

予算決算及び会計令（抄 第七章（契約関係）（暫定版））

Cabinet Order on Budgets, the Settlement of Accounts, and Accounting (Summary Chapter VII (contract relation) (Tentative translation))

(昭和二十二年四月三十日勅令第百六十五号)
(Imperial Order No. 165 of April 30, 1947)

第七章 契約

Chapter VII Contracts

第一節 総則

Section 1 General Provisions

(契約事務の委任)

(Delegation of Administrative Processes for Contracts)

第六十八条 各省各庁の長は、会計法第二十九条の二第一項又は第三項の規定により、当該各省各庁所属の職員に契約に関する事務を委任し、又は分掌させる場合において、必要があるときは、同条第一項又は第三項の権限を、内閣府設置法（平成十一年法律第八十九号）第五十条の委員長若しくは長官、同法第四十三条若しくは第五十七条（宮内庁法（昭和二十二年法律第七十号）第十八条第一項において準用する場合を含む。）の地方支分部局の長、宮内庁長官、宮内庁法第十七条第一項の地方支分部局の長、国家行政組織法（昭和二十三年法律第二十号）第六条の委員長若しくは長官、同法第九条の地方支分部局の長又はこれらに準ずる職員（第百三十九条の三第三項において「外局の長等」という。）に委任することができる。

Article 68 (1) Heads of Ministries and Agencies, when delegating or allotting administrative processes relating to contracts to officials in their ministries or agencies pursuant to the provisions of Article 29-2, paragraph (1) or paragraph (3) of the Public Accounting Act, may if necessary delegate the authority prescribed in paragraph (1) or paragraph (3) of the same Article to the commission chairperson or director-general prescribed in Article 50 of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999), the head of the local branch office prescribed in Article 43 or Article 57 of the same Act (including, when applied mutatis mutandis pursuant to Article 18, paragraph (1) of the Imperial Household Agency Act (Act No. 70 of 1947)), the head of the Imperial Household Agency, the head of the local branch office prescribed in Article 17, paragraph (1) of the Imperial Household Act, the commission chairperson or director-general prescribed in Article 6 of the National Government Organization Act (Act No. 120 of 1948), the head of the local

branch office prescribed in Article 9 of the same Act, or other official equivalent to the foregoing (referred to in Article 139-3, paragraph (3), as the "head of an external organ, etc.").

- 2 第二十六条第三項の規定は、各省各庁の長が会計法第二十九条の二第二項又は第三項の規定により他の各省各庁所属の職員に契約に関する事務を委任し、又は分掌させる場合に、第二十六条第四項の規定は、同法第二十九条の二第四項において準用する同法第四条の二第四項の規定により当該契約に関する事務の委任又は分掌が他の各省各庁所属の職員について官職の指定により行なわれる場合に、それぞれ準用する。

- (2) The provisions of Article 26, paragraph (3) apply mutatis mutandis when the Heads of Ministries and Agencies delegate or allot a portion of the administrative processes relating to contracts to officials of other ministries or agencies pursuant to the provisions of Article 29-2, paragraph (2) or paragraph (3) of the Public Accounting Act, and the provisions of Article 26, paragraph (4) apply mutatis mutandis when administrative processes relating to such contracts are delegated or a portion of such processes is allotted to officials of other ministries and agencies by designating government position pursuant to the provisions of Article 4-2, paragraph (4) of the same Act as applied mutatis mutandis pursuant to Article 29-2 paragraph (4) of the same Act.

(契約審査委員の指定)

(Designation of Contract Assessment Commissioners)

第六十九条 各省各庁の長は、当該各省各庁所属の職員又は他の各省各庁所属の職員のうちから、各省各庁の長の委任を受けた当該各省各庁所属の職員は、当該各省各庁所属の職員のうちから、必要があるときは、契約担当官等が第八十六条第二項（第九十八条において準用する場合を含む。）の規定により意見を求めた場合にその意見を表示すべき職員（以下「契約審査委員」という。）を指定しなければならない。

Article 69 (1) The Heads of Ministries and Agencies must, when necessary, designate officials from among the officials from their ministry or agency or officials from other ministries or agencies, and the officials from the ministries and agencies delegated by them must, when necessary, designate officials from the relevant ministries and agencies to express opinions when requested by a Contract Officer, etc. (hereinafter referred to as a "Contract Assessment Commissioner"), pursuant to the provisions of Article 86, paragraph (2) (including when these are applied mutatis mutandis to Article 98).

- 2 各省各庁の長は、前項の規定により他の各省各庁所属の職員を契約審査委員に指定しようとするときは、当該職員及びその官職について、あらかじめ、当該他の各省各庁の長の同意を経なければならない。

- (2) If the Heads of Ministries and Agencies seek to designate an official from another ministry or agency as a Contract Assessment Commissioner pursuant to the provisions of the preceding paragraph, the Heads of Ministries and Agencies must obtain consent for the officer and the officer's official duties in

advance from the relevant head of the other ministry or agency.

- 3 第一項の場合において、各省各庁の長又はその委任を受けた職員は、当該各省各庁又は他の各省各庁に置かれた官職を指定することにより、その官職にある者を契約審査委員とすることができる。この場合においては、前項の規定による同意は、その指定しようとする官職についてあれば足りる。

(3) In a case under paragraph (1), the Heads of Ministries and Agencies or the officials delegated by them may appoint a person with certain official duties as a Contract Assessment Commissioner by designating the official duties of a position in the relevant ministry or agency or other ministry or agency. When this is the case, it suffices for consent pursuant to the provisions of the preceding paragraph to be obtained for such official duties.

- 4 契約審査委員は、一の契約担当官等について三人とする。ただし、他の契約担当官等に係るものについて兼ねることを妨げない。

(4) There are three (3) Contract Assessment Commissioners for every one (1) Contract Officer, etc.; provided, however that this does not preclude a Contract Assessment Commissioner from simultaneously acting as a Contract Officer, etc.

- 5 各省各庁の長又はその委任を受けた職員は、契約審査委員を指定したときは、その旨を関係の契約担当官等に通知しなければならない。

(5) When the Heads of Ministries and Agencies or officials delegated by them designate a Contract Assessment Commissioner, they must notify the relevant Contract Officer, etc. that they have done so.

第二節 一般競争契約

Section 2 Contracts under Open Tender

第一款 一般競争参加者の資格

Subsection 1 Eligibility as an Open Tender Participant

(一般競争に参加させることができない者)

(Persons Who Must Not Be Permitted to Participate in Open Tenders)

第七十条 契約担当官等は、売買、貸借、請負その他の契約につき会計法第二十九条の三第一項の競争（以下「一般競争」という。）に付するときは、特別の理由がある場合を除くほか、次の各号のいずれかに該当する者を参加させることができない。

Article 70 If a sales, lease, contracting, or other contract is put out to tender pursuant to Article 29-3, paragraph (1) of the Public Accounting Act (hereinafter referred to as an "Open Tender"), the Contract Officer, etc. may not permit a person who falls under any of the following items to participate, unless there are special grounds for doing so:

一 当該契約を締結する能力を有しない者

(i) a person who is incapable of concluding the relevant contract;

二 破産手続開始の決定を受けて復権を得ない者

(ii) a person who received an order of commencement of bankruptcy proceedings and has not had the person's rights restored;

三 暴力団員による不当な行為の防止等に関する法律（平成三年法律第七十七号）第三十二条第一項各号に掲げる者

(iii) a person who falls under any of the items of Article 32, paragraph (1) of the Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991).

（一般競争に参加させないことができる者）

(Persons Who May Be Prevented from Participating in Open Tenders)

第七十一条 契約担当官等は、一般競争に参加しようとする者が次の各号のいずれかに該当すると認められるときは、その者について三年以内の期間を定めて一般競争に参加させないことができる。その者を代理人、支配人その他の使用人として使用する者についても、また同様とする。

Article 71 (1) If a Contract Officer, etc. determines that a person who wishes to participate in an Open Tender falls under any of the following items, the Contract Officer, etc. may prevent the person from participating in Open Tenders for a period of not more than three years. The same applies to the proxies, managers, and employers of such a person:

一 契約の履行に当たり故意に工事、製造その他の役務を粗雑に行い、又は物件の品質若しくは数量に関して不正の行為をしたとき。

(i) if the person has intentionally carried out construction, or manufacturing or any other service in a careless manner or acted fraudulently with regard to the quality or volume of an object in the course of performing a contract;

二 公正な競争の執行を妨げたとき又は公正な価格を害し若しくは不正の利益を得るために連合したとき。

(ii) if the person has obstructed the fair implementation of a tender or has hindered a fair price from being reached or colluded with others to obtain an unlawful profit;

三 落札者が契約を結ぶこと又は契約者が契約を履行することを妨げたとき。

(iii) if the person has obstructed the successful bidder from entering into a contract or obstructed a party to a contract from performing the contract;

四 監督又は検査の実施に当たり職員の職務の執行を妨げたとき。

(iv) if the person has obstructed an official from performing the official's duties in a supervision or inspection;

五 正当な理由がなくて契約を履行しなかつたとき。

(v) if, without a justifiable reason, the person has not performed a contract;

六 契約により、契約の後に代価の額を確定する場合において、当該代価の請求を故意に虚偽の事実に基づき過大な額で行ったとき。

(vi) if, under a contract, the price is to be fixed after the signing of the contract, and the person has intentionally claimed an excessive amount as such price

based on false facts;

七 この項（この号を除く。）の規定により一般競争に参加できないこととされている者を契約の締結又は契約の履行に当たり、代理人、支配人その他の使用人として使用したとき。

(vii) if the person has employed a proxy, manager, or other employee who is not eligible to participate in an Open Tender pursuant to this paragraph (not including this item) in the conclusion or performance of a contract.

