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Regulations of the Office of the Prime Minister on Procurement B.E. 2535 (1992)

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Regulations of the Office of the Prime Minister
on Procurement B.E. 2535 (1992)
and the
Amendments (Volume 2) B.E. 2538 (1995)
Amendments (Volume 3) B.E. 2539 (1996)
Amendments (Volume 4) B.E. 2541 (1998)
Amendments (Volume 5) B.E. 2542 (1999)

Whereas it is deemed expedient to combine the Regulations of the Office of the Prime Minister on Procurement B.E. 2521 (1978); Regulations of the Ministry of Finance on Purchasing, Contracting for Works and the Engagement of Consultants under Projects Financed by External Loans BE. 2527 (1984); and other Regulations relating to the procurement into one Regulation for the smooth operation, the Cabinet hereby lays down the following Regulations: -

Clause 1 The Regulations shall be called "Regulations of the Office of the Prime Minister on Procurement B.E. 2535 (1992)

Clause 2 These Regulations shall come into force in 60 days after the date of announcement in the Government Gazette.

Clause 3 The following Regulations are repealed:

(1) Regulations of the Office of the Prime Minister on Procurement B.E. 2521 (1978)

(2) Regulations of the Office of the Prime Minister on Procurement (Volume 2) B.E. 2523 (1980)

(3) Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2526 (1983)

(4) Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2527 (1984)

(5) Regulations of the Office of the Prime Minister on Procurement (Volume 5) B.E. 2528 (1985)

(6) Regulations of the Office of the Prime Minister on Procurement (Volume 6) B.E. 2528 (1985)

(7) Regulations of the Office of the Prime Minister on Procurement (Volume 7) B.E. 2529 (1986)

(8) Regulations of the Office of the Prime Minister on Procurement (Volume 8) B.E. 2531 (1988)

(9) Regulations of the Ministry of finance on Purchasing, Contracting for Works and the Engagement of Consultants under Projects Financed by External Loans B.E. 2527 (1984)

(10) Regulations on Engagement of Design and Supervision of Building Construction B.E. 2521 (1978)

All regulations, rules, Cabinet's resolutions and other directives, which have issued earlier and/or are contradictory or contrary, are replaced by these Regulations.

Clause 4 The Permanent Secretary of the Office of the Prime Minister shall take charge of these Regulations.

Chapter 1
General Provisions

Section 1
Definition

Clause 5 Hereinafter in these Regulations:

Definitions

"Procurement" means work carried out by the government agency itself, purchasing of materials, contracting for works, engagement of consultants, contracting for design and work supervision, the exchange of materials, lease, inventory control, written materials off and other operations which are stipulated in these Regulations.

"Materials" means commodities, equipment, land, and constructions as prescribed in the directives on classification by categories in regard to budget expenditures of the Budget Bureau or in the directives on classification by categories in regard to external loan expenditures.

"Purchasing" means the purchase of all kinds of materials including the installation, experiment and other relating services, excluding the contracting for works.

"Contracting for Works" shall include the hiring of work and carriage under the Civil and Commercial Code as well as the contracting for services in package, excluding the employment of government employees under the Regulations of Ministry of Finance, carriage for official trips under the Act for Expenses on Official Trip, engagement of consultants, contracting for design and work supervision and employment of labor forces under the Civil and Commercial Code.

"Engagement of Consultants" means the employment of services, excluding the employment of design and supervision for building constructed by government budget.

"Contracting for Design and Work Supervision" means employment of services from a juristic person or an individual who provides services on design and supervision for building constructed by government budget.

"Government Budget" means annual appropriation, additional appropriation and the revenue which the government agency can use as its spending by approval of the Ministry of Finance under the Budget Procedural Act excluding the loan and grant aid in these Regulations.

"Loan" means loans according to the Act on the Authority of Ministry of Finance on External Borrowing.

"Grant Aid" means fund financed by foreign governments, international organizations, international monetary institutes, foreign government and non-government organizations, foundations and foreign private sectors.

"Building" means permanent buildings where a person can live or use i.e. office building, hospital, school, stadium, navigation station or any type of building including other construction items using in each building such as flag pole, fence, water drain, water tank, road, water pipe and other facilities in the building i.e. air-conditioner, lift, furniture, etc.

"Local Product" means finished product manufactured by a factory located in Thailand.

"Thai Enterprise" means enterprise owned by an individual or juristic person with Thai nationality.

"Consultant(s)" means an individual or juristic person who provides the service or able to serve as a consultant in the field of engineering, architecture, economics or others and shall also include the rendering of works, and research, excluding the services in design and supervision on building constructed by government budget.

"Thai Consultant(s)" means consultant(s) with Thai nationality who registers at Thai Consultants Database Center in Ministry of Finance.

"Government Agency" means a Ministry, Sub-Ministry, Department, Office or other government units in the central administration and provincial administration or in abroad, excluding state enterprise, government body established under the law on local administration, other units set up by law with the status of a local administration.

"State Enterprise" means a state enterprise under the Budget Procedural Act.

"Permanent Secretary" shall include the Permanent Secretary of the Office of the Prime Minister and the Permanent Secretary of the Sub-Ministry.

"Head of the government agency"

- In central administration, means a Director General or head of the government agency which is called by the other name with the status of juristic person.

- In provincial administration, means a provincial governor.

"Chief Procurement Officer" means head of a government agency in division or department level responsible in the procurement as assigned by personnel administrative organization in the central or an officer appointed by the head of government agency to be the chief procurement officer, depending on the case.

(This definition is amended by Clause 3 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996)).

"Procurement Officer" means an officer who holds position in charge of procurement or an officer appointed by the head of government agency to carry out the procurement as specified in these Regulations.

"Project director" means a person who is assigned or appointed to take responsibility in carrying out the procurement under the loan project or grant aid project.

"Quality certified Factory" means a factory which was awarded a Certification of Quality Systems TIS/ISO 9001 or TIS/ISO 9002 in its business and scope of work which is certified by the Thai Industrial Standards Institute or the ISO certification body or the institute given accreditation by the Ministry of Industry.

(This definition is added by Clause 3 of the Regulations of the Office of the Prime Minister on Procurement (Volume 5) B.E. 2542 (1999)).

"Co-Interest Bidder" means a person or a juristic person who quotes the price in purchasing materials of a government agency or quotes the price to be contracted for works or to be engaged as a consultant or to be contracted for design and work supervision of a government agency is an interested person either directly or indirectly in the enterprise of other persons or juristic persons who quote the price or submit work proposal at the same time.

Direct or indirect interest of a person or a juristic person above means a person or a juristic person who has the relations in the following characteristics:

(I) Relation in management: manager, managing partner, managing director, executive or person authorized to administer the enterprise of a person or juristic person, has authority or is authorized to administer the enterprise of another one or more persons or juristic persons who quote the price or submit work proposal to the

government agency at the same time.

(2) Relation in capital: partner in an ordinary partnership or partner with unlimited liability in a limited partnership or large share holder in a limited company or a limited public company is partner in another one or more ordinary partnerships or limited partnerships or is major share holder in one or more limited companies or limited public companies who quotes the price or submit the work proposal to a government agency at the same time.

"Major share holder" means a shareholder who holds more than twenty-five percent of stake in that enterprise or in the rate fixed by CCP for some types or sizes of enterprise.

(3) Cross relation between (1) and (2): manager, managing partner, managing director, executive or person authorized to manage the enterprise of a person or a juristic person is partner in another or more ordinary partnerships or limited partnerships or large share holder in another or more limited companies or limited public companies who quote the price or submit the work proposal to a government agency at the same time or vice versa.

Being appointment, being partner or holding share of spouse or non-matured child of the person in (1) (2) or (3) is regarded as being appointment, partner or holding share of that person.

In case that a person uses another person's name as manager, managing partner, managing director, executive, partner or share holder whereas he himself is authorized to administer or is real partner or share holder of a partnership or a limited company or a limited public company depending on the case and such partnership or limited company or related limited public company who quotes the price or submits the work proposal to a government agency in the same time. This shall be regarded that the bidder or the server has relation according to (1) (2) or (3) depending on the case.

"Action Impeding Fair and Free Competition" means one or more bidders or servers undertake any actions as an impediment or obstacle or not giving opportunity to have fair and free competition in quoting the price or submitting the work proposal to a government agency either by colluding or by giving, asking or committing to give, call, receive or committed to receive money or property or any benefits or assault or threaten to assault or show false document or act in bad faith. The objectives are to acquire benefits among bidders or servers or to entitle one bidder or one server to sign a contract with that government agency or to avoid price competition or to have advantage over government agency by not doing business as usual.

"Qualification Inspection Officer" means Price Inquiry Envelop-Opening Committee according to Clause 42, Bid Evaluation Committee according to Clause 50, Committee in charge of Engagement of Consultant by Selection Method according to Clause 86, Committee in charge of Contracting by Selection Method according to Clause 103, Committee in charge of Contracting by Selection Method with Specific Terms according to Clause 106 or Employer in case of Contracting for Design and Work Supervision by Special Method performed by Competitive Bidding Method according to Clause 107(2).

"Infrastructure Construction" means construction renovation and maintenance of water work, electricity, communications, telecommunications, water drainage, carriage of petroleum by pipe, road, rail and other related activities which proceed on, under and above ground.

(The definitions of "Co-interest Bidder" "Act Impeding Fair and Free Competition" "Qualification Inspection Officer" and "Infrastructure Construction" is added by Clause 3 of the Regulations of the Office of the Prime Minister on

Section 2
Application and Authorization

Clause 6 These regulations shall apply to government agencies that carry out the procurement by utilizing government budget, loan and grant aid.

Clause 7 In the case of agencies attached to the Ministry of Defense, the delegation of authority to act under these Regulations shall be in accordance with the Ministry of Defense Regulations. It shall, as and when prescribed, be notified to the person having charge of these Regulations and the Office of the Auditor General for their information as well.

(The statement in this Clause is amended by Clause 4 of the Regulations of the Office of the Prime Minister on procurement (Volume 4) B.E.2541 (1998)

Clause 8 The head of government agency attached directly to the Prime Minister of the head of agency neither attached to the Office of the Prime Minister, Ministry nor any unit shall be authorized to act under these Regulations in the capacity of the head of government agency and shall inform his superior officer the cases, which are beyond his authority.

Clause 9 Persons authorized to act under these Regulations, may in writing, delegate their authority to persons holding any positions, with due regard to the positions, duties, and responsibilities of the persons being empowered, as the primary consideration.

When delegation of authority according to the above paragraph has been proceeded, delegated persons have duty to receive the authorization and can not further delegate the authority to the persons holding other positions except

(1) Authorization to the provincial governor. Provincial governor may further delegate the authority in the following cases:

(1.1) In case of delegating authority to deputy provincial governor, assistant provincial governor, or head of the government unit in province, provincial governor shall notify the primary authorized person for information.

(1.2) delegating authority to other persons who are not mentioned in (1.1) can be proceeded after getting an approval from the primary authorized person.

(2) Authorization and delegation of authority according to the Regulations of the Ministry of Defense.

For the convenient procurement, head of government agency may delegate his authority to the next subordinates.

In case of loan project or grant aid, person authorized to act under these Regulations may appoint an officer to act as Project Director and assign him to take responsibilities in proceeding according to these Regulations, in particular.

The authorized person shall submit every time the copy of letter for the delegation of authority to the Office of the Auditor-General or Provincial Office of Auditor-General depending on the case for their information

(The statement in this Clause is amended by Clause 5 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E.2539 (1996) and the statement in the fifth paragraph is amended by Clause 5 of the Regulation of the Office of the Prime Minister on Procurement (volume 4) B.E.2541 (1998)).

Application

Authority of Ministry of Defense

Authority of government agency attached directly to the Prime Minister

Authorization

Section 3
Penalty

Clause 10 The person authorized to act under these Regulations or any person act against these Regulations intentionally or carelessly, or act with dishonest purpose, or act without the authority or beyond his authority as well as has some behaviors enabling bidder or server to impede fair and free competition. It shall be regarded that he offends against the Act on Government Officer's Regulations or specific Act of that government agency. Penalty shall be considered as the following criteria:

Penalty

(1) If a person acts with dishonest purpose or his action causes a serious detriment to the government agency, at least he will be fired from the government agency.

(2) If his action causes detriment to the government agency but it is not so serious, at least his salary will be deducted.

(3) If his action does not cause any detriment to the government agency, he will be reprimanded or warning in writing.

The punishment as mentioned in (1) or (2) shall not free that offender from civil liability according to the Regulations on the Civil Liability of the Government Officer or from criminal liability (if any). (The statement in this Clause is amended by the Clause 6 of the Regulations of the Office of the Prime Minister (Volume 4) B.E.2541 (1998)).

Section 4
Committee in Charge of Procurement

Clause 11 There shall be a Committee in Charge of Procurement called in abbreviation as "CCP", to be composed of Permanent Secretary of Office of the Prime Minister as Chairman, representative from Office of the Prime Minister as Member, representative from Ministry of Defense as Member, representative from the Office of the Auditor General as member, representative from Office of the Attorney-General as Member, representative from Budget Bureau as member, representative from Office of the Juridical Council as Member, representative from Office of the Commission of Counter Corruption as Member, representative from Department of Technical and Economic Cooperation as Member, representative from Department of Comptroller General as Member, representative from Fiscal Policy Office as Member, representative from Thai Industrial Standards Institute as Member, and not more than five qualified persons appointed by the Prime Minister as Member, and an officer attached to Office of the Permanent Secretary of the Prime Minister's Office as Member and Secretary. The CCP has the authority to appoint not more than two Assistant Secretaries.

Components of CCP

The qualified persons assigned by the Prime Minister have two-year terms. After their terms complete, they can be appointed again.

Clause 12 The CCP has the following authorities:

Authority of CCP

(1) to interpret and make recommendation pertaining to the enforcement of these Regulations,

(2) to grant a reprieve or exemption in the event that the government agency concerned can not comply with these Regulations,

(3) to consider the complaint in case that the government agency does not comply with these Regulations,

(4) to propose the Cabinet for the alternation or improvement of these Regulations,

(5) to set up the form of sample including adding, alter or set the guideline to be in line with these Regulations,

(6) to recommend the person authorized to act under these regulations in considering and circulating the persons excluded from procurement programs and placing order to withdraw from the department list of government agency, government body established under the law on local administration, other units set up by law with the status of a local administration and state enterprise,

(7) to set the percentage of price as stipulated in Clause 16(6) (7) (8) and (11),

(8) to set the classification or type of materials which are necessary to be purchased from abroad as in Clause 68,

(9) to invite government officers and government employees or staffs and employees of state enterprise or the persons involved for inquiry or statement, as well as to request for the submission of document from the relating government agency, government body under the law on local administration, other units set up by law with a status of a local administration or state enterprise,

(10) to appoint sub-committee to perform any duty assigned by the committee,

(11) to carry out any work assigned by the cabinet,

(12) to consider the report on contracting for works according to the second paragraph of Clause 83,

(13) to set up consultant's remuneration according to Clause 92,

(14) to set up criteria for fixing penalty rate according to Clause 134,

(15) to set up criteria, guidelines and procedures as in these Regulations.

(The statement in (7) is amended by Clause 7 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996) and the statement in (12) (13) (14) and (15) is amended by the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Chapter 2
Procurement
Section 1
General Provision

Clause 13 After knowing the money limit for procurement, the government agency has to carry out the procurement plan and follow step by step in accordance with these regulations as in Section 2, Section 3 or section 4, depending on the case, in order to be ready for the prompt contracting after receiving the financial approval.

Advance procurement

For the procurement by price inquiry method and competitive bidding method, government agency shall make a plan for procurement and has to procure as planned.

(This statement is amended by Clause 8 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996)).

Clause 14 To acquire materials or services beyond prescribed in these Regulations and it is not specified in any government regulations or laws, it shall be adapted, as applicable, to any type of purchasing and contracting for works which is prescribed in these Regulations.

**Procurement operations
beyond the Regulations**

Clause 15 For the work carried out by government agency itself, the head of government agency shall appoint a person to take responsibility on that work and shall appoint a committee who has the same duty and authority as work inspection committee, except in the case that a government agency has the procurement officer of this matter in particular.

Force Account

*Clause 15.2 Procurement officer of each step of procurement under these Regulations must perform by openness, transparency and giving opportunity to have fair price competition. Consideration will be given to bidders' or servers' qualification and capability except in a specific case which is an exception as stipulated in these Regulations.

**Procurement by openness
and record of the
implementations**

The implementation of each step of procurement and the reasons of proceeding in main steps shall be recorded by the procurement officer for further actions.

*Clause 15.3 [n order to give opportunity to have fair and free competition according to Clause 15.2, only one co-interest bidder or server is entitled to quote the price or submit work proposal in each of purchasing or contracting for work, engagement of consultants or contracting for design and work supervision.

