

ARTICLE XXI - PENAL CLAUSE

[Section 65 - Offenses and Penalties](#)

[Section 66 - Jurisdiction](#)

SEC. 65. Offenses and Penalties.

A. Without prejudice

A1. Open any sealed Bid

A2. Delaying

A3. Unduly influencing

A4. Splitting of contracts

A5. head of the agency

When any of the foregoing acts is done in collusion with private individuals, the private individuals shall likewise be liable for the offense.

In addition, the public officer involved shall also suffer the penalty of temporary disqualification from public office, while the private individual shall be permanently disqualified from transacting business with the Government.

B. Private individuals

B1. When two or more bidders agree

B2. When a bidder maliciously

B3. When two or more bidders enter into an agreement

B4. connivance with others

In addition, the persons involved shall also suffer the penalty of temporary or perpetual disqualification from public office and be permanently disqualified from transacting business with the Government.

C. Private individuals who commit any of the following acts

C1. Submit eligibility requirements

C2. Submit Bidding Documents

C3. Participate in a public bidding

C4. Withdraw a Bid

D. When the bidder is a juridical entity

(a) Without prejudice to the provisions of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act" and other penal laws, public officers who commit any of the following acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years:

(1) Open any sealed Bid including but not limited to Bids that may have been submitted through the electronic system and any and all documents required to be sealed or divulging their contents, prior to the appointed time for the public opening of Bids or other documents.

(2) Delaying, without justifiable cause, the screening for eligibility, opening of bids, evaluation and post evaluation of bids, and awarding of contracts beyond the prescribed periods of action provided for in the IRR.

(3) Unduly influencing or exerting undue pressure on any member of the BAC or any officer or employee of the procuring entity to take a particular action which favors, or tends to favor a particular bidder.

(4) Splitting of contracts which exceed procedural purchase limits and competitive bidding.

(5) When the head of the agency abuses the exercise of his power to reject any and all bids as mentioned under Section 41 of this Act with manifest preference to any bidder who is closely related to him in accordance with Section 47 of this Act.

(b) Private individuals who commit any of the following acts, including any public officer, who conspires with them, shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years:

(1) When two or more bidders agree and submit different Bids as if they were bona fide, when they knew that one or more of them was so much higher than the other that it could not be honestly accepted and that the contract will surely be awarded to the pre-arranged lowest Bid.

(2) When a bidder maliciously submits different Bids through two or more persons, corporations, partnerships or any other business entity in which he has interest to create the appearance of competition that does not in fact exist so as to be adjudged as the winning bidder.

(3) When two or more bidders enter into an agreement which call upon one to refrain from bidding for Procurement contracts, or which call for withdrawal of Bids already submitted, or which are otherwise intended to secure an undue advantage to any one of them.

(4) When a bidder, by himself or in connivance with others, employ schemes which tend to restrain the natural rivalry of the parties or operates to stifle or suppress competition and thus produce a result disadvantageous to the public.

(c) Private individuals who commit any of the following acts, and any public officer conspiring with them, shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years:

(1) Submit eligibility requirements of whatever kind and nature that contain false information or falsified documents calculated to influence the outcome of the eligibility screening process or conceal such information in the eligibility requirements when the information will lead to a declaration of ineligibility from participating in public bidding.

(2) Submit Bidding Documents of whatever kind and nature that contain false information or falsified documents or conceal such information in the Bidding Documents, in order to influence the outcome of the public bidding.

(3) Participate in a public bidding using the name of another or allow another to use one's name for the purpose of participating in a public bidding.

(4) Withdraw a Bid, after it shall have qualified as the Lowest Calculated Bid/Highest Rated Bid, or refuse to accept an award, without just cause or for the purpose of forcing the Procuring Entity to award the contract to another bidder. This shall include the non-submission within the prescribed time, or delaying the submission of requirements such as, but not limited to, performance security, preparatory to the final award of the contract.

(d) When the bidder is a juridical entity, criminal liability and the accessory penalties shall be imposed on its directors, officers or employees who actually commit any of the foregoing acts.