2 契約担当官等は、前項の規定に該当する者を入札代理人として使用する者を一般競争に参加させないことができる。

(2) A Contract Officer, etc. may prevent a person who employs a person falling under any of the provisions of the preceding paragraph as a bid proxy from participating in an Open Tender.

（各省各庁の長が定める一般競争参加者の資格）

(Eligibility as an Open Tender Participant as Determined by Heads of Ministries and Agencies)

第七十二条 各省各庁の長又はその委任を受けた職員は、必要があるときは、工事、製造、物件の買入れその他についての契約の種類ごとに、その金額等に応じ、工事、製造又は販売等の実績、従業員の数、資本の額その他の経営の規模及び経営の状況に関する事項について一般競争に参加する者に必要な資格を定めることができる。

Article 72 (1) Heads of Ministries and Agencies or officials delegated by them may, when necessary, determine the eligibility required of persons participating in Open Tenders, with regard to particulars related to performance such as construction, manufacturing and sales, etc., number of employees, amount of capital, and other particulars related to the scale of management and management circumstances, for each type of contract in terms of construction, manufacturing, the purchase of objects, and other contracts, in accordance with the price, etc. of the contract.

2 各省各庁の長又はその委任を受けた職員は、前項の規定により資格を定めた場合においては、その定めるところにより、定期に又は随時に、一般競争に参加しようとする者の申請をまつて、その者が当該資格を有するかどうかを審査しなければならない。

(2) If eligibility has been determined pursuant to the preceding paragraph, the Heads of Ministries and Agencies or officials delegated by them must periodically or when necessary and pursuant to what they have determined, gather applications from persons who seek to participate in Open Tenders, and examine whether such persons are eligible to do so.

3 各省各庁の長又はその委任を受けた職員は、第一項の資格を有する者の名簿を作成するものとする。

(3) Heads of Ministries and Agencies or officials delegated by them are to prepare a name list of the persons who are eligible as referred to in paragraph (1).

4 各省各庁の長又はその委任を受けた職員は、第一項の規定により一般競争に参加す

る者に必要な資格を定めたときは、その基本となるべき事項並びに第二項に規定する申請の時期及び方法等について公示しなければならない。

- (4) If the eligibility required of persons participating in Open Tenders has been determined pursuant to the provisions of paragraph (1), the Heads of Ministries and Agencies or officials delegated by them must issue a public notice with regard to the fundamental particulars and the timing and manner, etc. of application prescribed in paragraph (2).

(契約担当官等が定める一般競争参加者の資格)

(Eligibility as an Open Tender Participant as Determined by a Contract Officer, etc.)

第七十三条 契約担当官等は、一般競争に付そうとする場合において、契約の性質又は目的により、当該競争を適正かつ合理的に行なうため特に必要があると認めるときは、各省各庁の長の定めるところにより、前条第一項の資格を有する者につき、さらに当該競争に参加する者に必要な資格を定め、その資格を有する者により当該競争を行なわせることができる。

Article 73 If a Contract Officer, etc. seeks to put a contract out to Open Tender and finds it necessary for the appropriate and reasonable implementation of the tender based on the nature and purpose of the contract, the Contract Officer, etc. may further determine the eligibility required of persons participating in the tender with regard to persons who are eligible pursuant to paragraph (1) of the preceding Article, and may have persons with the relevant eligibility engage in the tender pursuant to what is set forth by the Heads of Ministries and Agencies.

第二款 公告及び競争

Subsection 2 Public Notices and Tenders

(入札の公告)

(Public Notices for Bids)

第七十四条 契約担当官等は、入札の方法により一般競争に付そうとするときは、その入札期日の前日から起算して少なくとも十日前に官報、新聞紙、掲示その他の方法により公告しなければならない。ただし、急を要する場合においては、その期間を五日までに短縮することができる。

Article 74 If a Contract Officer, etc. seeks to put a contract out to Open Tender by bidding, the Contract Officer, etc. must issue a public notice by Government Gazette, newspaper, posting, or in other ways at least ten days prior to the bid date; provided, however, that in urgent cases, this period may be shortened to five days.

(入札について公告する事項)

(Particulars Related in a Publicly Notice with Regard to Bidding)

第七十五条 前条の規定による公告は、次に掲げる事項についてするものとする。

Article 75 A public notice pursuant to the preceding Article must relate the following particulars:

一 競争入札に付する事項

(i) the particulars of the tender bidding;

二 競争に参加する者に必要な資格に関する事項

(ii) the particulars of the eligibility required of persons participating in the tender;

三 契約条項を示す場所

(iii) the location where the terms and conditions of the contract are displayed;

四 競争執行の場所及び日時

(iv) the location, time, and date of the tender;

五 会計法第二十九条の四第一項の保証金（以下「入札保証金」という。）に関する事項

(v) the particulars of the security deposit prescribed in Article 29-4, paragraph (1) of the Public Accounting Act (hereinafter referred to as a "Bid Deposit").

(入札の無効)

(Invalid Bids)

第七十六条 契約担当官等は、第七十四条の公告において、当該公告に示した競争に参加する者に必要な資格のない者のした入札及び入札に関する条件に違反した入札は無効とする旨を明らかにしなければならない。

Article 76 A Contract Officer, etc. must clearly specify in the public notice prescribed in Article 74 that bids submitted by persons without the eligibility required of persons participating in the tender which is set out in the public notice, and bids that breach the bid requirements set out in the public notice are invalid.

(入札保証金の納付の免除)

(Exemption from Payment of a Bid Deposit)

第七十七条 契約担当官等は、会計法第二十九条の四第一項ただし書の規定により、次に掲げる場合においては、入札保証金の全部又は一部を納めさせないことができる。

Article 77 A Contract Officer, etc. need not collect a Bid Deposit, either in whole or in part, in the following cases, pursuant to the proviso to Article 29-4, paragraph (1) of the Public Accounting Act:

一 一般競争に参加しようとする者が保険会社との間に国を被保険者とする入札保証保険契約を結んだとき。

(i) if a person who seeks to participate in an Open Tender has concluded a Bid Deposit Insurance Contract with an insurance company, naming the national government as the insured party;

二 第七十二条第一項の資格を有する者による一般競争に付する場合において、落札者が契約を結ばないこととなるおそれがないと認められるとき。

(ii) if a contract has been put out to Open Tender for persons who are eligible as referred to in Article 72, paragraph (1), and it has been determined that there is no risk of the successful bidder failing to enter into the contract.

(入札保証金に代わる担保)

(Bonds in Lieu of a Bid Deposit)

第七十八条 会計法第二十九条の四第二項の規定により契約担当官等が入札保証金の納付に代えて提供させることができる担保は、国債のほか、次に掲げるものとする。

Article 78 (1) A Contract Officer, etc. may permit government bonds and the following items to be provided as bonds in lieu of a Bid Deposit, pursuant to the provisions of Article 29-4, paragraph (2) of the Public Accounting Act:

一 政府の保証のある債券

(i) debentures guaranteed by the government;

二 銀行、株式会社商工組合中央金庫、農林中央金庫又は全国を地区とする信用金庫連合会の発行する債券

(ii) debentures issued by a bank, the Shoko Chukin Bank, the Norinchukin Bank, or a nationwide federation of Shinkin Banks;

三 銀行が振り出し又は支払保証をした小切手

(iii) checks issued or guaranteed by a bank;

四 その他確実と認められる担保で財務大臣の定めるもの

(iv) any other item that the Minister of Finance determines to be a bona fide bond.

2 前項の担保の価値及びその提供の手続は、別に定めるものを除くほか、財務大臣の定めるところによる。

(2) The valuation of a bond prescribed in the preceding paragraph and other procedures for submission are governed by the determination of the Minister of Finance, unless separately prescribed otherwise.