Qualification inspection officer shall inspect the qualification of each bidder or server whether they are co-interest bidders before opening price inquiry envelope, competitive bidding or work proposal, depending on the case. Purchasing or contracting for works by competitive bidding method according to Clause 54 or engagement of consultant by selection method according to Clause 85 and Clause 89, qualification inspection officer shall inspect qualification of each bidder or server before opening technical proposal, price proposal or financial proposal.

*Clause 15.4 Inspecting the qualifications of each bidder or server as in the second paragraph of Clause 15.3, bidder or server shall submit at least the following documents showing qualifications separately.

(1) Where bidder or server is a juristic person, a certified copy of certification of registration of juristic person, memorandum, list of the name of managing partner, managing director, person authorized and list of the name of large share holder shall be submitted.

(2) In case that bidder or server is a person or a group of person who is not a juristic person, a certified copy of his identity card, copy of memorandum of being

partner (if any) and partners' identity card shall be submitted.

(3) In case that bidder or server is a co-trader, copy of contract of co-trade, copy of co-trader's identity card shall be submitted. In case that any side of co-trader is a person who does not hold Thai nationality, copy of his passport will be submitted or any side of co-trader is a juristic person, documents specified in (1) shall be submitted

(4) Other documents specified by government agency such as financial status, copy of registration of commerce and copy of registration of value added tax.

Showing qualification document according to the first paragraph shall submitted together with price inquiry envelope, bidding competitive or work proposal, depending on the case. If these Regulations specify that only technical proposal according to Clause 87(2) will be submitted, server shall submit showing qualification document according to the first paragraph together with technical proposal.

After inspecting the qualification of each bidder or server according to the second paragraph of Clause 15.3, list of awarded bidder or server shall be announced at a conspicuous place in the office of such government agency promptly. If bidder or server is on the place of price inquiry envelope opening, competitive bidding or work proposal, depending on the case, such bidder or server shall be also informed.

*Clause 15.5 After inspecting the qualification of each bidder or server according to the second paragraph of Clause 15.3, if there is an evidence showing that bidder or server is co-interest bidder, name of every such bidder or server shall be crossed out from being a bidder or server and also be informed promptly.

Bidder or server whose name is crossed out because of being co-interest bidder may appeal to such order together with the reasons and related documents to Permanent Secretary within 3 days after being informed.

In case that there is an appeal as in the second paragraph, Permanent Secretary shall consider and inform him rapidly. The decision of Permanent Secretary will be the final for price quotation and work proposal in that time of purchasing or contracting for work, engagement of consultant and contracting for design and work supervision. His decision shall be submitted to CCP for information.

Making an appeal as in the second paragraph does not cause to have an extension of price inquiry envelope opening, competitive bidding or work proposal, depending on the case, except Permanent Secretary considers that such extension will be beneficial to government agency. In case that Permanent Secretary agrees with such appeal and considers that the cancellation of price inquiry envelope opening, competitive bidding or work proposal, which already proceeded, will be beneficial to government agency, Permanent secretary is authorized to give up such price inquiry envelope opening, competitive bidding or work proposal.

*Clause 15.6 Except inspecting the qualification of each bidder or server according to the second paragraph of Clause 15.3 and Clause 145, if there is an evidence to qualification inspection officer prior to or during price inquiry envelope opening, competitive bidding or work proposal showing that bidder or server has acted as impediment of fair and free competition. The officer shall inspect that matter and if it is believable that there is such activity, such bidder or server's name shall be crossed out from being bidder or server in that purchasing or contracting for works, engagement of consultant or contracting for design and work supervision. Except qualification inspection officer considers that such bidder or server has provided a good cooperation with government agency and is not the one who initiates that activity according to Clause 145.5, such bidder or server may not be crossed out from being bidder or server in purchasing or contracting for work,

Proceeding in case that the bidder or server has an action impeding fair and free competition

engagement of consultant or contracting for design and work supervision.

The statement of the third paragraph of Clause 15.4 shall be applied, as applicable. A bidder or a server whose name is crossed out from being bidder or server according to the first paragraph has right to appeal to the order of the qualification inspection officer. Statements as specified in the second, third and fourth paragraph of Clause 15.5 will be applied in this case, as applicable. Head of government agency shall propose Permanent Secretary to approve bidder or server whose name is crossed out from being bidder or server according to the first paragraph as a person excluded from procurement programs by definition of Chapter 2 Section 8: Penalty for Person excluded from Procurement Programs.

*Clause 15.7 If there is evidence showing that after opening price inquiry envelope, competitive bidding or work proposal, awarded bidder or server whose name is announced according to the third paragraph of Clause 15.4 is bidder or server who has co-interest with another bidders or servers or is bidder or server who acts as impediment of fair and free competition. Head of government agency is authorized to cross out name of every bidder or server from the list upon the list paragraph of Clause 15.4.

Head of government agency shall propose to Permanent Secretary to approve bidder or server whose name is crossed out from being bidder or server according to the first paragraph as person excluded from procurement programs by definition of Chapter 2 Section 8: Penalty for Person excluded from Procurement Programs. Where Permanent Secretary considers that cancellation of price inquiry envelope opening, competitive bidding or work proposal, which is already proceeded, will be beneficial to government agency, Permanent Secretary is authorized to give up such price inquiry envelope opening, competitive bidding or work proposal.

(The statement in Clause 15.2, Clause 15.3, Clause 15.4, Clause 15.5, Clause 15.6 and Clause 15.7 is added by Clause 8 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Section 2 **Purchasing and Contracting for Works**

Purchasing of Local Products and Contracting with Thai Enterprises

Clause 16 The government agency has to procure local products and makes contract with Thai enterprises upon the following criteria:

(1) Descriptions or specifications, which may encounter local manufacturers, local suppliers or Thai enterprises from the bid competition, are not allowed to be stipulated.

(2) Where the national standards for materials to be purchased or works to be contracted have been already announced, all descriptions and specifications of materials or list of construction items have to be fixed according to the national standards, or for convenience, the reference numbers of license for the use of standard mark shall be specified.

(3) Where the national standards for the materials to be purchased or works to be contracted have not been announced yet but there have been product registrations at Ministry of Industry, descriptions and specifications or list of construction items shall be fixed in accordance with the descriptions and specifications stipulated in handbook for purchasers or in the supplement to handbook for purchasers issued by Ministry of Industry.

**Purchasing of local products
and contracting with Thai
enterprises**

(4) In case of having the necessity to fix descriptions or specifications or list of construction items different from (2) or (3), Thai Industrial Standard should be informed about this matter and after Ministry of Industry issues letter of acknowledge or agreement, purchasing or contracting for works can be carried out or rejected, depending on the case.

(5) Where there has been seller who has license for the use of standard mark with the same classification, type, or size for materials to be purchased or works to be contracted and at the same time are manufactured from at least 3 quality certified factories, the requirement for only product granted for using of standard mark and manufactured from local quality certified factory shall be specified.

In case of materials to be purchased or works to be contracted according to first paragraph, there have been at least 3 sellers who have license for the use of standard mark with the same classification, type, or size and at the same time are manufactured from less than 3 quality certified factories or are manufactured from at least 3 quality certified factories, the requirement for local product granted for using of standard mark or manufactured from quality certified factory shall be specified and shall proceed according to (6).

(6) In the case that there have been 3 sellers and onwards have license for the use of the standard mark with the same classification, type or size for the materials to be purchased or works to be contracted, the requirement for local product granted for using of standard mark will be specified.

Where the materials to be purchased or works to be contracted are materials manufactured from 3 quality certified factories and onwards, the requirement for local products manufactured from the quality certified factory will be specified

Purchasing or contracting for works in this case except contracting for construction, if seller whose products granted for using of standard mark and at the same time manufactured from the quality certified factory quotes price higher than the lowest price of the others not more than 5%, price negotiation will be made with the 1011'est seller whose products granted for using of standard mark and at the same time manufactured from the quality certified factory. If the negotiated price is higher than the lowest price not over 3 % or the rate set up by the CCP according to Clause 12(7), it has to purchased from such seller.

(7) In case of materials to be purchased or works to be contracted according to (5) or (6), if there is seller whose product granted for using of standard mark with the same classification, type or size and at the same time manufactured from less than 3 quality certified factories or there are less than 3 licenses and at the same time manufactured from less than 3 quality certified factories, the requirement for local products will be specified.

The purchasing or contracting for works in this case except contracting for construction, if there is seller whose product granted for using of standard mark and at the same time manufactured from the quality certified factory or seller whose product granted for using of standard mark or seller whose product manufactured from the quality certified factory, price negotiation will be carried out as follows:

(a) negotiate with the lowest seller whose product granted for using of standard mark and at the same time manufactured from the quality certified factory who quotes the price higher than the lowest price quoted by the other ones not more than 10 %. If the negotiated price is higher than the lowest price of the

other one not more than 7% or the rate specified by CCP as in Clause 12(7), it shall be purchased or contracted from such seller. If price negotiation is not successful, price negotiation will be made with the next lowest seller whose product granted for using of standard mark and manufactured from the quality certified factory. If the negotiated price is higher than the lowest price of the other one not more than 7% or the rate specified by CCP as in Clause 12(7), it shall be purchased from such seller,

(b) if proceeding as in (a) is not successful, price negotiation shall be made with seller whose product granted for using of the standard mark or seller whose product manufactured from the quality certified factory who quotes the price higher than the lowest price quoted by the other ones not more than 7%. If the negotiated price is higher than the lowest price of the other one not more than 5% or the rate specified by CCP as in Clause 12(7), it shall be purchased or contracted from such seller,

(8) Where there have been product registrations at the Ministry of Industry for materials to be purchased or works to be contracted, the requirement for local products will be specified.

The purchasing or contracting for works in this case except contracting for construction, if seller, whose product has been registered at the Ministry of Industry, quotes price higher than the lowest price quoted by the other one not more than 7%, price negotiation will be made with such seller. If the negotiated price is higher than the lowest price of the other one not more than 5% or the rate specified by CCP as in Clause 12(7), it shall be purchased from such seller.

(9) Procedures as in (5) (6) (7) or (8) shall be implemented as stipulated in handbook for purchasers or in the supplement to handbook for purchasers issued by the Ministry of Industry in the month prior to the announcement of purchasing or contracting for works.

If seller attaches the receipt to show that his product is under the application for quality systems certification or under the issuance of license for the use of standard mark or under the application for product registration at Ministry of Industry together with price quotation and such certification or *license* or registration "ill be issued within 10 working days next to the date of quoting price but prior to the consideration on price made by the committee. It "ill be regarded that his license has been already certified or issued or registered at Ministry of Industry, depending on the case.

(10) After already proceeding as in (2) (3) (5) (6) (7) or (8), but it is unable to purchase or make contract, purchasing or contracting for works can be carried out or rejected, depending on the case.

(11) The purchasing or contracting for works except in case as (2) (3) (5) (6) (7) or (8) excluding contracting for construction, the seller has to state the origin or manufacturing country. If the seller whose product manufactured in Thailand or of Thai enterprise quotes price higher than the lowest seller whose product from abroad or of foreign enterprise not more than 5 %, the negotiation will be made with the lowest seller whose product manufactured in Thailand or of Thai enterprise who offers in accordance with the specified conditions which is beneficiary to the government. If the negotiated price is higher than the lowest price not over than 3% or the rate specified by CCP as in Clause 12(7), it shall be purchased from such seller.

(12) The price shall be compared at the same base by considering the price excluding tax, price excluding tax or price exempted tax according to the specified criteria which has been announced to bidders, depending in the case.

(13) The price for purchasing or contracting for works shall be considered upon the criteria specified in each method of purchasing or contracting for works except in

case of purchasing or contracting as in (6) (7) (8) or (11)

Purchasing or contracting works funded by loan or grant aid, which is unable to negotiate with the source of loan or grant aid to specify the conditions in accordance with the first paragraph; the government agency shall try to promote local products or Thai enterprise as much as possible.

In the case that local materials are not enough for demand in the country, the CCP has authority to exempt the promotion on such kind of materials according to its necessity.

If each seller who has license for the use of standard mark with the same classification, type or size or manufacturer from quality certified factory according to (5) (6) or (7) has characteristic as interested person either direct or indirect by definition of "Co-Interest Bidder". Such sellers or manufacturers shall be regarded as only one seller or manufacturer.

(This statement is amended by Clause 9 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541 (1998)).

Clause 17 The following government agencies shall act on supervision and provide the support according to the Clause 16:

(1) Ministry of Industry has duty to

(1.1) consider and complete rapidly the issuance of license for the use of standard mark, issuance of license for the production of industrial standard as stipulated in the government gazette and the issuance of the product registration,

During the consideration, Thai Industrial Standards Institute shall issue the applicants the receipt in order that the applicants can submit as evidence to government agency for purchasing and contracting for works.

(1.2) prepare the handbook for purchasers and supplement to the handbook for purchasers which list out the names of new standard products and the names of products which are consideration as in (1.1) once a month in order to submit regularly to government agency, state enterprise and government unit stated in the other name ,

(1.3) check the special necessity as in Clause 16 (4) and to inform his objection or acknowledgement within 10 working days after receiving the letter.

(2) The Office of Auditor General is in charge of examining the avoidance of performance as in Clause 16. If the avoidance is founded, it will be reported to the superior for punishment and informed to the person authorized to act under these regulations.

(The statement in (1.3) of Clause 17 (1) is amended by Clause 10 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996)).

Procedure on Purchasing and Contracting for Works

Clause 18 The purchasing or contracting for works may be carried out in any of the following 5 methods:

- (1) Price agreeing (negotiating) method.
- (2) Price inquiry (selective tendering) method.
- (3) Competitive bidding (open tendering) method
- (4) Special (limited tendering) method.
- (5) Special case method.

Supervision and support on purchasing of local products and contracting with Thai enterprises

Procedure on purchasing and contracting for works

Clause 19 The method of purchasing or contracting for works by price agreeing method shall apply in the case of a single contract of not more than Baht 100,000.

Meaning of price agreeing method

(The statement in this Clause is amended by Clause 3 of the Regulations of the Office of the Prime Minister on Procurement (Volume 2) B.E. 2538 (1995)).

Clause 20 The method of purchasing or contracting for works by price inquiry method shall apply in the case of a single contract of more than Baht 100,000 but not more than Baht 2,000,000.

Meaning of price inquiry method

(The statement in this clause is amended by Clause 3 of the Regulations of the Office of the Prime Minister on Procurement (Volume 2) B.E. 2538 (1995)).

Clause 21 The method of purchasing or contracting for works by competitive bidding method shall apply in the case of a single contract of more than Baht 2,000,000.

Meaning of competitive bidding method

(The statement in this Clause is amended by Clause 3 of the Regulations of the Office of the Prime Minister on Procurement (Volume 2) B.E. 2538 (1995)).

Clause 22 If the purchasing authority or contracting authority considers that it is expedient, he may order that purchasing or contracting for works under Clauses 19 and 20 to be performed by the method prescribed for the bigger amount of money.

Special provision on procedure on purchasing and contracting for works

The separation of the purchasing or contracting for works in order to make tile amount of money lower than that prescribed in any method is not permitted.

For the purchasing or contracting for works funded by loan or grant aid, the purchasing authority or the contracting authority is authorized to place an order to carry out the purchasing or contracting for works as specified by that source of loan or grant aid.

Clause 23 The method of purchasing by special method is that of more than Baht 100,000 each, and shall apply only under any of the following circumstances:

Meaning of special method (purchasing)

(1) the materials which sold by public auction by government agency, government body established under the law on local administration, other units set up by law with the status of a local administration, state enterprise, international organization or foreign agency,

(2) the materials, which have to be, purchased urgently, where delay may cause detriment to the government agency,

(3) the materials for secret service,

(4) the materials which are needed to use more in a necessary or urgent situation, or for the benefit of government agency and is necessary to repeat order,

(5) the materials which have to be purchased directly from abroad or managed through international institute,

(6) the materials of which the brand name have to be specified due to tile utilizing nature or technical limitation including spare parts, car for senior officer, drugs not categorized in generic name in the List of National Major Drugs as in Clause 60,

(7) the materials which are land or buildings necessary to be purchased at specific areas,

(8) the materials of which the purchasing by other methods have been performed but without successful results.

(The statement in this Clause is amended by Clause II of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996))

Clause 24 The contracting for works by special method is that of more than Baht 100,000 each, and shall apply only under any of the following circumstances:

Meaning of special method (contracting for works)

(1) work requiring a genuine craftsman or a person of special skill,

(2) work which has to take all parts out to check before estimating the repairing cost i.e. the repairing work for machine, mechanic equipment, motor engine, electric or electronic equipment, etc.

(3) work which has to be performed urgently and its delay may cause detriment to the government agency,

(4) work which has to be kept as official secret,

(5) work which is needed to be contracted more in a necessary or urgent situation, or for the benefit of the government and is necessary to repeat order,

(6) work for which the contracting by other methods have been conducted but without successful results.

(The statement in this Clause is amended by Clause 11 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996)).

Clause 25 In case of government agency located in abroad or which has activity performed in abroad, purchasing or contracting for works by special method can be applied by purchasing or contracting directly with the professional seller or contractor.

