In accordance with Article IX:4 of the Agreement on Government Procurement, the Committee on Government Procurement agreed at its first meeting on 15 January 1981 to invite the Parties to submit as soon as possible the complete texts of their national laws, regulations and procedures on government procurement to the secretariat where the texts would be open for inspection. In addition, the basic documents relating to the implementation of the Agreement should be submitted for information in a GATT language and would be circulated to the Committee.

With reference to these procedures, the delegation of Japan hereby submits the following basic documents (provisional English translation)* relating to the implementation in Japan of the Agreement on Government Procurement:

Cabinet Order stipulating special procedures for government procurement of goods (Cabinet Order No. 300, 1980)

Ministerial Ordinance stipulating special procedures for government procurement of goods (Ministry of Finance Ordinance No. 45, 1980)

Extracts of Laws and Regulations relevant to the Cabinet Order stipulating special procedures for government procurement of goods (Cabinet Order No. 300, 1980).

*English only
Cabinet Order No. 300

Cabinet Order stipulating special procedures for Government procurement of goods

The Cabinet hereby establishes this Cabinet Order under the provisions of paragraphs 2 to 5 of Article 29-3 and Article 50 of the Accounts Law (Law No. 35, 1947).

(Purpose)

Article I

This Order, for implementation of the Agreement on Government Procurement (hereinafter referred to as the "Agreement"), provides for special procedures and necessary matters regarding contracts to which the Agreement applies concluded by Governmental entities, additional to the Cabinet Order concerning the Budget, Auditing and Accounting (Imperial Edict No. 165, 1947, hereinafter referred to as the "Cabinet Order") and the Special Provisions for the Cabinet Order concerning the Budget, Auditing and Accounting (Imperial Edict No. 558, 1946, hereinafter referred to as the "Special Provisions").
(Scope and Coverage)

Article II

1. This Order shall govern procedures for the awarding of contracts for the procurement of movable property (from "movable property", hereinafter referred to as "Products", are excluded cash and securities; "procurement" includes both the purchasing of Products available in the market and the obtaining of Products by commissioning their manufacture [except for the commissioning of the manufacture of Products when the manufacturer uses the Government entity's own materials, such an arrangement not being covered in this Order]; such a contract to be referred to hereinafter as a "Contract for Procurement"), where the value of the services related to the supplying of a Product does not exceed the value of the Product itself, and where the provisional value of the Contract for Procurement is equal to, or exceeds, the value set by the Minister of Finance. This Order, however, shall not apply to the following types of Contract for Procurement:

   i) Contracts for Procurement of Products for resale (which includes the transfer of the Product(s) after processing or repairing the Product(s)) or for use in the production of goods for sale;

2. Where, in accordance with the proviso of paragraph 1 of Article 80 of the Cabinet Order, only the unit price is stated in a particular Contract for Procurement, the provisional value referred to in paragraph 1 of this Article shall be the value obtained by multiplying the unit price by the quantity stated in the Contract for Procurement. Where an individual requirement related to the procurement of a Product or of Products of the same type results in the award of more than one contract or in the case of contracts of a recurring nature (both hereinafter referred to as "Recurring Contracts for Procurement"), the provisional value shall be the amount of the value of all Products to be procured under the relevant Recurring Contracts for Procurement.

(Publication of notice of conditions for participation in tendering procedures, etc.)

**Article III**

1. The Head of each Ministry or Agency (mentioned in paragraph 2 of Article 20 of the Finance Law (Law No. 34, 1947), hereinafter referred to as the "Head") or an administrative official authorized by the Head (hereinafter referred to as the "Administrative Official") shall for each fiscal year publish in the Kanpō the notice specified in paragraph 4 of Article 72 of the Cabinet Order when it is foreseen that a Contract(s)
for Procurement to which this Order applies (hereinafter referred to as a "Special Contract for Procurement") will be concluded.

2. When it is foreseen that Special Contracts for Procurement will be concluded and qualifications for participation in Selective Tendering Procedures stipulated in accordance with the provision of paragraph 1 of Article 95 of the Cabinet Order, the Head or Administrative Official shall for each fiscal year publish in the Kanpō a notice containing all the essential details of such qualifications, and both the time and method, etc., for the submitting of the request provided for in paragraph 2 of Article 72 of the Cabinet Order, which is applicable mutatis mutandis to the provision of paragraph 2 of Article 95 of the Cabinet Order.

3. The provision of paragraph 4 of Article 95 of the Cabinet Order shall not be applicable to a Special Contract for Procurement.