(予定価格の作成)

(Formation of a Target Price)

第七十九条 契約担当官等は、その競争入札に付する事項の価格（第九十一条第一項の競争にあつては交換しようとするそれぞれの財産の価格の差額とし、同条第二項の競争にあつては財務大臣の定めるものとする。以下次条第一項において同じ。）を当該事項に関する仕様書、設計書等によつて予定し、その予定価格を記載し、又は記録した書面をその内容が認知できない方法により、開札の際これを開札場所に置かなければならない。

Article 79 A Contract Officer, etc. must set a target for the price of the subject matter of tender bidding (in the case of any tender as prescribed in Article 91, paragraph (1), the difference in the price of the assets that will be exchanged,

and in case of any tender as prescribed in paragraph (2) of the same Article, as determined by the Minister of Finance; the same applies in paragraph (1) of the following Article) based on the specifications and design, etc. of such subject matters, and must, at the time the bids are opened, place a document specifying or recording the target price at the place of such opening, in such a way that the contents of the document are not visible.

(予定価格の決定方法)

(Manners of Determining the Target Price)

第八十条 予定価格は、競争入札に付する事項の価格の総額について定めなければならない。ただし、一定期間継続してする製造、修理、加工、売買、供給、使用等の契約の場合においては、単価についてその予定価格を定めることができる。

Article 80 (1) The target price must be determined with respect to the aggregate price of the subject matter of tender bidding; provided, however, that a target price may be set on a unit price basis for any contract for manufacturing, repairs, processing, sales, supply or use, etc. that continues for specified period.

2 予定価格は、契約の目的となる物件又は役務について、取引の実例価格、需給の状況、履行の難易、数量の多寡、履行期間の長短等を考慮して適正に定めなければならない。

(2) The target price must be appropriately determined by taking into account the prices of actual transactions, supply and demand conditions, difficulty of performance, volume, length of performance period, etc. for the object or service that is the subject of the contract.

(開札)

(Opening of Bids)

第八十一条 契約担当官等は、公告に示した競争執行の場所及び日時に、入札者を立ち会わせて開札をしなければならない。この場合において、入札者が立ち会わないときは、入札事務に関係のない職員を立ち会わせなければならない。

Article 81 The Contract Officer, etc. must open the bids in the presence of the bidders at the place, time and date of the tender, as specified in the public notice. When this is the case, if no bidders are in attendance, an officer who has no connection with the administrative processes relating to the bidding must be in attendance.

(再度入札)

(Subsequent Bidding Process)

第八十二条 契約担当官等は、開札をした場合において、各人の入札のうち予定価格の制限に達した価格の入札がないときは、直ちに、再度の入札をすることができる。

Article 82 In the event that, upon opening the bids, there are none which fulfill the restrictions of the prescribed target price, the Contract Officer, etc. may

immediately pursue a subsequent bidding process.

第三款 落札者の決定等

Subsection 3 Determination of Successful Bidders, etc.

(落札者の決定)

(Determination of Successful Bidders)

第八十三条 落札となるべき同価の入札をした者が二人以上あるときは、契約担当官等は、直ちに、当該入札者にくじを引かせて落札者を定めなければならない。

Article 83 (1) When two (2) or more persons submit a bid at the same price and that bid should be the successful bid, the Contract Officer, etc. must immediately decide the successful bidder by having the relevant bidders draw lots.

2 前項の場合において、当該入札者のうちくじを引かない者があるときは、これに代わつて入札事務に関係のない職員にくじを引かせることができる。

(2) In a case referred to in the preceding paragraph, if a bidder does not draw lots, an officer with no connection to the administrative processes involved in the bidding may be made to draw a lot on behalf of the bidder.

(最低価格の入札者を落札者としなくてよい契約)

(Contracts for Which It Is Permitted Not to Select the Bidder with the Lowest Price as the Successful Bidder)

第八十四条 会計法第二十九条の六第一項ただし書に規定する国の支払の原因となる契約のうち政令で定めるものは、予定価格が一千万円（各省各庁の長が財務大臣と協議して一千万円を超える金額を定めたときは、当該金額）を超える工事又は製造その他についての請負契約とする。

Article 84 A contract specified by Cabinet Orders that is the cause of payment by the national government that is referred to in the proviso of Article 29-6, paragraph (1) of the Public Accounting Act is a construction, manufacturing, or other contract for work with a target price that exceeds ten million yen (or if an amount exceeding ten million yen is decided on after discussion between the Heads of Ministries and Agencies and the Minister of Finance, the relevant amount).

(契約内容に適合した履行がされないおそれがあるため最低価格の入札者を落札者としなくてよい場合の手続)

(Procedures for Not Selecting the Bidder with the Lowest Price as the Successful Bidder Due to the Likelihood That the Terms of the Contract Will Not Be Satisfactorily Performed)

第八十五条 各省各庁の長は、会計法第二十九条の六第一項ただし書の規定により、必要があるときは、前条に規定する契約について、相手方となるべき者の申込みに係る

価格によつては、その者により当該契約の内容に適合した履行がされないこととなるおそれがあると認められる場合の基準を作成するものとする。

Article 85 The Heads of Ministries and Agencies are to, when necessary pursuant to the proviso to Article 29-6, paragraph (1) of the Public Accounting Act, develop standards for determining whether it is likely that the that the person who should be the counterparty to a contract set forth in the preceding Article will not satisfactorily perform the terms of the contract for the price that the person has offered.

第八十六条 契約担当官等は、第八十四条に規定する契約に係る競争を行なつた場合において、契約の相手方となるべき者の申込みに係る価格が、前条の基準に該当することとなつたときは、その者により当該契約の内容に適合した履行がされないおそれがあるかどうかについて調査しなければならない。

Article 86 (1) If a tender for a contract prescribed in Article 84 has been conducted, the Contract Officer, etc. must examine whether it is likely that the that the person who should be the counterparty to a contract will not satisfactorily perform the terms of the contract, if the price that the person has offered falls within the standards referred to in the preceding Article.

2 契約担当官等は、前項の調査の結果、その者により当該契約の内容に適合した履行がされないおそれがあると認めたときは、その調査の結果及び自己の意見を記載し、又は記録した書面を契約審査委員に提出し、その意見を求めなければならない。

(2) If, as a result of the examination referred to in the preceding paragraph, the Contract Officer, etc. finds it to be likely that the relevant person will not satisfactorily perform the terms of the contract, the Contract Officer, etc. must submit documentation specifying or recording the results of the examination and the opinion of the Contract Officer, etc. to the Contract Assessment Commissioners, and request their opinions.

第八十七条 契約審査委員は、前条第二項の規定により、契約担当官等から意見を求められたときは、必要な審査をし、書面によつて意見を表示しなければならない。

Article 87 When a Contract Officer, etc. requests the Contract Assessment Commissioners' opinions pursuant to the provisions of paragraph (2) of the preceding Article, the Contract Assessment Commissioners must conduct an assessment and express their opinions in writing.

第八十八条 契約担当官等は、前条の規定により表示された契約審査委員の意見のうちの多数が自己の意見と同一であつた場合においては、予定価格の制限の範囲内で最低の価格をもつて申込みをした者を落札者とせず、予定価格の制限の範囲内の価格をもつて申込みをした他の者のうち最低の価格をもつて申込みをした者（以下「次順位者」という。）を落札者とするものとする。

Article 88 (1) If the majority of the opinions that the Contract Assessment

Commissioners have expressed pursuant to the provisions of the preceding Article are the same as those of the Contract Officer, etc., the Contract Officer, etc. is not to select the person who offered the lowest price within the range determined by the target price as the successful bidder, but is to select as the successful bidder the person who offered the lowest price from among the other persons who made offers within the range determined by the target price (hereinafter referred to as a "Next Bidder").

- 2 契約担当官等は、契約審査委員の意見のうちの多数が自己の意見と異なる場合においても、当該契約の相手方となるべき者により当該契約の内容に適合した履行がされないおそれがあると認めたことについて合理的な理由があるときは、次順位者を落札者とすることができる。

- (2) Even when the majority of the opinions of the Contract Assessment Commissioners differ from those of the Contract Officer, etc., if there are reasonable grounds to determine that the person who should be the counterparty to the contract is unlikely to satisfactorily perform the terms of the contract, the Contract Officer, etc. may select the Next Bidder as the successful bidder.

(公正な取引の秩序を乱すこととなるおそれがあるため最低価格の入札者を落札者とし
ない場合の手續)

(Procedures for Not Selecting the Bidder with the Lowest Price as the
Successful Bidder Due to the Likelihood of Disrupting the Fair
Establishment of a Transaction)

第八十九条 契約担当官等は、第八十四条に規定する契約に係る競争を行なった場合において、契約の相手方となるべき者と契約を締結することが公正な取引の秩序を乱すこととなるおそれがあつて著しく不適當であると認めたときは、その理由及び自己の意見を記載し、又は記録した書面を当該各省各庁の長に提出し、その者を落札者とし
ないことについて承認を求めなければならない。

Article 89 (1) If a tender has been carried out for a contract prescribed in Article 84 and the Contract Officer, etc. finds it to be extremely inappropriate to conclude the contract with the person who should be the counterparty, due to the likelihood that doing so will disrupt the establishment of a fair transaction, the Contract Officer, etc. must submit documentation specifying or recording the reasons for this and the opinion of the Contract Officer, etc. to the relevant Head of Ministry or Agency, and request the Head of Ministry or Agency's approval for not selecting that person as the successful bidder.