Purchasing or contracting for works in abroad

Clause 26 The purchasing or contracting for works by special case method is the purchasing or contracting for works from government agency, government body established under the law of a local administration, other units set up by law with the status of a local administration or state enterprise. It shall be carried out under the following circumstances:

Meaning of special case method

(1) the materials or works which are manufactured or carried out by the government agency itself and the Prime Minister approves for it,

(2) law or Cabinet's resolution specified to carry out by this method. Other government units also stipulated by law or Cabinet's resolution shall carry out by this method.

Request for Purchasing or Contracting for Works

Clause 27 Before proceeding the purchasing or contracting for works by every method, except the purchasing of land and/or building under Clause 28, the procurement officer shall submit the head of government agency concerned a report containing with the following particulars:

Request for purchasing or contracting for works

(1) reason and necessity for the purchasing or contracting for works,
(2) details of the materials to be purchased or the work to be contracted,

(3) standard price, or the official estimated price, or the last price for the previous purchasing or contracting for works within 2 fiscal years,

(4) money limit; appropriation, loan or grant aid for the materials to be purchased or work to be contracted. If there is no money limit, the estimated amount shall be specified,

(5) time limit for the materials to be used, or for the work to be completed,

(6) method for the purchasing or contracting for works, and the reason thereof,

(7) other pertinent proposals i.e. the request for the appointment of necessary committee for the purchasing or contracting for works, the issuance of price inquiry or competitive bidding announcement.

In case of the purchasing or contracting for works by price agreeing method within the money limit not more than Baht 10,000 and the urgent purchasing or contracting for works by special method as in Clause 23 (2) or Clause 24 (3) which is unable to submit the request normally, the procurement officer shall submit as in

the first paragraph only necessary items.

(The statement in till Clause is amended by Clause 12 of tile Regulation of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996)).

Clause 28 Before proceeding on the purchasing of land and/ or building, the procurement officer shall submit to the head of the government agency concerned the following particulars:

- (1) reason and necessity for the purchasing,
- (2) details of land and/or building to be purchased, including the area and locality required,
- (3) official assessed price of land in such locality,
- (4) about 3 prices of the lands and/or building last bought and sold adjacent to the land and/or building to be purchased,
- (5) money limits; appropriation, loan or grant aid for the land and/or building to be purchased shall be specified. If there is no amount limit, the estimated amount shall be specified,
- (6) method for tile purchasing and reasons thereof,
- (7) other pertinent proposals i.e. the request for the appointment of necessary committee for the purchasing, the issuance of price inquiry or competitive bidding announcement.

In purchasing of land and/or building, a direct contact with the land owner shall be performed, except in case of the purchasing of land and/or building in abroad having to be performed through the broker or by any procedure upon laws or tradition of each locality.

Clause 29 Once the head of the government agency concerned approved as reported according to Clause 27 or Clause 28, the procurement officer shall proceed for further action.

Pre-qualification for Purchasing and Contracting for Works

Clause 30 Any government agency who requires making a pre-qualification for purchasing and contracting for works can be performed only in the case which necessitate limiting for the qualified bidders. The notice with the specification on criteria and selection method will be put up at a conspicuous place and shall be also submitted to the CCP.

In proceeding the pre-qualification, the government agency concerned shall submit the head of government agency the request as well as the document on pre-qualification through the chief procurement officer. The request shall contain at least the following details:

- (1) reason and necessity for the pre-qualification,
- (2) type, money limits and details of materials to be purchased, or the work to be contracted,
- (3) the lowest qualification of bidder i.e. experience and work in the past; capability concerning staffs, equipment and factory; financial status, etc.
- (4) criteria for selection

(The statement in this Clause is amended by Clause 13 of the Regulations of the Office of the Prime Minister on procurement (Volume 3) B.E. 2539 (1996))

Clause 31 With the approval from the head of government agency concerned for the request submitted under Clause 30, the procurement officer shall prepare a notice for invitation to pre- qualification

The notice at least contains the following descriptions:

- (1) specific details of materials to be purchased or works to be contracted,

Request for purchasing of land and/or building

Approval on request for purchasing or contracting for works

Pre-qualification criteria

Notice for invitation

(2) experience of works in the same nature,
(3) capability concerning staffs, equipment and factory,
(4) financial status,
(5) general criteria,
(6) place where pre-qualification documents will be given out or sold.

For the first notice, place, date, time for acceptance of applications and the closing date thereof, including the advertisement, summary in details of materials to be required and enough time for the interested bidder to prepare the application shall be put up. This should not less than 30 days before the closing date for receipt of applications and shall give announcement thereof on radio and newspaper. If considered proper, copies of the notice can be sent directly to professional sellers or contractors, or may also be advertised by other means.

In the case of pre-qualification for international competitive bidding, the notice should be put up not less than 60 days prior to the closing date for receipt of applications and will be also proceeded in accordance with the guidelines of the source of loan and grant aid.

Clause 32 The head of government agency concerned shall appoint the pre-qualification committee composing of 1 Chairman and at least 4 members by appointing from the officers of P.C. 5 or equivalent and upwards, and at least 1 expert or qualified person as a member.

The Pre-qualification Committee shall consider the prequalification of bidders according to the criteria and the time limit specified by the head of government agency concerned.

The Committee will submit the result and comment together with all documents submitted by bidders to the head of government agency through the chief procurement officer in order to announce the list of awarded pre-qualified bidders.

Clause 33 Government agency shall revise criteria for the selection of pre-qualified bidder for purchasing and contracting for works and inspect the list of pre-qualified bidder which has been announced at least every 3 years. Normally, this should be done in the first month of the fiscal year. After revising criteria, government agency concerned shall notify of revision and submit the changing criteria to CCP for information recently but not longer than ;30 days after the date of criteria changing.

Once any government agency makes a list of pre-qualified bidder for purchasing or contracting for works regularly. The awarded pre-qualified bidders or persons wanting to be selected as pre-qualified bidder have right to submit their requests for upgrading or being selected to government agency concerned for consideration at any time upon the criteria for selection as specified in Clause 31 and Clause 32. The consideration usually has to be completed within 90 days after the date of receiving a request and all related documents. If it can not be completed within the specific time, the reason and time extension as necessary shall be informed to such bidders.

Pre-qualified bidders who submit their requests to upgrade or persons who want to be selected as pre-qualified bidders are not permitted to use their right of submitting their requests in purchasing or contracting for works which take place prior to or during the period of submitting and considering the requests.

When government agency considers that a list of pre-qualified bidders for purchasing and contracting for works should be canceled in order to select pre-qualified bidder according to criteria changing as in the first paragraph. The awarded pre-qualified bidders shall be informed tile new changing criteria in advance not less than 120 days.

(The statement in this Clause is amended by Clause 10 of tile Regulation of tile Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Consideration of pre-qualification of bidders

Late pre-qualification and Revision of pre- qualification criteria

Clause 33.2 At each purchasing of materials or contracting for works, consideration will be given on seller's or server's ability in receiving works together with the selection of government agency

In case of any government agency has already made a list of pre-qualification bidders for purchasing and contracting for works, government agency shall inform seller or contractor in such list to show document of ability and readiness on the date of quoting price according to the criteria which government agency specified concerning staffs, equipment, factory and financial status.

(The statement in tills Clause is added by Clause 11 of tile Regulation of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Committee

Clause 34 At each time of purchasing or contracting for works, the head of government agency concerned shall appoint the following committee to act under these Regulations and the time limit for consideration shall also be specified, depending on the cases:

- (1) the price inquiry envelope opening committee,
- (2) the bid-accepting and bid-opening committee,
- (3) the bid evaluation committee,
- (4) the committee in charge of the purchasing by special method,
- (5) the committee in charge of the contracting for works by special method,
- (6) the materials inspection and acceptance committee,
- (7) the work inspection committee.

Each committee shall submit its consideration to the head of government agency within the specific period. If the consideration delays, the committee shall report to the head of government agency for time extension as necessary.

Clause 35 Each committee under Clause 34 consists of one chairman and at least 2 committee members, usually appointed from government officer of P.C. 3 or equivalent and upwards. In case of necessity or for the benefit of the government, a non-government official is able to be appointed as committee member. In the event that the chairman is unable to perform his duty, the head of government agency concerned shall appoint the government official with the above mentioned qualifications to act as the chairman.

When the time arrives for the opening of price quotations or bid accepting and the chairman of any committee is unable to perform his duty, the present members shall appoint one of them to act as the chairman for that meeting. The said committee shall act in accordance with Clause 42 (1) or 49, depending on the case, and report to the committee chairman appointed by the head of government agency concerned for further action.

For the same purchasing or contracting for works, neither a member of bid-accepting and bid-opening committee shall be appointed to the bid evaluation committee; nor shall a member of the price inquiry envelope-opening nor a member of the bid evaluation committee be appointed member of the materials inspection and acceptance committee.

With the exception of the bid-accepting and bid-opening committees, every committee should also have an expert or person qualified in respect of such materials or works to be appointed as a member.

Procurement committee

Components of procurement committee

In the case of purchasing or contracting for works not more than Baht 10,000, a sole government officer or permanent government employee who is not the official in charge of that purchasing or contracting for works, may be appointed to perform the duty of materials inspection and acceptance committee or work inspection committee.

Clause 36 At a meeting of each committee, the presence of not less than a half of total number of the committee members shall be required at a sitting. The chairman and each member shall each have one vote.

The decision of the meeting shall be by a majority of votes. If the voting result is split, the chairman shall cast one additional vote except in the case of the material inspection and acceptance or work inspection committee, a decision shall be by a unanimous vote.

In the case where any member disagrees with the decision of the meeting, that dissenting opinion shall be recorded.

Clause 37 At each contracting for works, the head of government agency concerned shall appoint a supervisor from an expert according to each construction work from the officer or permanent employee attached to that agency or to other agencies after the approval from the head of those agencies. In the case that many fields of experts are required, each supervisor can be appointed for specific work or a group of supervisors can be appointed.

The supervisor should qualify as suggested by the designer and normally his qualification should not be lower than vocational degree.

In case where it is necessary to engage consultants or the private to supervise the work instead of government officer or permanent employee as in the first paragraph, Section 3 or 4 of Chapter 2 of these Regulations will be applied, depending on the case.

(The statement in this Clause is amended by Clause 12 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541(1998)).

Clause 38 For the purchasing or contracting for works which requires special technique or specialist to consider in particular, the head of government agency concerned, upon his consideration, makes agreement with Budget Bureau to engage the consultants in providing their comments on purchasing or contracting for works at any stage as necessary by proceeding the engagement of consultants under Section 3 of these Regulations.

Price Agreeing Method

Clause 39 In the purchasing or contracting for works by price agreeing method, the procurement officer shall contact and agree on the price with the seller or contractor directly and the chief procurement officer can carry out the purchasing or contracting for works within the budget approved by the head of government agency concerned under Clause 29.

In the case where the necessary and urgent purchasing or contracting for works by price agreeing method arises without prior expectation and is unable to be carried out in time, the procurement officer or responsible officer can proceed it in prior and then requests for the approval from the head of government agency concerned urgently. After the approval from the head of government agency, that request shall be regarded as the evidence for inspection and acceptance, as applicable.

Quorum of the meeting and vote

Supervisor

Engagement the consultants in providing the comments on purchasing or contracting for works

Procedure for price agreeing method

Price Inquiry Method

Clause 40 The procurement officer shall prepare the documents for price inquiry containing at least the following particulars:

(1) Specifications and quantity of materials to be purchased or drawing, details and volume of works to be contracted.

If the site surveyor additional explanation as the above paragraph is necessary, the place, time and date have to be specified.

(2) Qualifications of bidders who must professionally be in the business of selling the materials required or carrying out the work required under (1) and the evidence must be submitted by bidders.

(3) If it is necessary, the bidders who quote prices have to be forwarded samples, catalogues or drawings and details with price quotations.

(4) If a testing is considered necessary, adequate number of samples shall be stipulated for the testing as well as for attachment to the contract to be executed. Provided, however that there shall be a further stipulation that the government agency shall not be held responsible for any damage caused to the samples forwarded for testing.

(5) Place to inquire about drawings and details. If they are for sale, their price must be mentioned.

(6) The terms of price quotation which has to be offered in total price and price per unit or per item (if possible). The criteria also shall be mentioned clearly either total price or price per unit or per item shall be considered. In the case that it is not mentioned in the price inquiry document, the total price shall be considered.

(7) Price inquiry from which also stipulates at the total price shall be given in figures and letters, in the case that the prices given in figures and letters are at variance, the letters shall prevail.

In price inquiry for contracting for works, list of construction items in accordance with the category and type of works shall be specified in order that the bidder will fill up the quantity and price of construction materials.

(8) Validity period for the government agency as necessary. It must be also specified that all price quotation submitted to government and already registered can not be withdrawn.

(9) Place and expected date to deliver the materials (for purchasing) or the expected starting and completion date of work (for contracting for works).

(10) Place, date and time for opening of price quotation.

(11) Instruction for bidders to seal the price quotation before submitting to government agency by addressing to the chairman of that price inquiry envelope-opening committee, and to submit government agency the price quotation as well as

other relating documents and the list of all documents submitted before the opening date of price quotation.

In case where the price quotation can be submitted by mail, the procedure shall be stipulated clearly.

(12) Right retained by government agency to regard that the successful bidder, who refuses to sign contract or agreement with government agency, abandons the works.

(13) Clause which refers that successful bidder shall submit security according to the type and rate as specified in Clause 141 and Clause 142.

(14) Draft contract including the installment of work and payment,

Price inquiry documents

condition on advance payment (if any) and rate of penalty.

(15) Right retained by government agency not to consider the bidder who excluded from procurement programs, to give up the purchasing or contracting for works or to select to purchase or contract from any bidder, not only from the bidder who quotes the lowest price, as well as to cancel the price inquiry and to punish any bidder as person excluded from procurement programs if there is some evidence showing that the price quotation has been performed dishonestly or collusion.

Clause 41 Purchasing or contracting for works by price inquiry method shall be proceeded as follows:

(1) Not less than 10 days for local price inquiry or not less than 45 days for international price inquiry before the date of opening the sealed price quotations, the procurement officer shall send a notice of price inquiry directly or by registered mail to professional sellers or contractors as many as possible and shall put up the notice at a conspicuous place in the office of such government agency.

(2) The price quotations have to be sealed and addressed to chairman of the price inquiry envelope-opening committee and directly submitted to the head of government agency concerned or by registered mail, if it is permitted by that agency.

(3) The officer shall accept every sealed price quotation without opening and shall record the receiving date and time. The receipts will be issued to the bidders who submit price quotations by hand. If the price quotations are submitted by mail, the receiving date and time issued by the post office will be recorded. All price quotations shall be submitted to the chief procurement officer.

(4) Chief procurement officer shall keep all sealed price quotations without opening and when the time to open the sealed price quotations arrives, he shall hand over all of them together with report on their receipt to the price inquiry envelope-opening committee for further action.

Clause 42 The price inquiry envelope-opening committee has the following duties:

(1) Open every sealed price quotation and read publicly the quoted price and list of submitted documents on the specific date, time and place, and check all documents as listed, and let every member sign his name on every page of price quotations and relating documents.

(2) Check the qualification of each bidder, price quotation, catalogues or drawings, details and select the bidder who quotes the price in accordance with the condition specified in price inquiry document.

(3) Select the materials and works of the qualified bidder according to (2) whose quality and qualification are beneficial to government and recommend to purchase from or contract with the selected bidder who quotes the lowest price.

In the event that the selected lowest bidder refuses to sign the contract or agreement with government agency in the period as specified in price inquiry document, the committee shall consider the next lowest bidder.

If many equal prices are quoted. All bidders will be invited to resubmit their price quotation together.

If the selected price quotation is higher than the money limit for the purchasing or contracting for work, the committee has to proceed according to Clause 43.

(4) In case where there is only one bidder quotes price in

Notice, submission and acceptance of price quotations

Price inquiry envelope opening and consideration

accordance with all details and conditions specified in the price inquiry document, the price inquiry envelope-opening committee can proceed as specified in (3), as applicable.

(5) The committee shall submit the result of its consideration and recommendation together with all documents received to the head of government agency through chief procurement officer for further action.

Clause 43 For the purchasing or contracting for works by price inquiry method, in the event that the price quotation selected by the committee is higher than the money limit for purchasing or contracting for works according to Clause 27(4) or 28(5) depending on the case, the price inquiry envelope-opening committee shall carry out the following procedures in order:

(1) Negotiate with that bidder for the lowest possible price. If the bidder is able to reduce price as in the money limit or the excessive amount is not more than 10 % of the money limit for each purchasing or contracting for works, or after negotiation, the price is unable to be reduced but the excessive amount is not more than 10 % of the money limit, the committee after considering that the price is reasonable, can recommend to purchase or contract with such bidder.

(2) If carrying out as in (1) is not successful, the committee shall invite all qualified bidders for price negotiation together by submitting the quotation within the reasonable period of time. If any bidder does not submit new quotation, the previous price quotation shall be regarded. After price negotiation if the lowest price quotation bidder quoted the price which is not over the money limit for that purchasing or contracting or higher but the excessive amount is not over 10 % of money limit, the committee, after considering that the price is reasonable, can recommend to purchase or contract with such bidder.

