

# Public Accounting Act (Chapter IV)

(Act No. 35 of March 31, 1947)

## Chapter IV Contracts

Article 29 In addition to the matters prescribed in Article 10, Heads of Ministries and Agencies manage administration in connection with contracts under their jurisdiction, such as those for sales and leases, and contracts for work.

Article 29-2 (1) Heads of Ministries and Agencies may delegate administrative affairs relating to contracts referred to in the preceding Article to the officials within their ministries or agencies, pursuant to the provisions of Cabinet Order.

(2) Heads of Ministries and Agencies may, when necessary, delegate the administrative affairs referred to in the preceding paragraph to officials within other ministries or agencies, pursuant to the provisions of Cabinet Order.

(3) Heads of Ministries and Agencies may, when necessary, allot a portion of the administrative affairs of Contract Officers (meaning Heads of Ministries and Agencies or officials delegated pursuant to the provisions of paragraph (1) or the preceding paragraph; the same applies hereinafter) to officials within their ministries or agencies or to officials in other ministries or agencies, pursuant to the provisions of Cabinet Order.

(4) The provisions of Article 4-2, paragraph (4) apply mutatis mutandis to the cases referred to in the preceding three (3) paragraphs.

(5) Officials who have been allotted a portion of the administrative affairs of Contract Officers pursuant to paragraph (3) are referred to as Partially Delegated Contract Officers.

Article 29-3 (1) Except in cases provided for in paragraph (3) and paragraph (4), before entering into a sale, lease, contract for work or other contract, a Contract Officer or officer responsible for actions authorizing expenditures (hereinafter referred to as a "Contract Officer, etc.") must put the contract out to tender by issuing a public notice and having persons make offers in respect thereof.

(2) The necessary qualifications for a person to participate in any tender referred to in the preceding paragraph, the method of issuing the public notice referred to in the same paragraph, and other necessary particulars related to any tender referred to in the same paragraph are specified by Cabinet Order.

- (3) A contract that need not be put out to tender as referred to in paragraph (1) due to the small number of persons who would participate in the tender as a result of the nature or purpose of the contract, or a contract that it is determined would be disadvantageous to put out to tender as referred to in the same paragraph, must be put out to selective tender, pursuant to the provisions of Cabinet Order.
- (4) A contract whose nature or purpose of does not permit tender, a contract that cannot be put out to tender due to urgent circumstances, or a contract that it is determined would be disadvantageous to put out to tender, must take the form of a discretionary contract, pursuant to the provisions of Cabinet Order.
- (5) Notwithstanding the provisions of paragraph (1) and paragraph (3), if the target price of a contract is low and in other cases prescribed by Cabinet Order, the contract may be put out to selective tender or may take the form of a discretionary contract, pursuant to the provisions of Cabinet Order.

Article 29-4 (1) If a Contract Officer, etc. seeks to put a contract out to tender pursuant to the provisions of paragraph (1), paragraph (3), or paragraph (5) of the preceding Article, the Contract Officer, etc. must collect five percent or more of the quoted contract price as a security deposit from the persons seeking to participate in the tender; provided, however, that if this is found to be unnecessary, the Contract Officer, etc. need not collect a security deposit, either in whole or in part, pursuant to the provisions of Cabinet Order.

- (2) Japanese Government bonds, securities determined to be bona-fide securities, or other bonds may be paid in lieu of the security deposit prescribed in the preceding paragraph, pursuant to the provisions of Cabinet Order.

Article 29-5 (1) A tender prescribed in Article 29-3, paragraph (1), paragraph (3) or paragraph (5) (hereinafter referred to as a "Tender") must be conducted through bidding, except when it is particularly necessary to put the contract up for sale.

- (2) If the bidding pursuant to the provisions of the preceding paragraph takes place, a bidder may not exchange, change, or rescission a submitted bid form.

Article 29-6 (1) If a Tender is conducted, the Contract Officer, etc. is to select the person who submitted the offer with the highest or lowest price, depending on the purpose of the contract, within the range determined by the target price, as the counterparty to the contract, pursuant to the provisions of Cabinet Order; provided, however, that for a contract specified by Cabinet Order that is a cause of payment by the national government, if it is found likely that the person who should be the counterparty to the contract will not satisfactorily perform the terms of the contract for the price that the person has offered, or if

it is found to be extremely inappropriate to conclude the contract with the person who should be the counterparty for the price that the person has offered because of the likelihood that doing so will disrupt the establishment of a fair transaction, the Contract Officer, etc. may, pursuant to Cabinet Order, select the person who offered the lowest price from among the other persons who made offers within the range determined by the target price, as the counterparty to the contract.