- 2 契約担当官等は、前項の承認があつたときは、次順位者を落札者とするものとする。

- (2) If a Contract Officer, etc. is given the approval referred to in the preceding paragraph, the Contract Officer, etc. is to select the Next Bidder as the successful bidder.

(最低入札者を落札者としなかった場合の書面の提出)

(Documents Submitted When the Bidder with the Lowest Price Is Not Selected as the Successful Bidder)

第九十条 契約担当官等は、次の各号に掲げる場合においては、遅滞なく、当該競争に関する調書を作成し、当該各号に掲げる書面の写しを添え、これを当該各省各庁の長を経由して財務大臣及び会計検査院に提出しなければならない。

Article 90 In a case set forth in any of the following items, the Contract Officer, etc. must, without delay, prepare an examination report for the relevant tender and submit it to the Minister of Finance and the Board of Audit via the relevant Head of Ministry or Agency, attaching a copy of the documentation set forth in the relevant item:

一 第八十八条の規定により次順位者を落札者としたとき。 第八十六条第二項に規定する調査の結果及び自己の意見を記載し、又は記録した書面並びに第八十七条に規定する契約審査委員の意見を記載し、又は記録した書面

(i) if the Next Bidder is selected as the successful bidder pursuant to the provisions of the Article 88: documentation specifying or recording the result of the examination and the opinion prescribed in the provisions of Article 86, paragraph (2) and documentation specifying or recording the opinion of the Contract Assessment Commissioner as prescribed in Article 87;

二 前条の規定により次順位者を落札者としたとき。 同条に規定する理由及び自己の意見を記載し、又は記録した書面並びに当該各省各庁の長の承認があつたことを証する書面

(ii) if the Next Bidder is selected as the successful bidder pursuant to the provisions of the preceding Article: documentation specifying or recording the reason and the opinion prescribed in the provisions of the same Article and documentation evidencing that the relevant Head of Ministry or Agency has approved.

(交換等についての契約を競争に付して行なう場合の落札者の決定)

(Deciding the Successful Bidder When a Contract for Exchange, etc. Is Put Out for Tender)

第九十一条 契約担当官等は、会計法第二十九条の六第二項の規定により、国の所有に属する財産と国以外の者の所有する財産との交換に関する契約については、それぞれの財産の見積価格の差額が国にとって最も有利な申込みをした者を落札者とすることができる。

Article 91 (1) A Contract Officer, etc. may, pursuant to the provisions of Article 29-6, paragraph (2) of the Public Accounting Act, select the person who makes the offer with the difference in the quotation amount for each asset that is the most favorable to the national government to be the successful bidder for a contract on the exchange of assets owned by the national government and assets owned by persons other than the national government.

2 契約担当官等は、会計法第二十九条の六第二項の規定により、その性質又は目的から同条第一項の規定により難い契約で前項に規定するもの以外のものについては、各省各庁の長が財務大臣に協議して定めるところにより、価格その他の条件が国にとって最も有利なものをもつて申込みをした者を落札者とすることができる。

(2) A Contract Officer, etc. may, pursuant to the provisions of Article 29-6, paragraph (2) of the Public Accounting Act, select the person who offers the price and other conditions that are the most favorable to the national government to be the successful bidder for a contract other than one set forth in the preceding Article which is difficult to treat pursuant to Article 29-6, paragraph (1) of the Public Accounting Act due to the nature and purpose of the contract, based on a decision made following discussions between the Heads of Ministries and Agencies and the Minister of Finance.

(再度公告入札の公告期間)

(Public Notice Period for a Subsequent Public Notice of a Call for Bids)

第九十二条 契約担当官等は、入札者若しくは落札者が不在の場合又は落札者が契約を結ばない場合において、さらに入札に付そうとするときは、第七十四条の公告の期間を五日までに短縮することができる。

Article 92 If there are no bidders or no successful bidders or if the successful bidder does not enter into the contract, and the Contract Officer, etc. seeks to put the contract out for bid again, the Contract Officer, etc. may shorten the public notice period prescribed in Article 74 to five days.

(せり売り)

(Auctions)

第九十三条 契約担当官等は、動産の売払いについて特に必要があると認めるときは、本節の規定に準じ、せり売りに付することができる。

Article 93 If a Contract Officer, etc. finds it particularly necessary for selling off movable property, the movable property may be put up for auction in accordance with the provisions of this Subsection.

第三節 指名競争契約

Section 3 Contracts under Selective Tender

(指名競争に付することができる場合)

(Cases in Which a Contract May Be Put Out to Selective Tender)

第九十四条 会計法第二十九条の三第五項の規定により指名競争に付することができる場合は、次に掲げる場合とする。

Article 94 (1) A contract may be put out to selective tender pursuant to the provisions of Article 29-3, paragraph (5) of the Public Accounting Act in the following cases:

- 一 予定価格が八百万円を超えない工事又は製造をさせるとき。
(i) when having construction or manufacturing done at a target price that does not exceed 8 million yen;
- 二 予定価格が五百万円を超えない財産を買い入れるとき。
(ii) when purchasing assets at a target price that does not exceed 5 million yen;
- 三 予定賃借料の年額又は総額が三百万円を超えない物件を借り入れるとき。
(iii) when borrowing an object at an annual or total target lease charge that does not exceed 3 million yen;
- 四 予定価格が二百万円を超えない財産を売り払うとき。
(iv) when selling off assets at a target price that does not exceed 2 million yen
- 五 予定賃貸料の年額又は総額が百万円を超えない物件を貸し付けるとき。
(v) when lending out an object at an annual or total target lease charge that does not exceed 1 million yen;
- 六 工事又は製造の請負、財産の売買及び物件の貸借以外の契約でその予定価格が三百五十万円を超えないものをするとき。
(vi) when the target price of a contract other than a work contract for construction or manufacturing, a sale and purchase contract for assets, or a contract to lend or borrow an object does not exceed 3.5 million yen.
- 2 随意契約によることができる場合においては、指名競争に付することを妨げない。
(2) When a contract may take the form of a discretionary contract, this does not preclude the contract from being put out to selective tender.

(指名競争参加者の資格)

(Eligibility as a Selective Tender Participant)

第九十五条 各省各庁の長又はその委任を受けた職員は、工事、製造、物件の買入れその他についての契約の種類ごとに、その金額等に応じ、第七十二条第一項に規定する事項について、指名競争に参加する者に必要な資格を定めなければならない。

Article 95 (1) Heads of Ministries and Agencies or officials delegated by them must determine the eligibility required of persons participating in selective tenders with regard to the particulars prescribed in Article 72, paragraph (1), in connection with each type of contract in terms of construction, manufacturing, the purchase of objects, and other contracts, in accordance with the price, etc. of the contract.

2 第七十二条第二項及び第三項の規定は、各省各庁の長又はその委任を受けた職員が前項の規定により資格を定めた場合に準用する。

(2) The provisions of Article 72, paragraph (2) and paragraph (3) apply mutatis mutandis when the Heads of Ministries and Agencies or officials delegated by them determine eligibility pursuant to the preceding paragraph.

3 前項の場合において、第一項の資格が第七十二条第一項の資格と同一である等のため、前項において準用する同条第二項及び第三項の規定による資格の審査及び名簿の作成を要しないと認められるときは、当該資格の審査及び名簿の作成は、行なわず、

同条第二項及び第三項の規定による資格の審査及び名簿の作成をもつて代えるものとする。

- (3) In the case referred to in the preceding paragraph and if it has been determined that an eligibility assessment or the preparation of a name list pursuant to the provisions of Article 72, paragraph (2) and (3) as applied mutatis mutandis to the preceding paragraph is not required due to factors such as eligibility pursuant to paragraph (1) being the same as eligibility pursuant to Article 72, paragraph (1), the eligibility assessment and preparation of a name list pursuant to the mutatis mutandis application set forth in the preceding paragraph is not conducted, and the eligibility assessment and the preparation of a name list pursuant to Article 72, paragraph (2), and paragraph (3) must be substituted therefor.
- 4 各省各庁の長又はその委任を受けた職員は、年間の契約の件数が僅少であることその他特別の事情がある契約担当官等に係る指名競争については、当該競争に参加する者に必要な資格及びその審査に関し第一項及び第二項に定めるところと異なる定めをし、又は当該競争に参加する資格を有する者の名簿を作成しないことができる。
- (4) Heads of Ministries and Agencies or officials delegated by them may specify provisions contrary to those prescribed in paragraph (1) and paragraph (2) in regard to the determination and assessment of the eligibility required of persons participating in tenders, and may decide not to prepare a name list of persons who are eligible to participate in the tenders implemented by a Contract Officer, etc., due to the small number of annual contracts and other special circumstances involving the selective tenders implemented by that Contract Officer, etc.