(3) If carrying out as in (2) is not successful, the committee can recommend the head of government agency to consider, if it is proper, either to reduce some items, quantity or volume of works, or to request for additional budget or to cancel that price inquiry in order to proceed a new price inquiry.

(The statement in this Clause is amended by Clause 13 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Competitive Bidding Method

Clause 44 The procurement officer shall prepare bidding documents according to the sample given by CCP or the form reviewed by the Office of the Attorney General.

If it is necessary for a bid document to differ from the sample given by CCP or the form ever reviewed by the Office of the Attorney-General in the contents or particulars as the principle substance still maintains as specified in the sample and does not cause any disadvantage to the government, such bid document shall be permitted. However, if the head of government agency decides that the bid document will cause disadvantage or it is loosely written, a draft of bid document shall be sent to the Office of the Attorney General for prior review.

The bid document has to be notified and the main particulars are as follows:

- (1) materials to be purchased or works to be contracted,
- (2) qualification of the bidders,
- (3) date and time for the acceptance of bids and the closing date thereof, and for the opening of the bids,
- (4) place and the period at which bid documents will be given out or sold,

Procedure in case of price quotation higher than the money limit

Bidding documents and notification

(5) source of funds and eligible source countries in case of international competitive bidding.

Clause 45 Purchasing or contracting for works by competitive bidding method, the procurement officer shall manage and prepare document for publishing and put up a bid notice within the specific time: Procurement officer shall act as follows:

Announcement of competitive bidding notice

(1) put up a notice to invite for bidding at a conspicuous place in the office of such government agency. The notice shall be put up in the notice cabinet with a lock all the time. The officer who puts it up and the one who removes must provide evidence of putting up and removing in writing certified by witness. The one who puts up must be neither person as the one who removes nor the one who is a witness of each case.

(2) give announce thereof on radio or in newspaper,

(3) send a notice to Department of Public Relations and Mass Communication Organization of Thailand,

(4) send a notice together with bid document to Bidding Information Center,

(5) send a notice together with bid document to Office of the Auditor General or Regional Audit Office, depending on the case.

After procedures as in the first paragraph have been proceeded, if considered proper, the notice may be sent directly to professional sellers or contractors, or may also be advertised by other mean.

Sending a notice according to the first paragraph shall be sending by express mail service. Unless in the area such express mail service is available, registered mail shall be sent instead.

The procedures as in the first, the second and the third paragraph shall be performed not less than 7 working days before the date of giving out or selling bid document.

In the case of the purchasing or contracting for works by international competitive bidding method. the government agency , concerned shall comply with the guidelines of loan or grant aid source.

(The statement in this Clause is amended by Clause 14 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E 2541 (1998)).

Clause 46 Bid document as well as the specification and details, to be given out freely or to be sold for a price, shall be made available to those interested at a place conveniently accessible and not restricted. The documents must be adequately provided for the professional sellers or contractors who ask for, or ask to buy at least one set each without condition for giving out or sale.

Giving or selling

Bid document must be given out or sold not less than 7 working days, and after the closing date of giving out or selling, there must be a period of time, before the date of acceptance of sealed bid, at least 7 working days for the bidders who want to offer a bid to calculate the bid price. The longer period of time shall be specified by CCP by considering size, quantity and characteristic of materials to be purchased or contracted.

In case of sale, the bid document shall be reasonably priced to cover the costs of the government agency in preparing such documents.

If such bid had been canceled and a new bid is called, the bidders are able to use the previous bid document for the new bid or can obtain a new one without paying again.

(The statement in this Clause is amended by Clause 15 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Clause 47 Purchasing or contracting has details which are complicated or has necessity by nature to provide additional explanation or to have site survey, the place, time and date for providing explanation and having site survey shall be specified in the bid notice.

Before the date of opening of bids, if it is necessary to specify additional details or site survey altering the main specification which has not been specified in bid document earlier, the additional bid document shall be prepared fixing date, time and place for providing details or site survey. The bid document shall be proceeded according to first paragraph of Clause 45, as applicable. Every bidder who has been given out or purchased the bid documents will be informed by letter recently.

Procurement officer shall record of the explanation of details or site survey as in the first paragraph or second paragraph in writing as evidence every time.

If the procedures as in the second paragraph have been proceeded, time and date for sealed bid acceptance, closing date and the opening of bid shall be postponed as necessary.

(The statement in this Clause is amended by Clause 15 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Clause 48 Except in the case under Clause 47, it is prohibited to diminish, postpone or change the schedule on acceptance of sealed bid and opening of bid.

Sealed bid sent by mail is not acceptable, except in case of international competitive bidding for which the sealed bid by mail is acceptable by applying under Clause 41 (2) (3) and (4), as applicable.

Clause 49 The bid-accepting and bid-opening committee shall act as follows:

(1) Receive the sealed bids, register the receipt of bids, sign and mark a note on the front of sealed bids as to whom they belong.

(2) Check the bid securities together with the financial official and the financial officer has to issue receipt to the ones who submit the bids. If there is any mistake, it shall be noted in the receipt and also in the report. In the case that the bid security is the letter of guarantee, its copy shall be sent by registered mail to the bank, Industry Financial Corporation of Thailand, financial company or financial and security company which issues such letter of guaranteed for its acknowledgement.

(3) Receive all documents as listed by bidders, as well as the samples of materials, catalogues or drawings and details (if any) If it is not correct, it shall be also recorded on the report.

(4) When the time for the receipt of sealed bids has expired, it is prohibited to receive another sealed bid or any required document as stipulated in bid document, except in case under Clause 16 (9)

(5) Open all sealed bids and read out publicly the price quotation and the list of documents submitted by every bidder according to the time, date and place specified in the bid document. Each member of the committee shall sign on every page of bid document and price quotation.

In case where the technical proposal and other proposals shall be submitted separately from the price proposal which has to consider the technique and other matters first according to condition specified as in Clause 54 and 56, the bid-accepting committee and bid-opening committee shall not proceed according to the

Details explanation or alteration to the specification in bid documents

Prohibition to diminish, postpone or change the schedule on acceptance and opening of bid

Acceptance and opening of bid

above paragraph. The bid evaluation committee shall be assigned to take action on this matter.

(6) Deliver all price quotations, bid forms and other documents as well as the report to the bid evaluation committee promptly in the same day.

(The statement in this Clause is amended by Clause 16 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996)).

Clause 50 Bid evaluation committee shall act as follows:

(1) Check the bidder's qualification, price quotations, documents, sample materials, catalogues or drawings and details and select the qualified bidders whose proposal is in accordance with the criteria stipulated in bid document.

If any bidder submits details different from the conditions stipulated in bid document in the part that is not essential and their differences do not cause any advantage or disadvantage to other bidders or there is a minor error, such bidder shall be waived by not crossing him out.

The committee, upon his consideration, may inquire some clarification from any bidder but the bidder is not allowed to change any essential contents as ever proposed

(2) Select materials, works or bidder's qualification as checked in (1) of which the quality and qualification is advantage to government and then submit a recommendation to purchase or contract with the selected bidder who is the lowest bidder.

In case where the above lowest bidder refuses to sign contract or agreement with the government in the period stipulated as in bid document. The committee shall consider the next lowest bidder.

If there are several bidders offer equal price, the committee shall call all bidders to propose a new price together.

In the event that the price of the selected bidder is higher than the money limit for that purchasing or the contracting for works, the committee shall proceed under Clause 43, as applicable.

(3) The committee shall report the result of its evaluation and opinion as well as all documents received to the head of government agency through chief procurement officer.

Clause 51 After the committee evaluate the bid as in Clause 50(1), there is only one bidder or there are several bidders but only one of them submits properly in accordance with the details and conditions stipulated in the bid document, the committee, normally, will propose the head of government agency to cancel such bid. But if the committee considers that it is reasonable to take the further action by not necessary to cancel, the bidding shall be proceeded according to Clause 50(2), as applicable

Clause 52 If there is no bidder submit the bid or there is no bidder submits properly in accordance with the details and conditions stipulated in the bid document, head of government agency shall be urged to cancel that bid in order to call a new one. If the head of government agency considers that a new bid will be disadvantage, he can place an order to proceed on the purchasing or contracting by special method under Clause 23(8) or Clause 24(6), depending on the case.

(The statement in this Clause is amended by Clause 16 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) BE. 2541 (1998)).

Clause 53 After bidding, but a contract or agreement on purchasing or contracting for works has not been signed with any bidder, if it is the imperative or the benefit of the government to alter the essential details or conditions contained in the bid documents which cause advantage or disadvantage among the bidders, the

Bid evaluation

Evaluation in case of having only one bidder

Procedure in case of having none proper bidder

Details alteration after bidding

head of government agency shall cancel that bid.

Clause 54 For the purchasing or contracting for works which is necessary to consider on technology of materials and/or the qualification of bidders and their proposals are not on the same basis which may cause the problem on bid evaluation. In order to solve the problem, the proposals must be improved to be perfect and be as required before the price evaluation or the purchasing or the lump sum turnkey contracting which is approved to proceed by the Cabinet. This should be taken as general bidding except it is stipulated for bidders to submit proposals separately

- (1) technical proposal and other proposals,
- (2) price proposal,
- (3) financial proposal according to Clause 56 (if any).

The method, procedure and criteria for evaluation shall be also specified as conditions in bid documents.

(The statement in this Clause is amended by Clause 17 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Clause 55 In order to be in accordance with Clause 54, the bid evaluation committee shall open the technical proposals of bidders for the bid accepting and bid opening committee as specified in Clause 49 (5) and shall evaluate the bids according to Clause 54 by proceeding under Clause 50 in the portion which is not against the following procedures.

(1) Consider the technical proposal and others proposals of every bidder and select only the bidders whose proposals are in the line or similar with the standard most required by government agency. Bidders may be invited to give additional explanation in details on their proposals, if necessary.

(2) Open the price proposals of only bidders selected as in (I), and return the unopened price proposals and financial proposal (if any) to the bidders who are not selected.

In considering the technical and financial proposals in this case, government agency shall appoint at least one technical expert and one financial expert on purchasing or contracting as a member of the bid evaluation committee according to the first paragraph.

(The statement in this Clause is amended by Clause 17 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Clause 56 For the purchasing or contracting for works which permits the bidder to submit his financial proposal, the bidder has to submit it separately and the committee shall open the financial proposal when price proposal as specified in Clause 55(2) is opened for evaluation and comparison. Method, procedures and criteria for consideration shall be also stipulated in the bid document.

Special Method

Clause 57 For the purchasing by special method, the head of government agency shall appoint the committee in charge of purchasing to act as follows:

(1) In case of materials which are said by auction, the purchasing by price agreeing method shall be carried out.

(2) In case of materials which have to be purchased urgently and its delay may cause detriment to the government agency, the professional sellers shall be invited directly to propose their prices. If the proposed price is still higher than the market price or the price estimated by the committee, the bargain for lowest possible price shall be made.

(3) In case of materials for secret service, it shall be carried out as specified in (2)

Criteria for bidding with two proposals

Opening and evaluation technical proposal

Opening and evaluation financial proposal

Purchasing by special method

(4) In case of materials which have already been purchased, but it is necessary to use same in case of urgency or for the benefit of the government, negotiation shall be made with the former seller according to the contract or agreement of which the deliver is not due yet in order to have materials been purchased according to details and at the lower price or the same price under the better or the same conditions. Price per unit of the previous contract (if any) shall be taken into consideration in order to maximize utility for the government

(5) In case of materials necessitate to be purchased directly from abroad, the committee will propose the head of government agency to purchase directly from abroad or request same assistance from embassies or other government agencies to check price quality as well as details thereof. For the purchasing through international institute, the contact should be made directly with the offices of international organizations in Thailand, except in case where there is no office in Thailand, it is permitted to contact with the office in abroad.

(6) In case of materials which necessitate to mention the specific brand name due to same limit in usage or technique, the professional sellers shall be invited directly to propose their prices. If the proposed price is still higher than the market price or the price estimated by the committee, the bargain for lowest possible price shall be made.

(7) In case of materials which are lands or buildings necessitate to locate at specific areas, the owners shall be invited directly to propose their prices. If the proposed price is still higher than the market price or the price estimated by the committee, the bargain for lowest possible price shall be made.

For the purchasing of lands or buildings located in abroad, if necessary, it is able to contact through brokers or to proceed under the law or the tradition of that locality.

(8) In case of materials which are not successful after being purchased by other methods, the committee shall check prices directly from the professional sellers and price quoted by price inquiry or by competitive bidding which has already been cancelled (if any). If the selected bidder offers price higher than the market price or the price estimated by the committee, the bargain for lowest possible price shall be made.

The committee shall submit the result of its evaluation and recommendation together with all documents received to the head of government agency through the chief procurement officer for further action.

(The statement in this Clause is amended by Clause 17 of the Regulations of the Office of the Prime Minister on Procurement (Volume3) B.E. 2539(1996)).

Clause 58 For the contracting for works by special method, the head of government agency shall appoint the committee in charge of contracting for works to act as follows:

(1) Contracting for works by special method according to Clause 24(1) (2) (3) and (4) the professional contractors shall be invited directly to propose their prices. If the proposed prices are still higher than the market prices or the estimated price or the prices set by the committee, the bargain for lowest possible price shall be made.

(2) Contracting for works by special method according to Clause 24 (5), negotiation shall be made with the former contractor according to the contract or agreement of which the deliver is not due yet in order to have works been contacted according to details and at the lower price or the same price. Price per unit of the previous contract (if any) shall be taken into consideration in order to maximize utility for the government.

Contracting for works by special method

(3) Contracting for works by special method according to Clause 24 (6) in case where the works are not successful after the contracting by the other methods, the committee shall check prices directly from the professional contractors and price quoted by price inquiry or by competitive bidding which has already been cancelled (if any). If the selected bidder offers price higher than the market price or the price estimated by the committee, the bargain for lowest possible price shall be made.

The committee shall submit the result of its evaluation and recommendation together with all documents received to the head of government agency through the chief procurement officer for further action.

(The statement in this Clause is amended by Clause 17 of the Regulations of the Office of the Prime Minister on Procurement (Volume3) B.E 2539(1996)).

Special Case Method

Clause 59 For the purchasing or contracting by special case method, the head of government agency is able to place an order for purchasing or contracting for works directly to the sellers or contractors as stipulated in Clause 26. For the purchasing or contracting for works of not more than Baht 100,000, the chief procurement officer is able to carry out within the money limit approved by the head of government agency as specified in Clause 29.

(The statement in this Clause is amended by Clause 18 of the Regulations of the Office of the Prime Minister on Procurement (Volume3) B.E. 2539(1996)).

The Purchasing of Drugs and Medical Supplies

Clause 60 The purchasing of drugs of government agency shall be procured according to the generic name in the list of national major drugs set by the National committee for Drugs. The budget to purchase such drugs shall be not less than 60%, except in the case of the government agencies attached to the Ministry of Public Health, the budget for purchasing shall be not less than 80%.

Clause 61 The purchasing of drugs and non-drug medical supplies i.e. gauze pad, cotton wool, syringe, needle, splint, dental materials, x-ray film, pharmaceutical supplies produced by the Government Pharmaceutical Organization, shall be procured from the Government Pharmaceutical Organization, except the government agencies attaches to Ministry of Defense which have to purchase from the Military Pharmaceutical Factory. For the Royal Police, she can purchase either from the Government Pharmaceutical Organization or the Military Pharmaceutical Factory by special method. However the price of drugs from the Government Pharmaceutical Organization and the Military Factory must not higher than the basic price of the same drugs in generic name, set up by Ministry of Public Health, over 3 %.

Clause 62 The purchasing of drugs in generic name stipulated in the list of national major drugs and non-drug medical supplies which are not produced by the Government Pharmaceutical Organization but are available, the government agency can procure either from the Government Pharmaceutical Organization or any seller or manufacturer under the following criteria:

(1) The purchasing by price inquiry method or competitive bidding method, the government agency shall inform the Government Pharmaceutical Organization every time. If the price of the Government Pharmaceutical Organization is the same or lower than the price quoted by bidders from price inquiry method or competitive bidding method, the government agency has to purchase from the Government Pharmaceutical Organization.

Purchasing or contracting for works by special case method

Criteria on purchasing of drugs

Purchasing of drugs and non-drug medical supplies produced by Government Pharmaceutical Organization

Purchasing of drugs and non-drug medical supplies not produced by Government Pharmaceutical Organization

(2) The purchasing by price agreeing method or special method can be carried out with the price not higher than the basic price set by the Ministry of Public Health.

Clause 63 In case of having any law or resolution from the Cabinet specifying to purchase drugs and non-drug medical supplies from any agency, the government agencies shall purchase drugs or medical supplies from such agency by special case method.

