

ARTICLE XI - AWARD, IMPLEMENTATION AND TERMINATION OF THE CONTRACT

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SEC. 37. Notice and Execution of Award. - Within a period not exceeding fifteen (15) calendar days from the determination and declaration by the BAC of the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid, and the recommendation of the award, the Head of the Procuring Entity or his duly authorized representative shall approve or disapprove the said recommendation. In case of approval, the Head of the Procuring Entity or his duly authorized representative shall immediately issue the Notice of Award to the bidder with the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.

Within ten (10) calendar days from receipt of the Notice of Award, the winning bidder shall formally enter into contract with the Procuring Entity. When further approval of higher authority is required, the approving authority for the contract shall be given a maximum of twenty (20) calendar days to approve or disapprove it.

In the case of government-owned and/or -controlled corporations, the concerned board shall take action on the said recommendation within thirty (30) calendar days from receipt thereof.

The Procuring Entity shall issue the Notice to Proceed to the winning bidder not later than seven (7) calendar days from the date of approval of the contract by the appropriate authority. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the contractor.

SEC. 38. Period of Action on Procurement Activities. - The procurement process from the opening of bids up to the award of contract shall not exceed three (3) months, or a shorter period to be determined by the procuring entity concerned. Without prejudice to the provisions of the preceding section, the different procurement activities shall be completed within reasonable periods to be specified in the IRR. If no action on the contract is taken by the head of the procuring entity, or by his duly authorized representative, or by the concerned board, in the case of government- owned and/or - controlled corporations, within the periods specified in the preceding paragraph, the contract concerned shall be deemed approved.

SEC. 39. Performance Security. - Prior to the signing of the contract, the winning bidder shall, as a measure of guarantee for the faithful performance of and compliance with his obligations under the contract prepared in accordance with the Bidding Documents, be required to post a performance security in such form and amount as specified in the Bidding Documents.

SEC. 40. Failure to Enter into Contract and Post Performance Security. - If, for justifiable causes, the bidder with the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid fails, refuses or is otherwise unable to enter into contract with the Procuring Entity, or if the bidder fails to post the required performance security within the period stipulated in the Bidding Documents, the BAC shall disqualify the said bidder and shall undertake post-qualification for the next-ranked Lowest Calculated Bid or Highest Rated Bid. This procedure shall be repeated until an award is made. However, if no award is possible, the contract shall be subjected to a new bidding.

In the case of a failure to post the required performance security, the bid security shall be forfeited without prejudice to the imposition of sanctions prescribed under Article XXIII.

SEC. 41. Reservation Clause. - The Head of the Agency reserves the right to reject any and all Bids, declare a failure of bidding, or not award the contract in the following situations:

SEC. 42. Contract Implementation and Termination. - The rules and guidelines for the implementation and termination of contracts awarded pursuant to the provisions of this Act shall be prescribed in the IRR. The rules and guidelines shall include standard general and special conditions for contracts.