(指名基準)

(Selection Standards)

第九十六条 各省各庁の長又はその委任を受けた職員は、契約担当官等が前条の資格を有する者のうちから競争に参加する者を指名する場合の基準を定めなければならない。

Article 96 (1) The Heads of Ministries and Agencies or officials delegated by them must determine the standards by which a Contract Officer, etc. will select persons to participate in tenders from among those who are eligible under the preceding Article.

2 各省各庁の長又はその委任を受けた職員は、前項の基準を定めたときは、財務大臣に通知しなければならない。

(2) If the standards prescribed in the preceding paragraph have been determined, the Heads of Ministries and Agencies or officials delegated by them must notify the Minister of Finance.

(競争参加者の指名)

(Selection of Tender Participants)

第九十七条 契約担当官等は、指名競争に付するときは、第九十五条の資格を有する者のうちから、前条第一項の基準により、競争に参加する者をなるべく十人以上指名しなければならない。

Article 97 (1) When a Contract Officer, etc. puts a contract out to selective tender, the Contract Officer, etc. must select preferably ten (10) or more persons to participate in the tender based on the standards prescribed under paragraph (1) of the preceding Article, from among persons eligible under Article 95.

2 前項の場合においては、第七十五条第一号及び第三号から第五号までに掲げる事項をその指名する者に通知しなければならない。

(2) In the event of the preceding paragraph, the Contract Officer, etc. must notify the selected persons of the matters set forth in Article 75, item (i) and items (iii) through (v).

(一般競争に関する規定の準用)

(Mutatis Mutandis Application of Provisions on Open Tenders)

第九十八条 第七十条、第七十一条及び第七十六条から第九十一条までの規定は、指名競争の場合に準用する。

Article 98 The provisions of Article 70, Article 71, and Article 76 through Article 91 apply mutatis mutandis to selective tenders.

第四節 随意契約

Section 4 Discretionary Contracts

(随意契約によることができる場合)

(Cases When Discretionary Contracts May Be Used)

第九十九条 会計法第二十九条の三第五項の規定により随意契約によることができる場合は、次に掲げる場合とする。

Article 99 A contract may take the form of a discretionary contract pursuant to Article 29-3, paragraph (5) of the Public Accounting Act in the following cases:

一 国の行為を秘密にする必要があるとき。

(i) when it is necessary to keep the actions of the national government confidential;

二 予定価格が四百万円を超えない工事又は製造をさせるとき。

(ii) when having construction or manufacturing done at a target price that does not exceed 4 million yen;

三 予定価格が三百万円を超えない財産を買い入れるとき。

(iii) when purchasing assets at a target price that does not exceed 3 million yen;

四 予定賃借料の年額又は総額が百五十万円を超えない物件を借り入れるとき。

(iv) when borrowing an object at an annual or total target lease charge that

- does not exceed 1.5 million yen;
- 五 予定価格が百万円を超えない財産を売り払うとき。
- (v) when selling off assets at a target price that does not exceed 1 million yen;
- 六 予定賃貸料の年額又は総額が五十万円を超えない物件を貸し付けるとき。
- (vi) when lending out an object at an annual or total lease charge that does not exceed five hundred thousand yen;
- 七 工事又は製造の請負、財産の売買及び物件の貸借以外の契約でその予定価格が二百万円を超えないものをするとき。
- (vii) when the target price of a contract other than a work contract for construction or manufacturing, a sale and purchase contract for assets, or a contract to lend or borrow an object does not exceed 2 million yen;
- 八 運送又は保管をさせるとき
- (viii) when having something transported or stored;
- 九 沖縄振興開発金融公庫その他特別の法律により特別の設立行為をもつて設立された法人のうち財務大臣の指定するものとの間で契約をするとき。
- (ix) when contracting with the Okinawa Development Finance Corporation or another corporation designated by the Minister of Finance from among those established by special acts of establishment pursuant to the provisions of a special Act;
- 十 農場、工場、学校、試験所、刑務所その他これらに準ずるものの生産に係る物品を売り払うとき。
- (x) when selling off articles connected with production on a farm or in a factory, school, laboratory, prison, or other equivalent places;
- 十一 国の需要する物品の製造、修理、加工又は納入に使用させるため必要な物品を売り払うとき。
- (xi) when selling off articles that need to be used in the manufacture, repair, processing, or delivery of articles in demand by the national government;
- 十二 法律の規定により財産の譲与又は無償貸付けをすることができる者にその財産を売り払い又は有償で貸し付けるとき。
- (xii) when selling off assets or lending them out at a charge to a person who may transfer or loan such assets at no charge pursuant to law;
- 十三 非常災害による罹災者に国の生産に係る建築材料を売り払うとき。
- (xiii) when selling off construction materials produced by the national government to persons affected by an unforeseen disaster;
- 十四 罹災者又はその救護を行なう者に災害の救助に必要な物件を売り払い又は貸し付けるとき。
- (xiv) when selling off or lending out objects needed to assist disaster victims or persons providing rescue services;
- 十五 外国で契約をするとき。
- (xv) when contracting in a foreign country;
- 十六 都道府県及び市町村その他の公法人、公益法人、農業協同組合又は農業協同組

合連合会から直接に物件を買い入れ又は借り入れるとき。

(xvi) when purchasing or borrowing objects directly from a prefectural or municipal government or other public corporation or from a public interest corporation, agricultural cooperative;

十六の二 慈善のため設立した救済施設から直接に物件を買い入れ若しくは借り入れ又は慈善のため設立した救済施設から役務の提供を受けるとき。

(xvi)-2 when purchasing or borrowing objects directly from a relief facility established for a charitable purpose or receiving service from a relief facility established for a charitable purpose;

十七 開拓地域内における土木工事をその入植者の共同請負に付するとき。

(xvii) when the contract takes the form of a joint contract for work with developers of civil works in a development region;

十八 事業協同組合、事業協同小組合若しくは協同組合連合会又は商工組合若しくは商工組合連合会の保護育成のためこれらの者から直接に物件を買い入れるとき。

(xviii) when purchasing objects directly from a business cooperative, small business cooperative, federation of cooperatives, commercial and industrial partnership, or commercial federation for protection and training purposes;

十九 学術又は技芸の保護奨励のため必要な物件を売り払い又は貸し付けるとき。

(xix) when selling off or lending out objects needed for the protection and promotion of academic studies or craftsmanship;

二十 産業又は開拓事業の保護奨励のため、必要な物件を売り払い若しくは貸し付け、又は生産者から直接にその生産に係る物品を買い入れるとき。

(xx) when selling or lending out objects needed for the protection and promotion of industry or development projects or when purchasing articles directly from the producer;

二十一 公共用、公用又は公益事業の用に供するため必要な物件を直接に公共団体又は事業者売り払い、貸し付け又は信託するとき。

(xxi) when selling off, lending, or entrusting the necessary object directly to a public organization or business enterprise in order to provide it for public use, government use, or use by a public interest company;

二十二 土地、建物又は林野若しくはその産物を特別の縁故がある者に売り払い又は貸し付けるとき。

(xxii) when selling off or lending out land, a building, or a forest or product derived from it to a person with a special connection;

二十三 事業経営上の特別の必要に基づき、物品を買い入れ若しくは製造させ、造林をさせ又は土地若しくは建物を借り入れるとき。

(xxiii) when purchasing an article or having it manufactured, having a forest planted, or borrowing land or buildings, based on a special necessity in business operations;

二十四 法律又は政令の規定により問屋業者に販売を委託し又は販売させるとき。

(xxiv) when entrusting sales to a wholesaler or having a wholesaler conduct

sales pursuant to the provisions of laws or Cabinet Orders;

二十五 国が国以外の者に委託した試験研究の成果に係る特許権及び実用新案権の一部を当該試験研究を受託した者に売り払うとき。

(xxv) when selling off patent rights or a portion of model utility rights resulting from test research that the national government has entrusted to a person other than the national government, to the person to which that test research was entrusted.

第九十九条の二 契約担当官等は、競争に付しても入札者がいないとき、又は再度の入札をしても落札者がいないときは、随意契約によることができる。この場合においては、契約保証金及び履行期限を除くほか、最初競争に付するときに定めた予定価格その他の条件を変更することができない。

Article 99-2 If there are no bidders even though the Contract Officer, etc. has put a contract out to tender or if there is no successful bidder even though the Contract Officer, etc. has called for subsequent bidding, the contract may take the form of a discretionary contract. When this is the case, the target price and other conditions of the initial tender may not be changed, except for the contract guarantee and performance period.

第九十九条の三 契約担当官等は、落札者が契約を結ばないときは、その落札金額の制限内で随意契約によることができる。この場合においては、履行期限を除くほか、最初競争に付するときに定めた条件を変更することができない。

Article 99-3 If the successful bidder does not enter into the contract, the Contract Officer, etc. may have the contract take the form of a discretionary contract, within the scope determined by the successful bid amount. When this is the case, the conditions determined for the initial tender may not be changed, except for the performance period.