Clause 64 Ministry of Public health shall be in charge of circulating the government agencies the list of national major drugs set by the National Committee on Drugs with their basic price and non-drug medical supplies. The Government Pharmaceutical Organization shall be in charge of informing the government agencies the list of drugs according to the list of national majors and non-drug medical supplies manufactured and sold by the Government Pharmaceutical Organization.

Purchasing of drugs and non-drug medical supplies from any agency

Circulation the list of national major drug with their basic price

Authority for Purchasing or Contracting for Works

Clause 65 The authority to approve the purchasing or contracting for works, except by special method and special case method, shall be that of the persons holding the following positions and within the following money limit:

(1) Head of government agency, not more than Baht 50,000,000.

(2) Permanent Secretary, more than Baht 50,000,000 but not more than Baht 100,000,000.

(3) Minister of State, more than Baht 100,000,000. (The statement in this Clause is amended by Clause 5 of the Regulations of the Office of the Prime Minister on Procurement (Volume 2) B.E. 2538(1995)).

Clause 66 The authority of persons for each purchasing or contracting for works by special method shall be that of the persons holding the following positions and within the following money limit:

(1) Head of government agency, not more than Baht 25,000,000.

(2) Permanent Secretary, more than Baht 25,000,000 but not more than Baht 50,000,000.

(3) Minister of State, more than Baht 50,000,000. (The statement in this Clause is amended by Clause 5 of the Regulations of the Office of the Prime Minister on Procurement (Volume 2) B.E. 2538(1995)).

Clause 67 The head of government agency can place order for the purchasing and contracting for works by special case method without the money limit.

Authority for purchasing or contracting for works by price agreeing method, price inquiry method and competitive bidding method

Authority for purchasing or contracting for works by special method

Authority for purchasing or contracting for works by special case method

Advance Payment

Clause 68 No payment or advance for materials or works shall be made to the sellers or contractors. However, if the head of government agency considers that it is necessary and is specified in the contract or agreement, the advance shall be paid according to the following circumstances and criteria:

(1) The purchasing or contracting for works made by a government agency, a government body established under the law on local administration, other units set up by law with the status of a local administration or state enterprises, the payment shall be made not over 50% of the total cost of each purchasing or contracting for works.

(2) The purchasing of materials from the government institutes in abroad or any government unit in abroad necessitate to be proceeded through the international organization or the purchasing of scientific equipment or other materials as prescribed in Clause 12(8) necessitate to purchase directly from the

Criteria for advance payment

manufacturer or agents in abroad, the payment can be made as agreed with that government institute or international institute or according to the conditions set up by tile sellers, depending on the case.

(3) The subscription for magazine or the book order or the purchasing of CD-ROM which has to be a subscriber first and is issued regularly as a magazine or being a member of Internet in order to pursue information from any sources by utilizing computer network can be paid according to the actual paid amount.

(The statement in (3) is amended by Clause 19 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996)).

(4) The payment of the purchasing or contracting for works by price inquiry method or competitive bidding method can be made not more than 15% of the total cost of such purchasing or contracting for works. The rate of materials and work cost to be paid in advance must be also stipulated in the price inquiry document or bid document.

(5) The payment of the purchasing or contracting for works by special method shall be made not more than 15 % of the total cost of such purchasing or contracting for works.

Clause 69 The payment to seller or contractor in accordance with the international trading practice by issuing the letter of credit or draft is in the limit of Baht 50,000 or the payment according to the progress of procuring the materials ordered can be made. This will not be regarded as an advance payment.

Clause 70 The bid security is not required in case of the advance payment for materials or works under Clause 68(1), (2) and (3)

In case of the advance payment for materials or works in Clause 68(4) and (5), the seller or contractor has to submit Thai Government's bond or a guarantee issued by a local bank.

Payment in accordance with the international trading practice

Security of advance payment

Inspection and Acceptance of Materials

Clause 71 The materials inspection and acceptance committee shall act as follows:

(1) Inspect the materials at the office of the purchaser or the user or at the site specified in the contract.

If there is no written contract or agreement, the inspection at other site shall get the prior approval from the head of government agency.

(2) Inspect and count the materials in order to ascertain whether they are correct and complete in accordance with the agreement. In case of a technical and scientific test or experiment, an expert or a qualified person in respect of those materials may be invited for consultation, or the materials may be sent for testing or experimenting at the place of such expert or qualified person.

In the case when it is unable to inspect and count every unit of the materials, it shall be done on the statistic basis.

(3) The inspection and acceptance of the materials, normally, shall be made on the day the seller or contractor delivers the materials and must be completed as soon as possible.

(4) When the materials have been found correct and complete, they shall be accepted and the seller shall be regarded as having effected delivery on the day the materials were brought to the place of delivery. After the acceptance, the materials will be handed over to the procurement officer. The committee shall issue at least two signed acceptance certificates, one copy will be submitted to the seller

Inspection and acceptance of materials

and the other to the procurement officer in order to process payment according to the Regulations on disbursement and the head of the government agency shall be reported on this matter.

If it is found that the delivered materials are incorrect or incomplete as stipulated in the contract or agreement, it must be reported to the head of government agency through the chief procurement officer for acknowledgement or order, depending on the case.

(5) In the event that the seller delivers the correct materials but deficient in number, or free from deficiency in number but not altogether correct, if the contract or agreement does not provide otherwise only the correct ones shall be inspected and accepted in accordance with (4). This must be promptly reported to the head of government agency in order to inform to the seller or contractor within 3 working days from the date of the finding thereof. However, this shall not deprive the government agency of the right to impose a fine on the seller for the incomplete and incorrect amount.

(6) Inspection and acceptance of the materials which come in a set or unit, any missing component part of which would render the use thereof incomplete, this shall be regarded that the seller have not delivered the materials yet. Normally it shall be reported to the head of government agency in order to notify the seller or contractor within 3 working days from the date of the finding thereof.

(7) If any member of the materials inspection and acceptance committee refuses to accept the delivered materials by making a dissenting opinion, the committee shall submit to the head of government agency for consideration and order. However, should the head of government agency order the acceptance of delivery, the committee shall proceed in accordance with (4) or (5), depending on the case.

Inspection and Acceptance of Work

Clause 72 The work inspection committee shall act as follows:

(1) Inspect tile report on performance of contractor and all situations the supervisor reports by checking with the drawings, details and conditions stipulated in the contract every week, including acknowledge and consider to stop the work or suspend tile supervisor's performance and then report to the head of the government agency for further action.

(2) In accordance with (1) if there is some doubt on its technical rules, tile committee has to inspect at the location as stipulated in the contract or agreement or at tile site and is authorized to modify, alter, increase or decrease the work according to the drawings, details and conditions specified in the contract.

(3) The inspection of the contractor's work shall normally be made within 3 working days counted from the date when the chairman of the committee is acknowledged the delivery thereof and the acceptance shall be made urgently.

(4) When the work has been found correct and complete in accordance with the drawings, details and conditions in the contract, the contractor shall be deemed to have completely delivered the work on the day the contractor delivers such work. The committee shall issue at least two signed performance certificates for the whole work or an installment part of the contract, depending on the case. One copy of the certificate will be sent to the contractor and one to the procurement officer in order to process payment in accordance with the Regulations on Disbursement and to report the head of government agency for acknowledgement.

Inspection and acceptance of work

(5) In the event that any member of the work inspection committee refuses to accept the contractor's work by making a dissenting opinion, such statement shall be submitted to the head of government agency for consideration and order. However, should the head of government agency order the acceptance of such delivery, the committee shall proceed in accordance with (4).

Clause 73 The supervisor shall be in charge as follows:

Work supervision

(1) Inspect and supervise the work at the location specified in the contract or as agreed every day in order to be in accordance with all drawings, details and conditions in the contract. The supervisor is authorized to modify, alter, increase or decrease the works on the basis of its technical rules in order to be consistent with drawings, details and conditions in the contract. If the contractor refuses to comply with, the supervisor shall order to stop the whole work or a part of work, depending on the case until the contractor agrees to comply with such order and he shall also the work inspection committee promptly.

(2) If it is found that the drawings, details and conditions in the contract are inconsistent with or it is expectable that after its completion by carrying out the work according to the drawings, details and conditions in the contract, it will be insecure or against the technical rules or unsafe, he shall order to suspend the work and then report to the work inspection committee at soonest.

(3) Record at least 2 copies of daily works performance of the contractor and all situations including the result of the performance or stopping the works and cause of stopping the works and submit one copy to the work inspection committee every week and keep another copy in order to submit to tile procurement officer after the completion of each installment of work. These records shall be regarded as government documents to be used by the officers concerned for the work inspection.

The record on contractor's performance shall be specified tile process of each performance in details and the used materials.

(4) On the day when the contractor starts working and delivers each installment of work, tile supervisor shall submit the report whether contractor performs his work conforming with the contract to the work inspection committee within 3 working days from each due date.

(The statement in (3) is amended by Clause 20 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 (1996)).

Section 3

Engagement of Consultants

Clause 74 In order to promote and develop Thai consultants, the Thai Consultancy Database Center under the supervision of Ministry of finance shall be established to act as follows:

Thai Consultancy Data Base Center

(1) set up the criteria and method for the registration of Thai consultants,
(2) register, extend the license and withdraw the license of Thai consultants,
(3) collect, prepare as well as revise all data relating to Thai consultants,
(4) publicize or provide data concerning the Thai consultants to government agency, state enterprise, government body established under the Law on Local Administration, other units set up by law with the status of a local administration and interested non-government agency.

(The statement in this Clause is amended by Clause 18 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541(1998)).

Clause 75 The engagement of juristic consultants, except the engagement of consultant under the grant aid or loans from sources which specify to undertake by other methods, the government agency shall engage Thai consultant as the leading firm, except receiving confirmation in letter by the Thai Consultant Database that there is no Thai consultant in the field of service or work.

Engagement of Thai consultants

The engagement of non-juristic consultants, criteria and methods specified by CCP will be applied unless these regulations specified otherwise

In case that there are reasons and necessities unable to engage Thai consultant, government agency has to get an approval from the CCP.

The engagement of consultant of government agency located in aboard or has activities to performed in aboard, Thai consultant does not need to be engaged.

(The statement in this Clause is amended by Clause 18 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541(1998)).

Clause 76 In order to be in accordance with Clause 75, the engagement of foreign consultants of government agency, excluding the engagement of consultant under grant aid or loans from sources which specify to undertake by other methods, Thai personal shall be engaged to work with at least 50 % of man-month of total number consultants. Unless field of service or work is unable to engage Thai consultant, the government agency has to get approval from the CCP.

Engagement of foreign consultants

(The statement in this Clause is amended by Clause 18 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541(1998)).

Engagement Method

Clause 77 Consultants may be engaged by either of two methods as follows:

Engagement method

- (1) Direct negotiation method.
- (2) Selection method.

Request for Engagement

Clause 78 Before proceeding on engagement of the consultants, the procurement officer shall submit to the head of the government agency concerned a report containing with the following particulars:

Request for engagement

- (1) reasons and needs for engagement,
- (2) terms of Reference,
- (3) qualification of consultants to be engaged,
- (4) the estimated cost,
- (5) the period of engagement,
- (6) the method by which the engagement will be followed and the reason thereof,
- (7) other pertinent proposals (if any).

Once the procurement officer has obtained the approval from the head of the government agency, he shall proceed the engagement of a consultant.

Committee

Clause 79 For each engagement of consultants, the head of the government agency concerned shall appoint a committee, depending on the case, to act in accordance with these Regulations as follows:

Committee of engagement of consultants

- (1) Direct negotiation committee.
- (2) Selection committee.

Clause 80 The Committee set up under Clause 79 shall consist of a chairman and at least 4 committee members. Normally, the committee will be composed of not

Components of the committee

less than two government officers of P.C. 6 or equivalent and upwards. In the case that it is necessary and beneficiary to the government, a representative from the other government agencies or unofficial person who is an expert or qualified person in such work shall be appointed as committee member. In case of the engagement of consultants funded by loan, a representative from Fiscal Policy Office shall be appointed as committee member.

(The statement in this Clause is amended by Clause 19 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Clause 81 The quorum of any meeting of the committee set up under Clause 79 shall be not less than one half of the total number of the committee.

The meeting as in the above paragraph shall be performed in the same manner as those prescribed in Clause 36 as applicable.

Direct Negotiation Method

Clause 82 Engagement by direct negotiation method means the engagement of a particular consultant on the basis of his verified ability, experience and reliability.

Clause 83 Engagement by direct negotiation method is permitted in either of the following circumstances:

- (1) engagement of which the price is not more than Baht 100,000 or
- (2) engagement is a continuation of work in progress, or
- (3) it is well aware that the number of consultants available in that particular field of services is limited and the selection method is not therefore feasible, and the price of engagement is not more than Baht 2,000,000, or
- (4) engagement of government agency, state enterprise, government body established under the law on local administration, other units set up by law with the status of a local administration or other agencies set up by law or Cabinet's resolution supported to engage by direct negotiation method.

The consultant service required are urgently needed which a delay may cause detriment to the government agency and there is a need to engage by direct negotiation method. Head of government agency will have to submit the report containing the reasons and necessities of engagement by direct negotiation method to CCP for information soon but not more than 15 days after the date of engagement. Where CCP considers that such engagement is not urgently needed, CCP has authority to revise contract in consistent with the criteria of engagement of consultant specified in these Regulations. In making a contract with the reason of urgent need, it shall be stipulated as condition in the contract by government agency that such contract will be effective after getting an approval from CCP.

The engagement with the reason under (2) or (3), head of government agency may submit a report explaining reasons to the CCP for acknowledgement in the case that price of engagement is more than the maximum amount of money set up by CCP.

(The statement in this Clause is amended by Clause 20 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541(1998)).

Clause 84 The direct negotiation committee shall act as follows:

- (1) consider the technical proposal of the consultants,
- (2) consider and negotiate the remuneration and other expenses relating to the services to be provided by the consultants,
- (3) consider the details to be stipulated in the contract
- (4) submit a report together with all documents received to the head of

Quorum of the meeting

Meaning of engagement by direct negotiation method

Conditions of engagement by direct negotiation method

Consideration of engagement by direct negotiation method

government agency concerned for further action through the chief procurement officer.

Selection Method

Clause 85 In engagement by selection method, qualified consultants will be screened so that the number be brought down to a short list and those in short list will be invited to submit proposals for final selection. If it is deemed proper and with the consent of the head of government agency concerned, the short list procedure may be omitted and the qualified consultants will be invited to submit proposals for selection.

Clause 86 In order to compile the names of most qualified consultants, the procurement officer shall proceed as follows:

(1) to request the list of foreign consultants from financial institute or international organizations or advertise in the newspapers, to notify to associations or professional institutes or embassies concerned, or to request cooperation from government agencies or state enterprises which had engaged consultants in the same field of services,

(2) to request the list of Thai consultants from Thai Consultancy Database Center attached to Ministry of Finance.

The above paragraph may be dispensed with if the government agency concerned already has in its possession a list of potential consultants.

Once the selection has been made, the committee shall report to the head of government agency concerned for consideration and if the engagement is financed by loan or grant aid, it has to be proceeded according to the guidelines of the loan source.

Clause 87 The government agency shall issue a letter to invite the selected consultants to submit their proposals by either of the following methods.

(1) Submission of 2 separate sealed envelopes, one containing the technical proposal and the other containing the price proposal.

(2) Submission of the technical proposal only.

Clause 88 The selection committee shall act as follows:

(1) Set up the selection criteria.

(2) Consider and rank every technical proposals.

(3) In case where the method in Clause 87(1) IS applied, the price proposal of the consultant who has the best technical proposal will be opened in order to negotiate for the appropriate price. In case where the method in Clause 87(2) is applied, the consultant who submits the best technical proposal shall be invited to submit the price proposal and to be negotiated for the appropriate price.

If the negotiation on price fails, the committee shall report to the head of government agency concerned in order to terminate the negotiation with such consultant and to open the price proposal of the next ranked consultant or to invite the next ranked consultant with the best technical proposal to submit the price proposal, depending on the case, and negotiate for the appropriate price.

(4) Consider the terms and conditions to be specified in the contract after the negotiation on price can be concluded.

(5) Submit a report on the result of the selection as well as the committee's recommendation and all documents received to the head of government agency concerned through the chief procurement officer.

In case where the method in Clause 87(1) is applied, after final decision to award the contract to the successful consultant, all price proposals from the other

Meaning of engagement by selection method

Procedures for compiling names of qualified consultants and selection

Invitation the selected Consultants

Consideration of engagement by selection method

consultants are to be returned unopened to them.

For the engagement of consultants by selection method which is financed by grant aid through the Department of Technical and Economic Cooperation, it shall be proceeded as in the first and the second paragraph, as applicable.

Clause 89 The engagement of consultants by selection method which is not complicated and the general consultant is able to carry them out, the head of government agency concerned, upon his consideration, can invite the selected consultants to submit their proposals as the following procedures:

(1) The selected consultants shall submit 2 separated sealed envelopes, one containing the technical proposal and the other containing the price proposal.

(2) The selection committee shall consider and rank every technical proposal.