(Publication of notice concerning proposed purchases by means of Open Tendering Procedures)

Article IV

1. Where the Official in Charge defined in paragraph 1 of Article 29-3 of the Accounts Law (hereinafter referred to as the "Law");
hereinafter referred to as the "Official in Charge") decides that a Special Contract for Procurement shall be subject to the Open Tendering Procedures under the said paragraph (hereinafter referred to as "Open Tendering Procedures"), "ten days" and "Kanpō or newspapers or by notice on board or other methods" of Article 74 of the Cabinet Order shall read respectively "thirty days (ten days for all contracts in a series of Recurring Contracts for Procurement other than the first)" and "Kanpō".

2. The provisions of Article 92 of the Cabinet Order shall not apply to a Special Contract for Procurement.

(Information to be included in a notice of Open Tendering Procedures)

Article V

The notice provided for in Article 74 of the Cabinet Order, as read in accordance with paragraph 1 of Article IV of this Order, shall include, in addition to the information prescribed in the provisions of each of the sub-paragraphs of Article 75 and Article 76 of the Cabinet Order, the following information:

i) the nature and quantity of the Product(s) to be purchased under all remaining contracts in the series of Recurring Contracts for Procurement;
ii) information regarding the providing of the tender documentation provided for in Article IX of this Order;

iii) method of awarding of contracts provided for in Article 29-6 of the Law.

(Publication of notice concerning proposed purchases by means of Selective Tendering Procedures)

Article VI

1. Where Selective Tendering Procedures are adopted for a Special Contract for Procurement, the Official in Charge shall, as in cases covered by the provisions of Article 74 of the Cabinet Order, as read in accordance with the provisions of paragraph 1 of Article IV of this Order, publish a notice of the proposed purchase.

2. The notice provided for in the previous paragraph shall contain, in addition to the information to be given in the case of Open Tendering Procedures in accordance with the previous Article, all qualifications based on the criteria stipulated in paragraph 1 of Article 96 of the Cabinet Order for eligibility to be invited to participate in Selective Tendering (referred to as "Eligibility for Invitation" in paragraph 2 of the next Article).

3. The date of issuance of the invitations referred to in paragraph 2 of Article 97 of the Cabinet Order shall
be the date of the publication of the notice referred to in paragraph 1 of this Article.

(Procedures regarding suppliers wishing to participate in a proposed purchase in response to publication of a notice of proposed purchase by means of either Open Tendering Procedures or Selective Tendering Procedures)

Article VII

1. Where an Official in Charge decides that a Special Contract for Procurement relating to a proposed purchase shall be subject to Open Tendering Procedures or Selective Tendering Procedures and publishes a notice concerning the proposed purchase in accordance with the provisions of Article 74 of the Cabinet Order, as read in accordance with paragraph 1 of Article IV of this Order, or in accordance with the provisions of paragraph 1 of Article VI, whichever applies, if, in response to the publication of the said notice, a supplier who wishes to participate in the tendering submits an request under paragraph 2 of Article 72 of the Cabinet Order, including the case where the said paragraph is applicable mutatis mutandis to paragraph 2 of Article 95 of the Cabinet Order, (referred to as "Application for Qualification for Participation in Open Tendering or Selective Tendering Procedures" in paragraph 3 of this Article), the Head or Administrative Official shall promptly begin the qualification procedures to verify whether that supplier possesses the qualifications stipulated in paragraph 1 of Article 72 or paragraph 1 of Article 95, whichever applies.
2. Where Selective Tendering Procedures are adopted for a Special Contract for Procurement, the Official in Charge shall invite suppliers from among those who have, after verification pursuant to the provision of paragraph 1 of this Article, been deemed to satisfy the qualifications provided for in paragraph 1 of Article 95 of the Cabinet Order and found eligible in the light of the conditions for Eligibility for Invitation and shall inform those suppliers found eligible of the matters stipulated in paragraph 2 of Article 97 of the Cabinet Order.

3. The Official in Charge shall conditionally accept tenders submitted by suppliers making Application for Qualification for Participation in Open Tendering or Selective Tendering Procedures in connection with a Special Contract for Procurement before completion of the qualification procedures in accordance with the provisions of paragraph 1 of this Article; the condition being that only the bids of suppliers who have, by the time of the opening of tenders, been found to possess the qualifications for participating in the tendering procedures stipulated in sub-paragraph ii) of Article 75 of the Cabinet Order, where Open Tendering Procedures are to be adopted for the proposed purchase, or of suppliers who have been found to be qualified to be invited to participate in the proposed purchase, in accordance with the provision of paragraph 2 of this Article, where Selective Tendering Procedures are adopted, will be considered.
(Submission of tenders by mail)

Article VIII

The Official in Charge shall accept tenders relating to a Special Contract for Procurement submitted by mail.

(Tender documentation)

Article IX

Where either Open Tendering Procedures or Selective Tendering Procedures are adopted for a Special Contract for Procurement, the Official in Charge shall, at the request of any supplier wishing to participate in the procedures, send an explanatory document containing the information enumerated in the Ministry of Finance Ordinance relevant to such proposed purchases.