(分割契約)

(Divisible Contracts)

第九十九条の四 前二条の場合においては、予定価格又は落札金額を分割して計算することができる場合に限り、当該価格又は金額の制限内で数人に分割して契約をすることができる。

Article 99-4 In a case referred to in the preceding two (2) Articles, if it is possible to calculate the target price or the successful bid amount by dividing it, the contract may be divided among and entered into with a number of persons, within the scope of the target price or successful bid amount.

(予定価格の決定)

(Determination of the Target Price)

第九十九条の五 契約担当官等は、随意契約によろうとするときは、あらかじめ第八十

条の規定に準じて予定価格を定めなければならない。

Article 99-5 When the Contract Officer, etc. seeks to have a contract take the form of a discretionary contract, the Contract Officer, etc. must determine the target price in advance in accordance with the provisions of Article 80.

(見積書の徴取)

(Collection of Quotations)

第九十九条の六 契約担当官等は、随意契約によろうとするときは、なるべく二人以上の者から見積書を徴さなければならない。

Article 99-6 When the Contract Officer, etc. seeks to have a contract take the form of a discretionary contract, the Contract Officer, etc. must collect quotations from preferably two (2) or more persons.

第五節 契約の締結

Section 5 Conclusion of Contracts

(契約書の記載事項)

(Particulars Included in Written Contracts)

第百条 会計法第二十九条の八第一項本文の規定により契約担当官等が作成すべき契約書には、契約の目的、契約金額、履行期限及び契約保証金に関する事項のほか、次に掲げる事項を記載しなければならない。ただし、契約の性質又は目的により該当のない事項については、この限りでない。

Article 100 (1) A Contract Officer, etc. must include the following particulars in a written contract that the Contract Officer, etc. must draw up, in addition to the contract purpose, contract price, performance period, and contract guarantee, pursuant to the provisions of the main clause of Article 29-8, paragraph (1) of the Public Accounting Act; provided, however, that this does not apply to particulars that are not applicable in view of the nature and purpose of the contract:

一 契約履行の場所

(i) the place of contract performance;

二 契約代金の支払又は受領の時期及び方法

(ii) the time, date, and form for the payment or receipt of the contract price;

三 監督及び検査

(iii) supervision and inspections;

四 履行の遅滞その他債務の不履行の場合における遅延利息、違約金その他の損害金

(iv) interest for delay, penalties, and other damages in cases of delay in performance or other default;

五 危険負担

(v) risk of loss;

六 かし担保責任

(vi) warranty against defects;

七 契約に関する紛争の解決方法

(vii) method of resolving disputes related to the contract;

八 その他必要な事項

(viii) other necessary particulars.

2 前項に定めるもののほか、契約書の記載その他その作成に関する細目は、財務大臣の定めるところによる。

(2) Beyond what is prescribed in the preceding paragraph, particulars included in a written contract and other details related to drawing up a written contract are governed by the determinations made by the Minister of Finance.

(契約書の作成を省略することができる場合)

(Cases a Written Contract May Be Omitted)

第百条の二 会計法第二十九条の八第一項ただし書の規定により契約書の作成を省略することができる場合は、次に掲げる場合とする。

Article 100-2 (1) The omission of a written contract pursuant to the provisions of the proviso of Article 29-8, paragraph (1) of the Public Accounting Act is permitted in the following cases:

一 第七十二条第一項の資格を有する者による一般競争契約又は指名競争契約若しくは随意契約で、契約金額が二百五十万円（外国で契約するときは、三百五十万円）を超えないものをするとき。

(i) when entering into a contract under open tender or a contract under selective tender or a discretionary contract with a person who is eligible pursuant to Article 72, paragraph (1), for an amount not exceeding 2.5 million yen (or 3.5 million yen if entered into in a foreign country);

二 せり売りに付するとき。

(ii) when putting the contract up for auction;

三 物品を売り払う場合において、買受人が代金を即納してその物品を引き取る時。

(iii) when an article is sold off and the purchaser immediately pays the price and receives the article;

四 第一号に規定するもの以外の随意契約について各省各庁の長が契約書を作成する必要がないと認める時。

(iv) when the Heads of Ministries and Agencies determine that it is not necessary to draw up a written contract for a discretionary contract other than one prescribed in item (i).

2 各省各庁の長は、前項第四号の規定による認定をしようとするときは、財務大臣に協議しなければならない。

(2) If the Head of a Ministry or Agency seeks to reach a determination pursuant to item (iv) of the preceding paragraph, the Head of a Ministry or Agency must hold discussions with the Minister of Finance.

3 財務大臣は、前項の協議が整ったときは、会計検査院に通知しなければならない。

(3) The Minister of Finance must notify the Board of Audit after holding the discussions prescribed in the preceding paragraph.

(契約保証金の納付の免除)

(Exemption from Payment of a Contract Guarantee)

第百条の三 契約担当官等は、会計法第二十九条の九第一項ただし書の規定により、次に掲げる場合においては、契約保証金の全部又は一部を納めさせないことができる。

Article 100-3 A Contract Officer, etc. need not collect a contract guarantee, either in whole or in part, pursuant to the provisions of the proviso of Article 29-9, paragraph (1) of the Public Accounting Act, in the following cases:

一 契約の相手方が保険会社との間に国を被保険者とする履行保証保険契約を結んだとき。

(i) if the other party to the contract has entered into a contract for performance guarantee insurance with an insurance company, naming the national government as the insured party;

二 契約の相手方から委託を受けた保険会社、銀行、農林中央金庫その他財務大臣の指定する金融機関と工事履行保証契約を結んだとき。

(ii) if a work performance guarantee has been contracted with an insurance company, bank, or Norinchukin Bank entrusted by the other party of the contract or with another financial institution designated by the Minister of Finance;

三 第七十二条第一項の資格を有する者による一般競争に付し、若しくは指名競争若しくはせり売りに付し、又は随意契約による場合において、その必要がないと認められるとき。

(iii) when the Contract Officer, etc. puts the contract out for Open Tender or selective tender or up for auction with eligible persons pursuant to Article 72, paragraph (1) or when the contract takes the form of a discretionary contract, and it is found to be unnecessary to collect a contract guarantee.

(契約保証金に代わる担保)

(Bonds in Lieu of Contract Guarantees)

第百条の四 第七十八条の規定は、契約担当官等が契約保証金の納付に代えて担保を提供させる場合に準用する。

Article 100-4 The provisions of Article 78 apply mutatis mutandis when a Contract Officer, etc. permits bonds to be provided in lieu of the payment of a contract guarantee.

第六節 契約の履行

Section 6 Contract Performance

(売払代金の完納時期)

(Timing for Completing Payment of the Sales Price)

第百一条 国の所有に属する財産の売払代金は、法律又は政令に特別の規定がある場合を除くほか、その引渡しの時まで又は移転の登記若しくは登録の時までに、完納させなければならない。

Article 101 Except as otherwise provided for by law or Cabinet Order, the sales price of assets owned by the national government must be completely paid by the time of the delivery or the transfer of a registration or the time of registration.

(貸付料の納付時期)

(Timing for Payment of Rental Fees)

第百一条の二 財産の貸付料は、法律又は政令に特別の規定がある場合を除くほか、前納させなければならない。ただし、貸付期間が六月以上にわたるものについては、分割して定期的に前納させることができる。

Article 101-2 Except as otherwise provided for by law or Cabinet Order, rental fees for assets must be paid in advance; provided, however, that if the loan period is six months or more, advance payments may be made in periodic installments.

(監督の方法)

(Means of Supervision)

第百一条の三 会計法第二十九条の十一第一項に規定する工事又は製造その他についての請負契約の適正な履行を確保するため必要な監督（以下本節において「監督」という。）は、契約担当官等が、自ら又は補助者に命じて、立会い、指示その他の適切な方法によつて行なうものとする。

Article 101-3 A Contract Officer, etc. must personally perform the necessary supervision in order to ensure the appropriate performance of a contract for work involving construction, manufacturing, or other work referred to in Article 29-11, paragraph (1) of the Public Accounting Act (hereinafter referred to as "Supervision" in this Subsection), by being present, issuing directions, or using other appropriate means, or must order an assistant to do so.

(検査の方法)

(Means of Inspection)

第百一条の四 会計法第二十九条の十一第二項に規定する工事若しくは製造その他についての請負契約又は物件の買入れその他の契約についての給付の完了の確認（給付の完了前に代価の一部を支払う必要がある場合において行なう工事若しくは製造の既済部分又は物件の既納部分の確認を含む。）をするため必要な検査（以下本節において「検査」という。）は、契約担当官等が、自ら又は補助者に命じて、契約書、仕様書及び設計書その他の関係書類に基づいて行なうものとする。

Article 101-4 A Contract Officer, etc. is to, either personally or by assigning an

assistant, perform the necessary inspections in order to verify that delivery under any contract for work involving construction or manufacturing or otherwise, or any purchase or other contract involving an object, as prescribed in Article 29-11, paragraph (2) of the Public Accounting Act (hereinafter in this Subsection referred to as "Inspections"), is complete (including verifying completion of portions of construction or manufacturing or delivery of portions of the objects, if payment of a portion of the price prior to completion of delivery is required), based on the contract, specifications, designs, or other related documents.