(3) The selection committee shall open the price proposal of the consultants from the first up to the third ranked, then invites the first ranked consultant for negotiation in prior.

(4) If the negotiation as in (3) fails, it will be terminated and then the next ranked consultant will be invited for negotiation.

When the result of negotiation comes out, it shall be proceeded according to Clause 88(4) and (5).

Clause 90 The engagement of individual consultant which the technical proposal is not required, the selection of qualified consultants and their ranks will be performed under Clause 86. After ranking the consultants, the most suitable consultant will be invited to submit its price for negotiation.

+Authority to Approve Contract for Consultants

Clause 91 The authority to approve or to award each contract for consultant service shall be that of the persons holding the following positions and within the following money limit:

(1) Head of the government agency, not more than Baht 50,000,000.

(2) Permanent Secretary, more than Baht 50,000,000 but not more than Baht 100,000,000.

(3) Minister of State, more than Baht 100,000,000. (The statement in this Clause is amended by Clause 6 of the Regulations of the Office of the Prime Minister on Procurement (Volume 2) B.E.2538 (1995))

Clause 92 Consultant's remuneration shall be kept within appropriateness and economy. Consideration is to be given to various factors, i.e. the nature of work involved, costs incurred by other government agencies or state enterprise in the same nature of services, the necessary number of man-month, cost of living index, etc. The remuneration will not more than the rate set up by CCP (if any).

Where advance payment is deemed necessary, not more than 15% of the total contract cost may be paid and the consultant will provide a bank guarantee issued by a local bank in lieu of such payment. The bank guarantee shall be released to the consultant when all advance money has been fully recovered by the government agency by deduction from each installment of works. These conditions shall be also stipulated in the contract.

For the contract of government agency, provincial government agency, state enterprise or other government agencies, not more than 50 % of the total contract cost may pay in advance and need not to provide such payment guarantee.

(The statement in this Clause is amended by Clause 21 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998))

Engagement of consultant which is not complicated and the general consultant is able to carry out

Engagement of individual consultant which the technical proposal is not required

Authority to approve contract for consultants

Consultant's remuneration and criteria for advance payment

Retention Guarantee

Clause 93 Where payments are made by installments, except the engagement of consultants financed by grant aid, the employer shall withhold an amount which shall be not less than 5 % but not more than 10% of each payment, as retention money. As an alternative, the consultant may provide a bank guarantee issued by a local bank. The bank guarantee shall carry such a validity period as may be required by the employer. This condition shall be stipulated in the contract.

Clause 94 In the event that the contract price financed by loan includes the required taxes payable to the Thai government, the portion of taxes shall be distinguished separately from the total contract price.

Retention money

Taxes payable being included in the contract financed by loan

Section 4

Contracting for Design and Work Supervision

Procedures on Contracting for Design and Work Supervision

Clause 95 The contracting for design and work supervision may be proceeded by any of the following 4 methods:

- (1) Agreeing method.
- (2) Selection method.
- (3) Selection method with specific terms.
- (4) Special method.

Procedures on contracting for design and work supervision

Request for Contracting

Clause 96 Before proceeding the contracting for design and work supervision in every method, the procurement officer shall submit the head of government agency a report containing the following particulars:

- (1) scope of works including necessary details
- (2) money limit for construction work,
- (3) estimated cost of design and work supervision,
- (4) completion date of construction work,
- (5) method by which the contracting will be performed and the reasons thereof,
- (6) other pertinent proposals (if any).

Request for contracting for design and works supervision

Once the head of government agency has approved as proposed, the procurement officer shall proceed the contracting for design and work supervision.

Contracting by Agreeing Method

Clause 97 The contracting by agreeing method is the contracting for design and work supervision which the employer selects to employ any server whose capability has ever known or seen. And is the one being recommended by the committee in charge of contracting by agreeing method by considering his good background. This method shall be applied for the construction work with the money limit of each project not more than Baht 2,000,000.

Meaning of contracting by agreeing method

Clause 98 In proceeding each contracting for design and work supervision by agreeing method, the head of government agency shall appoint a committee in charge of contracting by agreeing method consisting of a chairman and at least 2 committee members. Normally, the committee will be comprised of not less than 1 government officer of P.C. 4 or equivalent and upwards and an expert or a qualified person in such work should be appointed as a committee member. In order to proceed the contracting for design and work supervision, the number of such committee must be not less than one half of the total number of the committee.

Components of the committee in charge of contracting by agreeing method

Clause 99 The committee in charge of the contracting by agreeing method has a duty to consider the service terms as specified in this section and submit the result thereof and his recommendation together with all received documents to the head of government agency through the chief procurement officer.

Contracting by agreeing method

Contracting by Selection Method

Clause 100 The contracting by selection method is the contracting for design and work supervision that the employer puts up the notice to invite for the contracting and the committee in charge of contracting will select the server who can provide service with the most appropriate terms for contracting. This method will be applied for the building construction of which the money limit for each project more than Baht 2,000,000 but not more than Baht 5,000,000

Meaning of contracting by selection method

Clause 101 In proceeding each contracting for design and work supervision by selection method, the head of government agency concerned shall appoint a proposal accepting committee and the committee in charge of contracting by selection method.

Components of the proposal accepting committee and the committee in charge of contracting by selection method

The proposal accepting committee shall consist of 1 chairman and at least 2 committee members. Normally, at least 2 officers of P.C.3 or equivalent and upwards shall be appointed.

The committee in charge of contracting by selection method consists of 1 chairman and at least 2 committee members. Normally, at least 2 government officer of P.C. 4 or equivalent and upwards and an expert or a qualified person in such work should be appointed as a committee member.

In order to proceed as specified, the presence of the above mentioned committee must be not less than one half of the total number of committee.

Clause 102 The proposal accepting committee for selection method shall act as follows:

Proposal accepting by selection method

(1) Receive all work proposals and record on the envelopes to whom they belong, then register for evidence.

(2) Submit all work proposals to the committee in charge of contracting by selection method. After the expiration of the receipt of the proposals, it is prohibited to receive another proposal.

Clause 103 The committee in charge of contracting by selection method shall act as follows:

Contracting by Selection Method

(1) After the presence of all committee members in charge of contracting by selection method, all work proposals submitted by the proposal accepting committee shall be opened.

(2) Consider all proposed terms as specified in this section, the qualification and work experiences, the number of permanent and temporary architects and/or engineers, evidence showing work experiences, then sign on all work proposals.

(3) Report to the head of government agency concerned through the chief procurement officer its decision and the action to be taken after the committee completes its consideration together with all evidences received. Normally, the committee should recommend to employ the server who proposes the most appropriate terms, except in the case that such server is unable to accept the work with any reason, the committee shall recommend the next one.

Contracting by Selection Method with specific Terms

Clause 104 The contracting by selection method with specific terms is the contracting for design and work supervision that the employer puts up the notice to invite for the contracting. And the committee in charge of contracting by selection

Meaning of contracting by selection method with specific terms

method with specific terms will select the server who is a juristic person by considering his status, qualification and work experiences, number of permanent and temporary architects and/or engineers, evidence showing the work experiences, as well as the design idea. This method will be applied for the building construction of which the money limit for each project more than Baht 5,000,000

Clause 105 In proceeding each contracting for design and work supervision by selection method with specific terms, the head of government agency concerned shall appoint a proposal accepting committee and the committee in charge of contracting by selection method with specific terms. The component of each committee, qualification or expert in the committee in charge of contracting by special method with specific terms, specifications, duty of proposal accepting committee under the selection method with specific terms shall be applied under Clauses 101 and 102, as applicable.

Clause 106 The committee in charge of contracting by selection method with specific terms shall act as follows:

(1) After the presence of all committee members in charge of contracting by selection method with specific terms, all work proposals submitted by the proposal accepting committee shall be opened.

(2) Consider the following description

- a. service terms as specified in this section,
- b. the qualification and work experiences, the number of permanent and temporary architects and/or engineers,
- c. evidence showing work experiences,
- d. design idea.

(3) Select at least two servers who propose the appropriate service terms and inform them the procedural method to propose the work as required by the employer and may specify submission of draft work proposal. In addition, the implementation schedule, the benefit on usage as well as the relating work and the architectural suitability shall be considered for the selection of work proposal. All work proposals shall be signed for evidence.

(4) Report to the head of government agency concerned through the chief procurement officer its decision and the action to be taken after the committee completed its consideration together with all evidences received.

Contracting by Special Method

Clause 107 The contracting by special method can be performed by either of 2 following methods:

(1) Selecting method which is the contracting for design and work supervision in case of urgency and for the security of the country, and its delay may cause detriment to the government and the security of the country if the contracting is proceeded by

other methods. Permanent Secretary has the authority, upon his consideration, to make contract with any server.

(2) Competitive bidding method which is the contracting for building design by special type in order to promote the artistic or architectural value of the country i.e. monument, parliament, national museum, national theatre or the design for big structure building i.e. national stadium, airport. The employer has to submit the details of the contracting for design by competitive bidding to CCP.

Clause 108 The employer shall retain the right to cancel the selection of server in the following cases:

(1) Less than 2 proposals are submitted.

(2) The submitted proposals are not in accordance with the employer's requirement.

Components of the proposal accepting committee and the committee in charge of contracting by selection method with specific terms

Contracting by selection method with specific terms

Meaning of contracting method by special method

Cancellation the selected server

Clause 109 The employer shall inform the result of the selection and the contract signing date to the selected server at soonest

Informing the result of the selection and the contract signing date

Notice and Invitation

Clause 110 One of the following 3 methods of the announcement shall be carried out to invite for the contracting:

Method of the announcement

(1) Putting up a notice at a conspicuous place.
(2) Announcement through mass media i.e. advertisement in newspaper or broadcasting on radio.

(3) Sending a notice to architecture and engineering professional association or to the offices that run business in that field.

The method of announcement shall be decided by the necessity of that work and the suitability in each locality.

Clause 111 The procurement officer shall prepare the announcement showing at least the following particulars:

Preparation of the announcement

(1) Requirement on the building utility and the area of/and and building.

(2) Date, time and place for the acceptance of work proposal and the closing date thereof

(3) Conditions and time interval for design.

(4) Clause specifying that the server has to submit the security according to the nature and quantity of work as stipulated In Clause 141 and Clause 142, with the condition that the government shall confiscate the security or claim to the guaranteeing bank if the successful bidder withdraws his proposal or does not sign the contract with the government within the time limit. The government shall retain right to regard the one who refuses to sign contract with the government as the one excluded from procurement programs.

(5) The committee's decision shall be the final.

Work Proposal

Clause 112 Besides having to submit the work proposal to the employer, the server who proposes work under the selection method and selection method with specific terms has to submit also the following evidences:

Submission of the work proposal of the server under the selection method and the selection method with specific terms

(1) The service terms as specified in this section.
(2) Qualification and work experiences, number of permanent and temporary architects and/or engineers.

(3) Evidence showing the work experiences

(4) Security

After the completion of the selection, all proposals and evidences shall be returned to the unsuccessful servers.

Clause 113 The individual server has to be in Thai nationality and receives the professional license on architect and/or engineer for the works as stipulated in the Code on Architecture and/or Engineering Professional, depending on the case. The server, is neither the government officer, employee of any government agency, nor officer in municipal, state enterprise or local administration organization.

Qualifications of the server

In the case where the server is juristic person, the Managing Director or manager of that juristic person must be Thai citizen and over 50% of capital of that juristic person must be hold by Thai citizen.

Authority for Contracting

Clause 114 Each contracting for design and work supervision shall be that of the persons holding the following position and with the money limit:

Authority for contracting for design and work supervision

(1) Head of government agency, not more than Baht 10,000,000
(2) Permanent Secretary, more than Baht 10,000,000 (The statement in this Clause is amended by Clause 7 of the Regulations of the Office of the Prime Minister on Procurement (Volume 2) B.E. 2538 (1995)).

Clause 115 The employer may confiscate the security on work proposal or claim from the guarantor in the following cases:

- (1) The server avoids to sign contract within the specific period.
- (2) The employer cannot send a notice to inform the contracting signing date to the server since
 - a. the server discontinues or has already stopped his business.
 - b. the architecture and/or engineering professional license of that person, in case of individual person, has been withdrawn.
- (3) The server broke the contract and the employer has already cancelled the contract.

Confiscation of the security

Work Inspection and Acceptance

Clause 116 Each contracting for design and work supervision, the head of government agency shall appoint the work inspection and acceptance committee to act as specified in this section.

The work inspection and acceptance committee shall compose of one chairman and at least 2 committee members. Normally, government officer of P.C. 4 or equivalent and upwards shall be appointed. The qualified person or expert should be also appointed as a committee member.

In order to perform the duty specified, not less than one half of the total number of the above committee shall present at the meeting.

Clause 117 The work inspection and acceptance committee has duty to inspect and supervise the design work and construction of building as specified in the contract.

Once it has been found that the work is correct and completed, the committee shall issue at least 2 copies of performance statement with the signature. One copy will be submitted to the server and the other to the procurement officer in order to process payment according to the regulations on disbursement and the head of the government agency shall be reported on this matter.

Components of the work inspection and acceptance committee

Work inspection and acceptance

Work Supervision

Clause 118 The server has to provide the qualified supervisor who has experience according to each construction work.

The server has to submit the list of supervisors, inspectors or his representatives for the approval of employer. In the event that the supervisor is unable to perform his duty as in the above paragraph, the server has to submit the employer the name of a substitute and it must be agreed by the employer.

Work supervision

Design and Supervision Cost

Clause 119 The payment for design and supervision cost shall base on the following rate:

- (1) Building with the budget for construction cost not more than Baht 10,000,000, the payment for either design cost or work supervision cost shall be 2% of the total budget for construction cost.
- (2) Building with the budget for construction cost over Baht

Design and supervision cost

10,000,000, the payment for either design cost or work supervision for the excessive amount of Baht 10,000,000 shall be 1.75% of the budget for construction cost.

The payment for design cost or work supervision cost as in the above paragraph shall exclude the survey cost and soil analysis.

Clause 120 Where the employer or any agency shall take the detailed plan of contracting work to carry out the construction other than specified in the contract, such employer or agency shall pay to the server at the rate decided by the CCP, case by case.

Clause 121 The server is prohibited to convey the detailed plan of design and supervision work for which the contract has been signed with the employer to someone to carry out the construction again.

Clause 122 The employer, during the contract interval, may ask the server to alter or modify some minor parts which do not affect to the main structure of the building, electrical system, air-conditioning system and waterworks once submitted by the server and the server shall not charge any additional cost.

If it is necessary to modify or alter the main structure, the employer shall request for the prior approval of CCP.

Section 5

Exchange

Clause 123 The exchange of materials can not be allowed except in the case that the head of government agency deems it is necessary and can be performed only the exchange of equipment for equipment and the exchange of material for material under the following criteria:

(1) The exchange of equipment for equipment in the same classification and type can be performed, except some equipment specified by the Budget Bureau. The exchange of equipment with additional payment requires the prior agreement from the Budget Bureau.

(2) The exchange of equipment for equipment in different classification or type for every case requires the prior agreement from the Budget Bureau.

(3) The exchange of material for material in the same classification and type without any additional payment can be performed. Other cases than this require the prior agreement from the Ministry of Finance.

Clause 124 Where the exchange of materials shall be held, the procurement officer has to submit the head of government agency for action the report containing with the following descriptions:

(1) reasons and necessity thereof,

(2) details of material used for the exchange,

(3) purchasing or acquiring price of material used for the exchange and its estimated price,

(⁴) materials receiving from the exchange. It must be specified with which government agency, which government body established under the law on local administration, which other units set up by law with the status of a local administration, which state enterprise or which private sector, the exchange shall be made.

(5) Other proposals (if any).

Taking the plan of contracting work to carry out other than specified in the contract

Prohibition of the server to convey the plan to someone

Alteration of the plan

Criteria for exchange

Report of the exchange of materials

Where the exchange of materials made with the private sector, the method of exchange together with the reason thereof shall be specified and the purchasing method shall be applied, as applicable. However, in the case that the exchange of materials the total purchasing or acquiring price is not more than Baht 100,000, the price agreeing method can be applied.

Clause 125 For the exchange of materials made with private sector, the head of government agency shall appoint, as necessary, a committee or several committees to act according to Clause 35 or Clause 36, depending on the case, as applicable.

The committee shall act as follows:

(1) Inspect and estimate the price of materials to be exchanged according to their current nature.

(2) Check the details of materials receiving after the exchange whether they are the new ones and never been used before or not. However in the case that the used materials receiving after the exchange are required and do not cause any disadvantage to the government or for the advantage to the government, the exchange can be made.

(3) Compare the price of materials used for the exchange by considering on their estimated price as in (1) and the price of materials receiving after the exchange by considering on basic price, standard price or market price.

(4) Negotiate with the person whom the committee decides to make the exchange.

(5) Submit a recommendation to the head of government agency concerned for further action.

(6) Inspect and accept the materials according to Clause 71, as applicable.