(2) Notwithstanding the provisions of the preceding paragraph, for a contract that involves the exchange of assets owned by the national government and assets owned by a person other than the national government and any other contract that is difficult to treat pursuant to the provisions of the preceding paragraph due to its nature or purpose, the person who offered the price and other conditions that are most advantageous to the national government (or the next most advantageous price and other conditions in a case under the proviso to the preceding paragraph) may be made the counterparty to the contract, pursuant to the provisions of Cabinet Order.

Article 29-7 If the successful bidder (meaning the person selected to be the counterparty to the contract pursuant to the provisions of the preceding Article; hereinafter the same applies in the following Article) does not conclude the contract, the security deposit that the successful bidder paid pursuant to the provisions of Article 29-4 (including a bond provided in lieu of a security deposit) vests in the national treasury.

Article 29-8 (1) When a Contract Officer, etc. has determined the successful bidder in a Tender or the counterparty to a discretionary contract, the Contract Officer, etc. must prepare a written contract that includes the particulars of the purpose of the contract, the contract price, performance period, and contract security deposit, and other necessary particulars pursuant to the provisions of Cabinet Order; provided, however, that this may be omitted in a case prescribed by Cabinet Order.

(2) When a written contract is prepared pursuant to the provisions of the preceding paragraph, the contract does not become final and binding until the names and seals of both the Contract Officer, etc. and the counterparty have been affixed to the written contract.

Article 29-9 (1) A Contract Officer, etc. must collect a contract security deposit of ten percent or more of the contract price from a person who enters into a contract with the national government; provided, however, that if the postponement of payments is permitted pursuant to other laws and ordinances, the Contract Officer, etc. need not collect the contract guarantee, either in

whole or in part, if a bona-fide bond has been provided, if the person has immediately paid the sales price for the article, or in any other case set forth by Cabinet Order.

- (2) The provisions of Article 29-4, paragraph (2) apply mutatis mutandis to the payment of the contract security deposit referred to in the preceding paragraph.

Article 29-10 If a person who has paid a contract security deposit guarantee pursuant to the provisions of the preceding Article (which includes the warranty provided in lieu of such payment) fails to perform their contractual obligations, the contract security deposit must be vested in the national treasury; provided, however, that compensation for damages and penalties must be governed by the contract, if the contract otherwise provides.

Article 29-11 (1) When a Contract Officer, etc. concludes a contract for work involving construction, manufacturing or other type of work, the Contract Officer, etc. must, either personally or by assigning an assistant, undertake necessary supervision in order to ensure appropriate performance of the contract, pursuant to the provisions of Cabinet Order.

- (2) When a Contract Officer, etc. concludes a contract for work prescribed in the preceding paragraph or a purchase or other contract involving an object, the Contract Officer, etc. must, either personally or by assigning an assistant, undertake necessary inspections in order to verify that the delivery to be received under the contract is completed (including verifying the completion of portions of construction or manufacturing or delivery of portions of objects if it is necessary to pay a portion of the price prior to completion of delivery), pursuant to the provisions of Cabinet Order.

- (3) In any case referred to in the preceding two (2) paragraphs, the supervision prescribed in paragraph (1) or the inspections prescribed in the preceding paragraph may be omitted in part pursuant to the provisions of Cabinet Order for any contract which has special provisions to the effect that if damage, alteration, degradation of function, or any other accident occurs within a reasonable period following completion of delivery of the object that is the subject matter of the contract, the object will be replaced or repaired or other necessary measures will be taken, and under which content of work to be delivered is found to have been secured.

- (4) Heads of Ministries and Agencies may, when particularly necessary and pursuant to the provisions of Cabinet Order, order officials within their ministries and agencies or officials of other ministries and agencies other than the Contract Officer, etc. or the assistant involved with the relevant contract, to perform the supervision prescribed in paragraph (1) and the inspections prescribed in paragraph (2).

(5) A Contract Officer, etc. may, when particularly necessary and pursuant to the provisions of Cabinet Order, delegate a person other than a national government official to perform the supervision prescribed in paragraph (1) and the inspection prescribed in paragraph (2).

Article 29-12 Contract Officers, etc. may execute contracts to be supplied with electricity, gas, or water, or provided with telecommunications services for upcoming fiscal years pursuant to the provisions of Cabinet Order. In such cases, delivery thereof must be accepted within the scope of the expense budget for the relevant fiscal year.