(検査の一部省略)

(Partial Omission of Inspections)

第百一条の五 会計法第二十九条の十一第三項に規定する特約により給付の内容が担保されると認められる契約のうち財務大臣の定める物件の買入に係るものについては、数量以外のものの検査を省略することができる。

Article 101-5 Inspections of matters other than quantity may be omitted in connection with a contract for the purchase of objects that is designated by the Minister of Finance from among those for which the content of work to be delivered is found to have been secured by the special provisions prescribed in Article 29-11, paragraph (3) of the Public Accounting Act.

(監督及び検査を契約担当官等及びその補助者以外の職員に行なわせる場合の手続等)

(Procedures, etc. for Having an Official Other Than a Contract Officer, etc., or an Assistant Perform Supervision and Inspections)

第百一条の六 第六十八条第一項の規定は、各省各庁の長が会計法第二十九条の十一第四項の規定により当該契約に係る契約担当官等及びその補助者以外の当該各省各庁所属の職員に監督又は検査を行なわせる場合に、第二十六条第三項の規定は、各省各庁の長が同法第二十九条の十一第四項の規定により他の各省各庁所属の職員に監督又は検査を行なわせる場合に、それぞれ準用する。

Article 101-6 (1) The provisions of Article 68, paragraph (1) apply mutatis mutandis when the Head of a Ministry or Agency has an official from that ministry or agency other than the Contract Officer, etc., or assistant for a contract perform Supervision or Inspections pursuant to the provisions of Article 29-11, paragraph (4) of the Public Accounting Act, and the provisions of Article 26, paragraph (3) apply mutatis mutandis when the Head of a Ministry or Agencies has an official from another ministry or agency perform Supervision or Inspections pursuant to the provisions of Article 29-11, paragraph (4) of the same Act.

2 前項に規定する場合において、各省各庁の長又はその委任を受けた職員は、当該各省各庁又は他の各省各庁に置かれた官職を指定することにより、その官職にある者に

監督又は検査を行なわせることができる。この場合においては、同項において準用する第二十六条第三項の規定による同意は、その指定しようとする官職及び行なわせようとする事務の範囲についてあれば足りる。

(2) In a case referred to in the preceding paragraph, the Heads of Ministries and Agencies or officials delegated by them may have a person with certain official duties perform Supervision or Inspections by designating the official duties of a position in the relevant ministry or agency or other ministry or agency. When this is the case, it suffices for consent pursuant to the provisions of Article 26, paragraph (3) as applied mutatis mutandis pursuant to the preceding paragraph to be obtained for the official duties that the Heads of Ministries and Agencies or officials delegated by them seek to designate or for the administrative processes they seek to have performed.

3 各省各庁の長又はその委任を受けた職員は、監督又は検査を当該契約に係る契約担当官等及びその補助者以外の当該各省各庁所属の職員又は他の各省各庁所属の職員に行なわせることとしたときは、当該契約担当官等にその旨並びに当該監督又は検査を行なわせることとした職員の官職及び氏名を、当該監督又は検査を行なわせることとした職員に關係の契約担当官等の官職及び氏名おそれぞれ通知しなければならない。

(3) When the Head of a Ministry or Agency or an official delegated by the Head of a Ministry or Agency has an official from that ministry or agency or from another ministry or agency other than the Contract Officer, etc., or assistant for the contract perform Supervision or Inspections, the relevant Head of Ministry or Agency or official delegated by the relevant Head of a Ministry or Agency must notify the relevant Contract Officer, etc. of the fact that another official is being made to perform the Supervision or Inspections, and of the relevant official duties and the name of the official, and must notify the official who it has been decided will be made to perform the Supervision or Inspections of the official duties and name of the Contract Officer, etc.

(監督の職務と検査の職務の兼職禁止)

(Prohibition of Concurrent Involvement in Supervisory Duties and Inspection Duties)

第百一条の七 契約担当官等から検査を命ぜられた補助者及び各省各庁の長又はその委任を受けた職員から検査を命ぜられた職員の職務は、特別の必要がある場合を除き、契約担当官等から監督を命ぜられた補助者及び各省各庁の長又はその委任を受けた職員から監督を命ぜられた職員の職務と兼ねることができない。

Article 101-7 The duties of an assistant who is ordered to perform Inspections by the Contract Officer, etc., and an official ordered to perform Inspections by the Head of a Ministry or Agency or an official delegated by the Head of a Ministry or Agency may not overlap with the duties of an assistant ordered to perform Supervision by the Contract Officer, etc., and the official ordered to perform Supervision by the Head of a Ministry or Agency or an official delegated by the

Head of a Ministry or Agency, unless there is a special necessity.

(監督及び検査の委託)

(Delegation of Supervision and Inspections)

第百一条の八 契約担当官等は、会計法第二十九条の十一第五項の規定により、特に専門的な知識又は技能を必要とすることその他の理由により国の職員によつて監督又は検査を行なうことが困難であり又は適当でないと認められる場合においては、国の職員以外の者に委託して当該監督又は検査を行なわせることができる。

Article 101-8 When it is determined to be difficult or inappropriate for Supervision or Inspections to be performed by national government officials due to particular professional knowledge or skills being required or for other reasons, a Contract Officer, etc. may delegate a person other than a national government official to perform the Supervision or Inspections, pursuant to the provisions of Article 29-11, paragraph (5) of the Public Accounting Act.

(検査調書の作成)

(Preparation of Inspection Reports)

第百一条の九 契約担当官等、契約担当官等から検査を命ぜられた補助者及び各省各庁の長又はその委任を受けた職員から検査を命ぜられた職員は、検査を完了した場合においては、財務大臣の定める場合を除くほか、検査調書を作成しなければならない。

Article 101-9 (1) A Contract Officer, etc., an assistant ordered to perform Inspections by the Contract Officer, etc., and an official ordered to perform Inspections by the Head of a Ministry or Agency or an official delegated by the Head of a Ministry or Agency must prepare an inspection report upon the completion of an Inspection, except as otherwise determined by the Minister of Finance.

2 前項の規定により検査調書を作成すべき場合においては、当該検査調書に基づかなければ、支払をすることができない。

(2) When an inspection report is to be prepared pursuant to the provisions of the preceding paragraph, payment may not be made unless based on that inspection report.

(部分払の限度額)

(Limitations on Partial Payment Amounts)

第百一条の十 契約により、工事若しくは製造その他についての請負契約に係る既済部分又は物件の買入契約に係る既納部分に対し、その完済前又は完納前に代価の一部を支払う必要がある場合における当該支払金額は、工事又は製造その他についての請負契約にあつてはその既済部分に対する代価の十分の九、物件の買入契約にあつてはその既納部分に対する代価をこえることができない。ただし、性質上可分の工事又は製造その他についての請負契約に係る完済部分にあつては、その代価の全額までを支払うことができる。

Article 101-10 The payment amount when it is necessary to pay a portion of the price of partially performed construction, manufacturing, or other contract for work or partially performed contract for the purchase of objects prior to completion pursuant to such contract, may not exceed nine-tenths of the price of the partially performed portion of the construction, manufacturing, or other contract for work or nine-tenths of the price of the partially performed portion of the contract for the purchase of objects; provided, however, that payment may be made up to the total price for the completed portion of a severable construction, manufacturing, or other contract for work.

第七節 雑則

Section 7 Miscellaneous Provisions

(競争に参加させないことができる者についての報告等)

(Reporting, etc. of Persons Who May Be Prevented from Participating in Tenders)

第百二条 契約担当官等は、その取扱いに係る契約に関し、第七十一条の規定に該当すると認められる者があつたときは、財務大臣の定めるところにより、その事実を詳細に記載し、又は記録した書面により当該各省各庁の長に報告しなければならない。

Article 102 (1) When a Contract Officer, etc. finds that a person falls within the provisions of Article 71 in relation to a contract handled by the Contract Officer, etc., the Contract Officer, etc. must report this to the relevant Heads of Ministries and Agencies by submitting a document that specifies or records the details of that fact, in accordance with what is set forth by the Minister of Finance.

2 各省各庁の長は、前項の報告を受けた場合において、その報告に係る者が第七十一条の規定に該当すると認めたときは、その事実を記載し、又は記録した書面を財務大臣に送付しなければならない。

(2) If the Heads of Ministries and Agencies receive a report prescribed in the preceding paragraph and find that the person specified in such report falls under the provisions of Article 71, the Heads of Ministries and Agencies must submit a document specifying or recording that fact to the Minister of Finance.