Clause 126 The exchange of materials between the government agency and government agency, government body established under the law on local administration, other units set up by law with the status of a local administration or state enterprise shall depend upon the decision of the head of government agency or head of such agency in making the agreement.

Clause 127 After registering in the government agency record for the equipment receiving from the exchange, the Budget Bureau and the Office of the Auditor General or the Regional Audit Office shall be informed, depending on the cases, within 30 days after the date of receiving such equipment.

In case of the exchange equipment made with the government body established under the law on local administration, other units set up by law with the status of a local administration, state enterprise or private sector, the copy of evidence showing the performance according to Clause 125 or Clause 126 shall be attached also.

Section 6

Lease

Clause 128 The head of government agency is authorized to decide, upon its suitability and necessity, to proceed the lease of movable property and immovable property according to the criteria specified in this section. All clauses for the purchasing can be applied, as applicable, for the lease of movable property.

The advance payment for the lease of immovable and movable, if necessary, can be made only in the case that the leasing period is not more than 3 years with the

Exchange of the materials made with private sector

Exchange of materials with government agency

Proceeding after receiving materials from the exchange

Lease of movable property and advance payment

following criteria:

(1) The lease performed with government body established under the law on local administration, other units set up by law with the status of a local administration or state enterprise, the advance payment can be made not more than 50% of the total leasing fee mentioned in the contract.

(2) The lease performed with private sector, the advance payment can be made not more than 20% of the total leasing fee mentioned in the contract.

The advance payment other than the above mentioned can be made after getting prior agreement from the Ministry of Finance.

Lease of Immovable Property

Clause 129 The lease of immovable property can be performed under the following circumstances:

(1) Lease of land for government use.

(2) Lease of place to use as government office in case of having none of its own office or having but not enough. If the leasing place has enough space, it can be used as dwelling of anyone who has right to refund the residential fee according to the government regulations.

(3) Lease of place to use as dwelling of anyone who has right to refund the residential fee according to the government regulations in order to save the budget.

(4) Lease of place to store the government materials in case of having no enough space.

The lease shall be proceeded by price agreeing method.

Clause 130 Before proceeding the lease, the procurement officer shall submit the head of government agency the report containing the following particulars:

(1) reasons and necessity thereof,

(2) leasing fee proposed by the less or,

(3) details of immovable property to be leased i.e. location, the required area as well as its photograph (if any) and the previous leasing fee, etc.

Fee rate for other immovable properties in the same size and condition as the place to be leased (if any).

If the government agency in the central wants to lease the immovable property in the region, the information on the location and the rate of leasing fee in that province should be inquired to support the consideration.

Clause 131 The head of government agency shall approve for monthly leasing fee of immovable property including other relating service fees not more than Baht 20,000. If the fee is over Baht 20,000, the prior agreement shall be made with the Ministry of Finance.]

Criteria of lease of immovable property

Report of the lease of immovable property

Authority to approve the lease of immovable property

Section 7

Contract and Security

Contract

Clause 132 The authority to sign the contract for the procurement under these Regulations is of the head of government agency concerned and it shall be made in Thai or English language as the sample given by CCP.

If the contract is necessary to differ from the sample given by CCP in the contents or particulars as the principle substance still maintains as specified in the sample and does not cause any disadvantage to the government, such contract shall

Sample of contract and authority to sign the contract

be permitted. However, if the head of government agency decides that the contract "II cause disadvantage or the contract is loosely written, a draft of contract shall be sent to the Office of Attorney-General for prior review.

Where the contract can not be made according to the sample given by CCP and a new contract has to be drawn up, a draft of such contract shall be sent to the Office of Attorney-General for prior review. However, if the head of government agency considers to draw up the contract according to the sample ever reviewed by the Office of Attorney-General, it is permitted.

For the lease which lessee has to pay for other expenses except the leasing fee, or in the case that the head of government agency considers that it is disadvantage or the contract is loosely written, the draft of contract shall be sent to the Office of Attorney-General or provincial Attorney-General for prior check, depending on the case.

If it is necessary to make a contract in foreign language, it shall be written in English version and the contract and the principle substance of its attachment have to be translated in Thai. Only in the case that the contract is prepared according to the sample given by CCP, the translation in Thai is not required.

The contract made in abroad by the govenll11ent agency can be written in English or the language of the country where that agency " located in, upon the review of expert or law officer of such government agency.

Clause 133 The procurement in the following cases can be proceeded by a written agreement and need not to have contract as in Clause 132 upon the decision of the head of government agency:

(1) Purchasing, contracting for works or the exchange proceeded by agreeing method or engagement of consultant by direct negotiation method of which the price is not more than Baht 100,000.

(2) The procurement of which the contracting party "able to deliver all materials within 5 working days after the date of making the letter of agreement.

(3) Purchasing or contracting for works by special case method and the procurement provided by government agency.

(4) Purchasing by special method according to Clause 23(1) (2)(3) (4) and (5).

(5) Contracting for works by special method according to Clause 24(1) (2) (3) (4) and (5).

(6) Lease which the lease needs not to pay other expenses except the leasing fee.

In the case where the procurement of which the price is not more than Baht 10,000 or in the case where the purchasing or contracting for works which is proceeded according to the second paragraph of Clause 39, the written agreement is not required.

(The statement in this Clause is amended by Clause 22 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Clause 134 The penalty per day shall be specified in the contract or written agreement except engagement of consultant at the rate fixed between 0.01 - 0.20 % of the cost of materials undelivered. However, in the case that the contracting for works which the completion of whole work is required, the penalty rate per day should be specified in exact amount at the rate between 0.0 I - 0.10 % of the total cost of work but it shall be not less than Baht 100 a day. In case of infrastructure construction, which has an effect to the traffic, the penalty rate per day shall be specified at the rate fixed of 0.25 % of the total cost of work but the maximum rate

Criteria for proceeding the contract by written agreement

Penalty

of penalty may be specified according to the criteria set up by CCP.

In case of engagement of consultant, if government agency consider that no penalty specified in the contract will be detrimental to government agency, the penalty rate per day shall be specified at the rate or in exact amount at the rate between 0.01 - 0.1 % of the total cost of work as appropriate and necessary.

The head of government agency concerned, by considering on the cost and quality of materials which may be affected by the contracting party breaking the contract or affect the traffic or is detriment to government agency, depending on the case, is authorized to fix the rate and amount of penalty as in the first and second paragraph.

In the case which the contracting party can submit all materials provided in set within the period stipulated in the contract but some components are missed and the materials can not be used perfectly. Even the contracting party submits those missing components later but after the period specified in the contract, it shall be regarded that all sets of materials have not been delivered within the specific period yet and the penalty shall be imposed by the cost of materials in completed set.

If the installation or experimental cost includes in the material cost and the installation and experiment are performed later than the date specified in the contract, the penalty for such delay shall be imposed daily at the rate fixed of total cost of materials.

When the delivery date is due, the government agency shall urgently inform the contracting party of the penalty to be imposed according to the contract or agreement and after the contractor has delivered the materials, the government agency shall inform the right retained to impose for penalty while the materials are under the process of acceptance.

(The statement in this Clause is amended by Clause 22 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 (1998)).

Clause 135 The head of government agency shall submit the copy of contract or letter of agreement of which the price is Baht 1,000,000 and upwards to the Office of Auditor General or Regional Audit Office, depending on the case, and the Revenue Department within 30 days after the signing date of contract or agreement.

Submission the copy of contract to the Office of Auditor General and the Revenue Department

Clause 136 The signed contract or agreement can not be altered. However, in the case that such alteration is necessary and does not cause any disadvantage to the government agency or its alteration is for the sake of the government, it is permitted. The approval for alteration is under the consideration of the head of government agency. But if the amount of contract increases, the alteration shall be proceeded according to the Budget Procedural Act or shall be requested for approval in the portion of loan or grant aid, depending on the case.

Alteration of the signed contract

In altering or modifying the contract or agreement as in the first paragraph, if it is necessary to increase or reduce the amount of contract or the deliver period or working period, it shall be negotiated all together.

For the procurement relating to the stability or specific technique works, the specification, plan and description of construction works or specific technique of those materials or works must be also certified by the engineer, architect and engineer, expert or qualified person, depending on the case.

(The statement in the first paragraph is amended by Clause 22 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E.2539 (1996)).

Clause 137 The head of government agency concerned shall execute the right to cancel the contract or agreement if there is some evidence showing that the contractor will be unable to complete the work within the specific period.

Right to cancel the contract or agreement

The head of government agency is able to cancel the contract or agreement signed with the contracting party only in the case that it is beneficiary directly to the government or in order to alter some disadvantage to the government.

Clause 138 In the event that the contracting party is unable to perform according to the contract or agreement and the penalty amount to be imposed is more than 10% of the total cost of materials or works, the government agency shall consider to cancel the contract or agreement. However, in the case that the contracting party agrees to pay penalty to the government without any condition, the head of government agency shall consider to relieve the cancellation as necessary.

Cancellation the contract in the case that the penalty amount to be imposed more than 10% and the relieve

Clause 139 The head of government agency is authorized to abstain or reduce the penalty, to extend tile validity period of contract or agreement. Only the days that actual incident takes place shall be considered under tile following circumstances:

Abstain or reduce the penalty or the extension of the validity period of contract

(1) Fault or inefficiency caused by tile government agency.

(2) Accidentally incident.

(3) Incident caused by any circumstance for which the contracting party needs not to take liability.

The government agency must specify in the contract that the contracting party has to inform the above-mentioned incident to the government agency within 15 days after the completion of such incident. The contracting party can not refer to such incident in order to request for the reduction or abstention of penalty or request for the contract extension later if such incident has not been informed within the specific period, except in the circumstance as in (I) which has evidence or which the government agency know before.

(The statement of the first paragraph is amended by Clause 23 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E2539 (1996)).

Clause 140 Where there is no regulation specified m particular, the head of government agency, upon his consideration, can execute his authority according to the conditions of contract or agreement or law to place an order as necessary.

Execution the authority according to the conditions of contract or law

Security

Clause 141 Bid security or performance security is either of the following securities:

Types of security

(1) Cash.

(2) Cashier check with the paid date on its submission to the officer or not more than 3 working days before the submission.

(3) Letter of guarantee issued by local bank according to the sample given by CCP.

(4) Letter of guarantee issued by Industry Financial Corporation of Thailand, finance company or security and finance company that has been approved to operate the finance and guarantee business and is in the list that already circulated to every government agency by the Bank of Thailand, The sample of letter of guarantee given by CCP to be used by bank, as applicable, shall be applied.

(5) Thai government bonds.

In the case of international competition bidding, the letter of guarantee issued by bank in abroad that has a good security and on which the head of government agency rely is acceptable.

(The statement in this Clause is amended by Clause 24 of the Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E2539 (1996)).

Clause 142 The value of bid security and to performance security as specified in Clause 141 shall be in full amount at the rate of be 5 % of the total cost or the cost of materials in each procurement, depending on the case. Except the procurement which the head of government agency considers it is very important, the rate of security required may be more than 5% but not over 10%.

Value of security

In the case that the obligation of the contract for the procurement of materials is over 1 year and the guarantee for its defect is not required such as the consuming materials, the security shall be fixed at the rate of 5% of the total cost of materials delivered in each contract year. It shall be regarded that such security is the guarantee throughout the validity period of the contract. If the price of materials in the following year is different from the price in the previous year, the security shall be adjusted in line with the amended rate before the end of that year. In the case that the security increases and the contractor does not submit the additional security within 15 days before the final delivery of that year, the government shall deduct for the additional security from the final payment of that year.

The clause on security as mentioned in the first and second paragraph must be stipulated in the price inquiry document or bid document and/or contract.

If the bidder or contracting party submits the security of which the value is higher than specified in the price inquiry document or bid document or contract, it is acceptable.

Exemption of the requirement of security

Clause 143 In the case that the government agency or state enterprise is the bidder or contracting party, the security is not required.

Clause 144 The government agency shall return the security to the bidder, the contracting party or guarantor in the following criteria:

Reprieves of the requirement of security and the return of security

(1) The bid security shall be returned to the bidder or guarantor within 15 days after the completion of the bid evaluation. Except the 3 lowest selected bidders, the security shall be returned after the contract or agreement is signed or the bidder is free from the obligation

(2) The performance security shall be returned to the contracting party or guarantor urgently and at latest not beyond 15 days after the contractor is free from the obligation.

The procurement which warranty against the defect is not required, the security shall be returned to the contracting party or guarantor in the proportion of the materials accepted by the government agency. It shall be also stipulated as a condition in the price inquiry document or bid document and the contract.

In case of guarantee issued by bank, Industry Financial Corporation of Thailand, finance company or security and finance company which the bidder or contracting party does not come to pick up within the time mentioned above, its original shall be sent rapidly to the bidder or contracting party by registered mail. It shall inform the bank, Industry Financial Corporation of Thailand, finance company or security and finance company as well.

Section 8

Penalty for Person Excluded from Procurement Programs

Clause 145 The person having in charge of these Regulations shall make a debarment list as specified in this section

The government agency is not permitted to do any juristic relation with any person in the debarment list, except the person having in charge of these Regulations will withdraw his name from the list.

Prohibition government agency to do any juristic relation with any person in the debarment list according to the second paragraph shall be applied with the person according to the second and third paragraph of Clause 145.6.

Person or juristic person, pending a consideration to be person excluded from procurement programs according to the specification in this chapter, has a right to quote the price or submit work proposal to government agency. But if there is a consideration later that the person having in charge of these Regulations places an order to person or juristic person to be person excluded from procurement programs, Permanent Secretary shall exclude his name from the list of selected bidder or cancel the price inquiry envelope-opening, competitive bidding or the signing in the contract of purchasing or engaging which has been proceeded before person having in charge of these Regulations places an order. Except in the case that Permanent Secretary considers it will be beneficial to government agency, such person's name may not be excluded from the list. Or the price inquiry envelop-opening, competitive bidding may not be canceled or the signing in the contract of purchasing or engaging which has been proceeded before person having in charge of these Regulations places an order may not be cancelled.

(The statement in this Clause is amended by Clause 23 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541 (1998)).

Clause 145.2 When the following situations happen:

(1) The selected bidder does not sign the contract or agreement with the government agency within the time limit.

(2) The contractor or sub-contractor who gets permission from government to sub-contract breaks the contract or agreement.

(3) Materials to be purchased or contracted are defected within the period specified in the contract or agreement and are not restored by seller, contractor or materials to be purchased or contracted do not get standard or used materials do not get standard or are not delivered in the amount specified in the contract or agreement which cause seriously damaged to work.

(4) In the case of infrastructure construction, materials or equipment to be purchased or contracted or used by subcontractor, who gets permission from government agency to subcontract, deteriorate or do not get standard or are not in the amount of according to (3).

The head of government agency shall propose the report together with his comments to Permanent Secretary promptly in order to approve the selected bidder, seller, contractor or sub-contractor who get permission from government to sub-contract as a person excluded from procurement programs, depending on the case.

When the Permanent Secretary considers that action according to (1), (2), (3) or (4) is undertaken without appropriate reason and such person should be a person excluded from procurement programs, Permanent Secretary shall submit the name of that person to the person having in charge of these Regulations for approving as person excluded from procurement programs recently.

Penalty for person excluded from procurement programs

Cause of debarment

In the case that it is a big project along with the criteria and within money limit specified by CCP, if Permanent Secretary considers that that person should not be person excluded from procurement programs, Permanent Secretary shall report to CCP for information.

When person having charge of these Regulation, after receiving the comments of CCP according to Clause 12(6), considers that such person should be person excluded from procurement programs, person having charge of these Regulations shall place an order him as person excluded from procurement programs by naming in a deban1lent list and circulate his name to all government agencies for information. The person who abandons the work shall be informed by registered mail as well.

In the case that person having charge of these Regulations does not agree with, its result will be returned to the Ministry for acknowledge.

Clause 145.3 After inspecting the engagement of consultant or contracting for design and work supervision, it is found out that the outcomes of performances under the contract have defection, fault or cause a serious detriment to the government agency, head of government agency shall propose Pen1lanent Secretary to approve such contractor as a person excluded from procurement program .

The statement in the third, fourth, fifth and sixth paragraph of Clause 145.2 shall be applied, as applicable, in approving contractor as a person excluded from procurement program according to the first paragraph.

Clause 145.4 Procurement under these Regulations, if there is a suspicious evidence indicating that one or more bidders or servers, whether to be selected bidder or server or not, undertake any action as obstruction of price competition or act in bad faith, for example, showing false document or using the other person or juristic person's name to quote the price. Government agency concerned shall inspect whether such person should be person excluded from procurement programs. The suspected bidder or server will be notified of the suspicion of government agency by letter and be invited to provide additional explanation in details on his proposal within the time specified but not less than 15 days after receiving the letter.

Once government agency receives additional explanation from the suspected bidder according to the first paragraph, head of government agency shall propose report together with his con1111ents to Pen1lanent Secretary to approve whether such bidder as person excluded from procurement programs.