(Use of Single Tendering Procedures)

Article X

With regard to a Special Contract for Procurement, Single Tendering Procedures pursuant to the provision of paragraph 5 of Article 29-3 of the Law shall be used only in the cases provided for in sub-paragraphs i) and xviii) of Article 99, in Article 99-2 and Article 99-3 of the Cabinet Order and in Article 4-3 of the Special Provisions.
Article XI

1. The Head shall, except in the cases stipulated hereunder, consult with the Minister of Finance before deciding that Single Tendering Procedures are to be adopted by the Official in Charge for a Special Contract for Procurement. The exceptions shall be:

   i) when, in the case of works of art or for reasons connected with the protection of exclusive rights, such as patents, etc., the Product can be supplied only by a particular supplier and no alternative or substitute exists;

   ii) when the Product is to be procured from the original supplier of the Procured Product as replacement parts for a Product already procured (referred to as "Procured Product" in this sub-paragraph) or to be used in conjunction with a Procured Product other than as replacement parts, and a change of supplier would involve serious difficulty in the use of the Procured Product;

   iii) where a prototype or a first Product as defined in the Agreement is to be procured
for development under the terms of a contract 
relating to experiment or study concluded 
by the Government;

iv) insofar as is strictly necessary, when, for 
reasons of extreme urgency, the Product cannot 
be obtained in time by means of Open Tendering 
Procedures or Selective Tendering Procedures;

v) where Single Tendering Procedures are adopted 
in accordance with the provisions of Article X.

2. The provisions of paragraph 4 of Article 102 of 
the Cabinet Order shall not apply to a Special Contract 
for Procurement.

(Readings of the Special Provisions)

Article XII

Where the tendering procedures provided for in 
paragraph 1 of Article 4-2 of the Special Provisions 
are, in accordance with the said Article 4-2, to be 
adopted for a Special Contract for Procurement, "the 
notice concerning the tendering procedures" and "the information enumerated in each of the sub-paragraphs of Article 75 of the Cabinet Order" of Article 4-4 of the Special Provisions shall read respectively "the notice stipulated in paragraph 1 of Article VI of the Cabinet Order stipulating special procedures for Government procurement of goods
(hereunder referred to as the "Special Cabinet Order")" and "any matters which shall be included in accordance with the provisions of Article V or paragraph 2 of Article VI of the Special Cabinet Order".

(Authority of the Minister of Finance)

Article XIII

The Minister of Finance shall decide any matters necessary in addition to those provided for in this Order concerning Special Contracts for Procurement.

Supplementary Provisions

1. This Order shall enter into force on 1 January, 1981, the date of the Agreement’s entry into force for Japan.

2. This Order shall not apply to a contract which is concluded after the date of entry into force of this Order but based on a notice or other invitation to make application regarding the award of a contract issued before that date.

3. Where a fiscal 1980 list of suppliers qualified for Open Tendering Procedures or for Selective Tendering Procedures (in cases where the provision of paragraph 3 of Article 72 of the Cabinet Order is applicable mutatis mutandis to paragraph 2 of Article 95 of the Cabinet Order) drawn up in accordance with paragraph 3 of Article
72 of the Cabinet Order is maintained at the date of the entry into force of this Order, the notice stipulated in Article III of this Order shall not be required for fiscal 1980.
Ministry of Finance Ordinance (No. 45)

November 18, 1980

As Minister of Finance, I hereby establish this Ministerial Ordinance stipulating special procedures for Government procurement of goods in accordance with the provisions of Articles IX and XIII of the Cabinet Order stipulating special procedures for Government procurement of goods (Cabinet Order No. 300, 1980).

Michio Watanabe
Minister of Finance

Ministerial Ordinance stipulating special procedures for Government procurement of goods

(Scope and Coverage)

Article I
This Ministerial Ordinance shall govern procedures for the awarding of those Contracts for Procurement, as defined in paragraph 1 of Article II of the Cabinet Order stipulating special procedures for Government procurement of goods (hereinafter referred to as the "Special Cabinet Order"), to which the Special Cabinet Order applies.
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(Definitions)

**Article II**

In this Order:

i) "Head of each Ministry or Agency" means the Head of each Ministry or Agency mentioned in paragraph 2 of Article 20 of the Finance Law (Law No. 34, 1947);

ii) "Official in charge" means the Official in Charge as defined in paragraph 1 of Article 29-3 of the Accounts Law (Law No. 35, 1947);

iii) "Open Tendering Procedures" means the Open Tendering Procedures provided for in paragraph 1 of Article 29-3 of the Accounts Law;

iv) "Products" means the Products defined in paragraph 1 of Article II of the Special Cabinet Order;

v) "Special Contract for Procurement" means the Special Contract for Procurement defined in paragraph 1 of Article III of the Special Cabinet Order.