3 財務大臣は、前項の書面の送付を受けたときは、これを取りまとめて関係の各省各庁の長に送付するものとする。

(3) If the Minister of Finance receives a document prescribed in the preceding paragraph, the Minister of Finance is to complete the document and submit it to the relevant Heads of Ministries and Agencies.

(長期継続契約ができるもの)

(Permitted Subject Matters for Long-Term Contracts)

第百二条の二 契約担当官等は、会計法第二十九条の十二の規定により、翌年度以降に

わたり、次に掲げる電気、ガス若しくは水又は電気通信役務について、その供給又は提供を受ける契約を締結することができる。

Article 102-2 A Contract Officer, etc. may conclude a contract to be provided or supplied with the following electricity, gas, water, or electronic communications services over the following fiscal year and beyond, pursuant to the provisions prescribed in Article 29-12 of the Public Accounting Act:

- 一 電気事業法第二条第一項第十七号に規定する電気事業者が供給する電気
(i) electricity supplied by an electricity utility prescribed in Article 2, paragraph (1), item (vii) of the Electricity Business Act;
- 二 ガス事業法第二条第十二項に規定するガス事業者が供給するガス
(ii) gas supplied by a gas supplier prescribed in Article 2, paragraph (12) of the Gas Business Act;
- 三 水道法第三条第五項に規定する水道事業者又は工業用水道事業法第二条第五項に規定する工業用水道事業者が供給する水
(iii) water supplied by a water utility prescribed in Article 3, paragraph (5) of the Water Supply Act or by an industrial water utility prescribed in Article 2, paragraph (5) of the Industrial Water Supply Business Act;
- 四 電気通信事業法（昭和五十九年法律第八十六号）第二条第五号に規定する電気通信事業者が提供する電気通信役務（財務大臣の定めるものを除く。）
(iv) telecommunications services (except services determined by the Minister of Finance) provided by a telecommunications carrier prescribed in Article 2, item (v) of the Telecommunications Business Act (Act No. 86 of 1984).

（競争参加者の資格等を定めようとする場合の財務大臣への協議）

(Discussions with the Minister of Finance in Seeking to Determine the Eligibility, etc. of Tender Participants)

第百二条の三 各省各庁の長は、第七十二条第一項の一般競争に参加する者に必要な資格、第八十五条の基準若しくは第九十五条第一項の指名競争に参加する者に必要な資格を定めようとするとき、又は同条第四項の規定による定めをしようとするときは、あらかじめ、財務大臣に協議しなければならない。この場合において、その定めようとする事項が競争に参加する者に必要な資格であるときは、当該協議は、その資格の基本となるべき事項についてあれば足りる。

Article 102-3 When the Heads of Ministries and Agencies seek to determine the eligibility required of persons participating in Open Tenders as referred to in Article 72, paragraph (1), the standards referred to in Article 85, or the eligibility required of persons participating in selective tenders as set forth in Article 95, paragraph (1), or to reach a determination pursuant to the provisions prescribed in paragraph (4) of the same Article, the relevant Heads of Ministries or Agencies must hold discussions with the Minister of Finance in advance. When this is the case, if the matter to be determined is the eligibility required of persons participating in tenders, it suffices that discussions be held

with regard to the particulars that are fundamental to that eligibility.

(指名競争に付し又は随意契約によろうとする場合の財務大臣への協議)

(Discussions with the Minister of Finance in Seeking to Put a Contract Out to Selective Tender or to Have It Take the Form of a Discretionary Contract)

第百二条の四 各省各庁の長は、契約担当官等が指名競争に付し又は随意契約によろうとする場合においては、あらかじめ、財務大臣に協議しなければならない。ただし、次に掲げる場合は、この限りでない。

Article 102-4 If a Contract Officer, etc. seeks to put a contract out to selective tender or to have it take the form of a discretionary contract, the Head of the Ministry or Agency must hold discussions with the Minister of Finance in advance of the Contract Officer, etc. doing so; provided, however, that this does not apply in the following cases:

一 契約の性質又は目的により競争に加わるべき者が少数で一般競争に付する必要がある場合において、指名競争に付そうとするとき。

(i) when an Open Tender is not necessary due to the small number of people who would participate in the tender due to the nature or purpose of the contract, and the Contract Officer, etc. seeks to put the contract out to selective tender;

二 一般競争に付することを不利と認めて指名競争に付そうする場合において、その不利と認める理由が次のイからハまでの一に該当するとき。

(ii) if it has been determined to be disadvantageous to put a contract out to Open Tender and the Contract Officer, etc. seeks to put the contract out to selective tender, and the reason for determining Open Tender to be disadvantageous falls under one of the sub-items from (a) to (c), below:

イ 関係業者が通謀して一般競争の公正な執行を妨げることとなるおそれがあること。

(a) it is likely that parties involved will collude to prevent the fair execution of an Open Tender;

ロ 特殊の構造の建築物等の工事若しくは製造又は特殊の品質の物件等の買入れであつて検査が著しく困難であること。

(b) the contract is for the construction or manufacture of a building, etc. with a particular structure or for the purchase of an object of a particular quality, and it is extremely difficult to inspect it; or

ハ 契約上の義務違反があるときは国の事業に著しく支障をきたすおそれがあること。

(c) it is likely that an undertaking by the national government will be greatly hindered in the event of a breach of contract;

三 契約の性質若しくは目的が競争を許さない場合又は緊急の必要により競争に付することができない場合において、随意契約によろうとするとき。

(iii) when the nature or purpose of the contract does not permit a tender or a

contract cannot be put out to tender due to an urgent situation, and the Contract Officer, etc. seeks to have the contract take the form of a discretionary contract;

四 競争に付することを不利と認めて随意契約によろうとする場合において、その不利と認める理由が次のイからニまでの一に該当するとき。

(iv) if it has been determined that it is disadvantageous to put the contract out to tender and the Contract Officer, etc. seeks to have the contract take the form of a discretionary contract, and the reason for determining tender to be disadvantageous falls under one of the sub-items from (a) to (d), below:

イ 現に契約履行中の工事、製造又は物品の買入に直接関連する契約を現に履行中の契約者以外の者に履行させることが不利であること。

(a) it is disadvantageous to have a person other than the party to a contract that is currently being performed perform a contract directly related to the construction, manufacture, or purchase of objects under the contract currently being performed;

ロ 随意契約によるときは、時価に比べて著しく有利な価格をもつて契約をすることができる見込みがあること。

(b) it is anticipated that having the contract take the form of a discretionary contract will make it possible to contract at a greatly advantageous price in comparison to the market price;

ハ 買入を必要とする物品が多量であつて、分割して買入れなければ売惜しみその他の理由により価格を騰貴させるおそれがあること。

(c) a large volume of objects is required and it is likely that the price will rise due to speculative stocking if the required objects are not purchased separately; or

ニ 急速に契約をしなければ、契約をする機会を失い、又は著しく不利な価格をもつて契約をしなければならないこととなるおそれがあること。

(d) it is likely that the opportunity to form a contract will be lost or that it will become necessary to form a contract at a greatly disadvantageous price if it is not done quickly;

五 第九十四条第一項各号に掲げる場合において、指名競争に付そうとするとき。

(v) when the Contract Officer, etc. seeks to put the contract out to selective tender pursuant to any of the items of Article 94, paragraph (1);

六 第九十四条第二項の規定により、随意契約によることができる場合において、指名競争に付そうとするとき。

(vi) when the contract may take the form of a discretionary contract pursuant to the provisions of Article 94, paragraph (2), and the Contract Officer, etc. seeks to put the contract out to selective tender;

七 第九十九条第一号から第十八号まで、第九十九条の二又は第九十九条の三の規定により随意契約によろうとするとき。

(vii) when the Contract Officer, etc. seeks to have the contract take the form of

a discretionary contract pursuant to the provisions of Article 99, items (i) through (xviii), Article 99-2, or Article 99-3.

(各省各庁の組織相互間の契約に準ずる行為)

(Acts Equivalent to Contracts between Ministry and Agency Organizations)

第百二条の五 各省各庁の組織相互の間において行なう契約に準ずる行為については、契約の例により取り扱うものとする。ただし、次に掲げる行為は、行なわないことができる。

Article 102-5 Acts equivalent to the formation of a contract between ministry and agency organizations are treated as contracts; provided, however, that the following actions need not be taken:

一 第七十二条第二項（第九十五条第二項において準用する場合を含む。）の規定による競争に参加する者に必要な資格の審査

(i) assessment of the eligibility required of persons participating in tenders pursuant to the provisions of Article 72, paragraph (2) (including when applied mutatis mutandis to Article 95, paragraph (2));

二 入札保証金又は契約保証金の納付

(ii) payment of Bid Deposits or Contract Guarantees;

三 契約書の作成

(iii) the drawing up of contracts;

四 競争に付すること。

(iv) putting the contract out to tender.