If the suspected bidder does not provide additional explanation within the time specified as in the first paragraph, it shall be regarded with the belief that there is an activity undertaken as obstruction of price competitive or act in bad faith. Head of government agency shall propose together with his comments to Permanent Secretary to approve such bidder as person excluded from procurement programs.

The statement in the third, fourth, fifth and sixth paragraph of Clause 145.2 shall be applied in considering bidder or server as person excluded from procurement programs.

Clause 145.5 In the case that bidder or server acting together to obstruct fair price competition or acting in bad faith and being not the one who initiates such activity has good cooperation with government agency. Head of government agency or Permanent Secretary or person having charge of these Regulations shall consider to waive such bidder or server as person not excluded from procurement programs by showing or identifying reasons in his comments or placing an order, depending on the case.

Penalty for anti-competitive practices

Clause 145.6 In case of any juristic person is ordered to be person excluded from procurement programs according to Clause 145.2, Clause 145.3 or Clause 145.4. If such activity is done by managing partner, managing director, executive or person authorized to administer in the enterprise of that juristic person, person authorized having charge of these Regulations shall approve that person as person excluded from procurement programs.

Penalty for the management of juristic persons

In case of any juristic person is ordered to be person excluded from procurement programs according to Clause 145.2, Clause 145.3 or Clause 145.4. That order shall affect to other juristic persons which do the same business and has the same managing partner, managing director, executive or person authorized to administer as in that juristic person.

In case of any person is ordered to be a person excluded from procurement programs according to Clause 145.2, Clause 145.3 or Clause 145.4. That order shall affect to other juristic persons who quote the price or submit work proposal and has such person be managing partner, managing director, executive or person authorized to administer the enterprise of juristic person.

Clause 145.7 In order to perform consistent with these Regulations, when there is suspicious event that activities according to Clause 145.2, Clause 145.3 or Clause 145.4 have been carried out and Permanent Secretary has not reported to person having in charge of these Regulations yet, person having charge may invite selected bidder, seller, server, contractor or bidder, who is suspected to act as an impediment of fair and free competition or act in bad faith, to provide explanation. The suspected person shall be notified of the suspicion by a letter and be asked to provide explanation within the time specified by person having charge of these Regulations but not less than 15 days after receiving the letter.

Once person having charge receives the explanation from selected bidder, seller, server, contractor, suspected bidder or server according to the first paragraph and considers that such explanation is not justified, person having charge shall approve that person as person excluded from procurement programs and notify Permanent Secretary of his consideration.

If selected bidder, seller, server, contractor, suspected bidder or server according to the first paragraph does not provide explanation within the time specified by person having charge of these Regulations, it shall be regarded with belief that there is activity being acted as action impeding fair and free competition or in bad faith. Person having charge of these Regulations shall approve such person as person excluded from procurement programs and notify Permanent Secretary of his consideration

(The statement in Clause 145.2, 145.3, 145.4, 145.5, 145.6 and 145.7 is amended by Clause 24 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541(1998)).

Chapter 3

Inventory Control and Written Off

Section 1

Borrowing

Clause 146 No one is permitted to borrow or use the material in any activity which is not for the sake of the government

Clause 147 The government agency that needs to borrow the durable materials for official use shall submit the written evidence showing the reason and

Principle for borrowing or using the materials Borrowing the durable materials

the expected date of returning those materials. The criteria for borrowing are as follows:

(1) The borrowing between the government agencies has to get prior approval from the head of lending government agency.

(2) To lend a person the materials being used inside the government agency, the prior approval from the head of government unit which is responsible for those materials is required. If the materials are borrowed for using outside, it is necessary to get prior approval from the head of government agency concerned.

Clause 148 The borrower has to return the durable materials in the perfect condition. If the materials are defect or unusable or lost, the borrower has to repair in order to make it in the same condition as borrowing or compensate with the same type, size or quality of materials or pay in the price once they have been borrowed which is accordance with the guideline given by Ministry of Finance.

Clause 149 The borrowing of consumable materials between the government agencies can be carried out when the borrowing government agency needs to use the materials urgently and can not procure them in time and the lending government agency has enough materials as well as it does not cause any disadvantage to the lending agency. The borrowing shall be made in written evidence. Normally, the borrowing agency shall return the lending agency the same classification, type and volume of materials.

Clause 150 The lender or the responsible person has duty to follow up the borrowed materials within 7 days after the due date.

Return of the durable materials

Borrowing and return of consumable materials

Follow-up the borrowed materials

Section 2 **Inventory Control**

Material Storage

Clause 151 The materials of government agency acquired by any method shall be controlled by these Regulations, except other government regulations or law specify otherwise.

Clause 152 After the delivery of materials, the procurement officer shall proceed as follows:

(1) record or register, depending on the case, by dividing the materials into each type and showing all items as the sample given by CCP. The evidence of the materials record or registration is also required,

All fresh, raw foods can be recorded together.

(2) store the materials in order, safely and in consistent with the record or registration.

Principle of inventory control

Record or registration of materials

Requisition and Invoice

Clause 153 If an agency in division level, an agency which is divided separately from a government agency in department level or regional agency has a purpose to requisite the materials from the materials unit in department level, the head of such agencies are authorized to requisite from the materials unit.

For the requisition of materials from materials unit of regional agency or an agency which is divided separately from a government agency in department level, the head of the program which requires to use those materials shall proceed that requisition.

Method of requisition and invoice

The head of materials unit in section level and downwards who is responsible for inventory control, or an officer who is assigned by the head of government to be a head of materials unit is authorized to invoice the materials, depending on the case.

The head of government agency, if necessary, is able to set up the other methods for the material requisition and invoice. The Office of Auditor General or the Regional Audit Office should be informed of this matter, depending on the case.

Clause 154 The person in charge of invoicing the materials has to check the requisition paper and the supporting documents (if any) and then records or register every invoice. The papers of requisition and invoice have to be kept as evidence.

Evidence of requisition and invoice

Annual Materials Checking

Clause 155 Before the ending of September of each year, the head of government agency or the head of distributing agencies as specified in Clause 153, depending on the case, shall appoint one or several officers, if necessary, in that agency who is not the procurement officer to check the materials record from the 1st October of previous year up to the 30th September of that year and count the remaining materials.

Annual materials checking

The materials checking as specified in the above paragraph shall be commenced on the first working day in October onwards. The assigned officer will check whether the requisition and invoice is correct, whether the remaining materials is consistent with the record, what materials are defected, deteriorated or lost and by what reason, or if there are some materials not required further for using. After that the result of checking shall be reported to the appointer within 30 working days after the commencement of the materials checking.

After the appointer has received the checking report from the assigned officer, he shall submit I set of such report to the higher ranking officers up to the head of government agency concerned. Also, he shall submit one set of its copy to the Officer of Auditor General or the Provincial Officer of Auditor General, depending on the case. In case of government unit in the provincial administration, one set of its copy shall be also submitted to the agency to which that government unit attaches.

Clause 156 Once the head of government agency has received the report as in Clause 155 and has found out that some materials are defected, deteriorated, lost or the materials are not required further, he shall appoint a fact-finding committee by applying with Clause 35 and Clause 36, as applicable. Except it is clearly found that the deterioration caused by using as usual or loss by the nature, head of government agency shall place an order to have materials written off.

Procedures in case that some materials are defected, deteriorated or lost

If the result submitted by the committee concludes that the person who is liable for this matter must be found out, the head of government agency concerned shall proceed according to the law and regulations of government agency concerned.

(The statement in this Clause is amended by Clause 25 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541 (1998))

Section 3

Written Materials Off

Clause 157 After checking, any materials are no more required or a lot of expense will be spent if those materials are still used, the procurement officer shall propose the head of government agency to proceed one of the following methods:

Written materials off

(1) Sale - selling by auction shall be performed in prior. If it fails, methods of purchasing stipulated in these regulations shall be applied. However, in the case that the total purchasing or acquiring price of materials of each selling is not over Baht 100,000, the price agreeing method can be applied by omitting the prior selling by auction.

The price agreeing method shall be applied to the materials sold to the government agency, government body established under the law on local administration, other units set up by law with the status of a local administration, state enterprise or public donation organization stipulated in the Article 47(7) of the National Revenue Code.

(2) Exchange - it shall be proceeded as stipulated in the section of exchange in these Regulations.

(3) Transfer - the materials shall be transferred to another government agency, government body established under the law on local administration, other units set up by law with the status of a local administration, state enterprise or public donation organization stipulated in the Article 47(7) of the National Revenue Code. The evidence of materials transference shall made also.

(4) Transformation or destruction - according to the guideline and method set up by the government agency.

The procedure, as the above paragraph, shall be normally completed within 60 days after the head of government agency places an order. In case of government units in provincial administration, the prior approval from the head of government agency who owns the budget is required.

Clause 158 The money received after writing off the materials shall be proceeded according to the Budget Procedural Act or the agreement for the portion of loan or grant aid, depending on the case.

Money receiving after writing off the materials

Written off as Lost Materials

Clause 159 In the event that there is no one to be liable for the lost materials or there is someone but the compensation can not be paid or it is unable to proceed as specified in Clause 157 for the existing materials, they shall be written off as lost materials under the following criteria:

Written off as lost materials

1) If the total purchasing or acquiring price of those materials is not over Baht 500,000, the head of government agency concerned is authorized to approve it.

2) If the total purchasing or acquiring price of those materials is over Baht 500,000, Ministry of Finance or government agency authorized by Ministry of Finance is authorized to approve it.

(The statement in this Clause is amended by Clause 26 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541 (1998)).

Written Materials off the Record or Registration

Clause 160 After proceeding as specified in Clause 157, the procurement officer shall write the materials off the record or registration promptly. Then he shall inform Office of Auditor-General or provincial Office of Auditor-General, depending on the case, within 30 days after the date of writing the materials off.

Written materials off the record or registration

After proceeding as specified in Clause 159, the procurement officer shall write the materials off the record or registration promptly and then inform Ministry of Finance or government agency authorized by the Ministry of Finance and Office of Auditor-General or provincial Office of Auditor-General, depending on the case, within 30 days after the date of writing the materials off.

In case of the materials registered legally, the registrar shall be informed within the time specified by the law.

(The statement in this Clause is amended by Clause 27 of tile Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541 (1998)).

Clause 161 In the case that the government materials are defected, deteriorated, or lost or the materials are not required further for official use before the materials checking as specified in Clause 155 is held and tile procedure according to the law or the regulation of government agency concerned or these Regulations, as applicable, have been completed, depending on the case. If there are not any other regulations mentioned in specific, Clause 157, Clause 158, Clause 159 and Clause 160 shall be applied, as applicable.

Procedures in case that the materials are defected, deteriorated or lost before the annual materials checking

(The statement in this Clause is amended by Clause 27 of the Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E.2541 (1998)).

Chapter 4

Transitory Provision

Clause 162 As the Thai Consultant Database Center has not been founded as specified in Clause 74 yet, all procedures on the engagement of consultants as specified in Section 2 and Section 3 shall be exempted. The engagement of Thai consultants shall be carried out according to the procedure specified for the engagement of foreign consultants, as applicable.

Clause 163 The existing debarment list prior to the effectiveness of these Regulations shall be regarded as the debarment list in these Regulations also.

The penalty for the awarded bidder who refuses to sign the contract or agreement within the time limit or the contractor who breaks the contract or agreement without the proper reason which has taken place before these Regulations come into force shall be proceeded according to the previous Regulations.

Clause 164 Any procurement which is under the execution and has not completed on the date these regulations is effective, shall be carried out according to the previous Regulations until that procurement completes or until that procurement is able to comply with these Regulations.

Clause 165 The committee in charge of procurement according to the Regulations of the Prime Minister on Procurement B.E. 2521 and the amendment thereof is still assigned to act his duty and is authorized to set up the form or sample as specified in Clause 12(5) of these Regulations until the committee in charge of procurement as mentioned in these Regulations shall be appointed.

A.1mounced on January 20, 1992

(Mr. Anand Payarachun)
Prime Minister

Remarks

1. Regulations of the Office of the Prime Minister on Procurement B.E. 2535 announced in the Government Gazette Book 109 Section 7 on January 3 1, 1992
2. Regulations of the Office of the Prime Minister on Procurement (Volume 2) B.E. 2538 announced in the Government Gazette, General Publishing Edition, Book 112 Section 104d on December 28, 1995
3. Regulations of the Office of the Prime Minister on Procurement (Volume 3) B.E. 2539 announced in the Government Gazette, General Publishing Edition, book 113 Section 71d on September 3, 1996
4. Regulations of the Office of the Prime Minister on Procurement (Volume 4) B.E. 2541 announced in the Government Gazette, General Publishing Edition, Book 115 Special Section 131d on December 28, 1998
5. Regulations of the Office of the Prime Minister on Procurement (Volume 5) B.E. 2542 announced in the Government Gazette, General Publishing Edition, Book 116 Special Section 40d on June 14, 1999

**The Amendments of Regulations of the Office of
the Prime Minister on Procurement B.E. 2535 (1992)**

Clause 4 The Permanent Secretary of Ministry of Finance shall take charge of these Regulations.

The statement in this Clause is amended by Clause 3 of the Regulations of the office of Prime Minister on procurement (Volume 6) B.E. 2545(2002)

Clause 11 There shall be a Committee in Charge of Procurement called in abbreviation as “CCP”, to be composed of Permanent Secretary of Ministry of Finance as a Chairman, Comptroller-General as Member, representative from Ministry of Defense as Member, representative from the Office of the Auditor General as Member, representative from Office of the Attorney-General as Member, representative from Budget Bureau as Member, representative from Office of Juridical Council as Member, representative from Office of the Commission of Counter Corruption as Member, representative from Office of the Prime minister as a Member, representative from Public Debt Management Office as a Member, representative from Thai Industrial Standards Institute as Member, and not more than five qualified persons appointed by the Prime Minister as Member, and an officer attached to The Comptroller General’s Department as Member and Secretary. The CCP has the authority to appoint not more than two Assistant Secretaries.

The statement in this Clause is amended by Clause 4 of the Regulations of the office of Prime Minister on procurement (Volume 6) B.E. 2545(2002)

Clause 18

(6) electronic-Auction method according to Ministry of Finance's regulation

The statement in this Clause is amended by Clause 5 of the Regulations of the office of Prime Minister on procurement (Volume 6) B.E. 2545(2002)

Clause 32 The head of government agency concerned shall appoint the pre-qualification committee composing of 1 Chairman and at least 4 members by appointing from government officer, government employee, university employee or government agent regarding to the duties and responsibilities of appointed persons and at least 1 expert or qualified person as a member.

The statement in this Clause is amended by Clause 3 of the Regulations of the office of Prime Minister on procurement (Volume 7) B.E. 2552(2009)

Clause 35 Each committee under Clause 34 consists of 1 Chairman and at least 2 committee members, by appointing from government officer, government employee, university employee or government agent regarding to the duties and responsibilities of appointed persons. In the case that it is necessary and beneficiary to the government; the government can appoint no more than other 2 persons as committee member.

The statement in this Clause is amended by Clause 4 of the Regulations of the office of Prime Minister on procurement (Volume 7) B.E. 2552(2009)

Clause 80 The Committee set up under Clause 79 shall consist of 1 Chairman and at least 4 members by appointing from government officer, government employee, university employee or government agent regarding to the duties and responsibilities of appointed persons. In the case that it is necessary and beneficiary to the government; no more than 2 representatives from other government agencies or professional person shall be appointed as committee members. In case of the engagement of consultants funded by loan, a representative from Public Debt Management Office shall be appointed as committee member.

The statement in this Clause is amended by Clause 5 of the Regulations of the office of Prime Minister on procurement (Volume 7) B.E. 2552(2009)

Clause 98 In proceeding each contracting for design and work supervision by agreeing method, the head of government agency shall appoint a committee in charge of contracting by agreeing method consisting of a chairman and at least 2 committee members by appointing from government officer, government employee or university employee regarding to the duties and responsibilities of appointed persons and may appoint no more than 2 professional persons as committee members. The number of committee must be not less than one half of the total number of the committee.

The statement in this Clause is amended by Clause 6 of the Regulations of the office of Prime Minister on procurement (Volume 7) B.E. 2552(2009)

Clause 101

The proposal accepting committee shall consist of 1 chairman and at least 2 committee members by appointing from government officer, government employee, university employee or government agent regarding to the duties and responsibilities of appointed persons.

The committee in charge of contracting by selection method consists of 1 chairman and at least 2 committee members by appointing from government officer, government employee, university employee or government agent regarding to the duties and responsibilities of appointed persons and may appoint no more than 2 professional persons as committee members.

The statement in this Clause is amended by Clause 7 of the Regulations of the office of Prime Minister on procurement (Volume 7) B.E. 2552(2009)

Clause 116

The work inspection and acceptance committee shall compose of 1 chairman and at least 2 committee members by appointing from government officer, government employee, university employee or government agent regarding to the duties and responsibilities of appointed persons and may appoint no more than 2 professional persons in this field as committee members.

The statement in this Clause is amended by Clause 8 of the Regulations of the office of Prime Minister on procurement (Volume 7) B.E. 2552(2009)