchase order or contract executed in violation of that Act or of the regulations adopted thereunder, shall be null and void and if any public funds were invested, their total amount may be recovered in the name of the Government in an action filed for such purposes.
3. His appointment as Buyer, or any other special appointment related to the Government purchase procedure or system, may be suspended or revoked.
4. The case may be referred to the head of the agency of the person involved so that, at his discretion, he may proceed to impose on him one of the penalties authorized by Section 6 of Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Administration Act".

ARTICLE 106.- Repeals

Regulations No. 6, Government Acquisition Regulations of June 18, 1979, as amended are hereby repealed.

ARTICLE 107.- Effectiveness

These Regulations shall enter into effect thirty (30) days after being filed in the State Department of the Commonwealth of Puerto Rico pursuant to the provisions of Act No. 112 of June 30, 1957, as amended, known as the "1958 Regulations Act".

Approved at San Juan, Puerto Rico, on 24 day of November of 1986.


BLAS CONTRERAS
Administrator