(Information to be included in the notice of conditions for participation in tendering procedures)

**Article III**

The Head of each Ministry or Agency or an administrative
official authorized by the Head shall include the following information in the notice provided for in paragraph 1 or paragraph 2 of Article III of the Special Cabinet Order:

i) categories of Products to be procured;

ii) the periods of the validity of the qualification provided for in paragraph 1 of Article 72 and paragraph 1 of Article 95 of the Cabinet Order concerning the Budget, Auditing and Accounting (Imperial Edict No. 165, 1947; referred to as the "Cabinet Order" in the next Article) and the formalities for renewal of the list of qualified suppliers.

(Information to be included in a notice of Open Tendering Procedures or Selective Tendering Procedures)

Article IV

In the notice provided for in the provisions of Article 74 of the Cabinet Order, as read in accordance with the provisions of paragraph 1 of Article IV of the Special Cabinet Order, or in the notice provided for in paragraph 1 of Article VI of the Special Cabinet Order, the Official in Charge shall give the name of the Official in Charge, the department to which he belongs and the language which tenderers shall use in tendering procedures. The following information shall be published in English or French or Spanish:

i) the nature and quantity of the Products to be procured;
(Notification to suppliers wishing to participate in a proposed purchase in response to a published notice of proposed purchase by means of either Open Tendering Procedures or Selective Tendering Procedures)

**Article V**

The Head of each Ministry or Agency or an administrative official authorized by the Head shall, where there is a request from a supplier to verify his qualifications for participation in Open Tendering Procedures or Selective Tendering Procedures, as provided for in paragraph 1 of Article VII of the Special Cabinet Order, and it is foreseen that the qualification procedures will not be completed before the date of opening of tenders, inform that supplier of this fact.

(Information to be included in tender documentation)

**Article VI**

The following information shall be included in accordance with the provisions of Article IX of the Special Cabinet Order:

i) information to be included in a notice of proposed purchase issued in accordance with the provisions of Article V or of paragraph 2 of Article VI of the Special Cabinet Order, excluding
the information required by sub-paragraph ii) of Article V of the Special Cabinet Order;

ii) specifications and other details of the Products to be procured;

iii) matters relating to the persons to be present at the opening of tenders;

iv) the name of the Official in Charge and the department to which he belongs;

v) the language which tenderers shall use in tendering procedures;

vi) other necessary matters.

(Information concerning a contract awarded)

Article VII

Where Open Tendering Procedures or Selective Tendering Procedures are adopted for a Special Contract for Procurement and a contract is awarded, the Official in Charge shall, not later than seven days after the date of the award of the contract, inform the unsuccessful tenderers in writing that a contract has been awarded. The Official in Charge shall, upon request by an unsuccessful tenderer, also inform that tenderer of the reason(s) why his tender was not selected (or the reason(s) why the tender was regarded as invalid, where applicable) and of the name of the successful tenderer.
Article VIII
When Open Tendering Procedures or Selective Tendering Procedures are adopted for a Special Contract for Procurement and a contract is awarded, the Official in Charge shall compile and keep a record of the following:

i) names of tenderers and the persons present at the opening of tenders;

ii) the price offered by a tenderer;

iii) name of the successful tenderer, contract price and the reason for the selection of the successful tenderer;

iv) contents of invalid tenders and the reason(s) why those tenders were deemed to be invalid;

v) information relating to the notification issued in accordance with the provisions of Article V. of this Ordinance;

vi) other necessary matters.

Article IX
Where Single Tendering Procedures are adopted for a Special Contract for Procurement and a contract is concluded, the Official in Charge shall compile and keep
a record of the information relating to that contract and the reason why Single Tendering Procedures were adopted in that case.

(Receiving and studying of complaints)

Article X
The Head of each Ministry or Agency or an administrative official authorized by the Head shall designate an official charged with receiving and studying complaints made by unsuccessful tenderers and other complaints relating to the Special Contract for Procurement.

(Statistics relating to Special Contracts for Procurement)

Article XI
The Head of each Ministry or Agency shall compile statistics relating to Special Contracts for Procurement in accordance with the classification system established by the Minister of Finance, and shall submit them to that Minister.

Supplementary Provisions
1. This Order shall enter into force on 1 January, 1981, the date of the Special Cabinet Order's entry into force.
2. The title of Article 4 and "paragraph 2 of Article 72", "Open Tendering Procedures" and "paragraph 1 of Article 72" of Article 4 of the Ministerial Ordinance stipulating the regulations concerning contract procedures
(Ministerial Ordinance No. 52, 1962) shall be amended as "(Notification of the results of verification procedures regarding qualification for participation)", "paragraph 2 of Article 72 (including the case where that provision is applied mutatis mutandis to paragraph 2 of Article 95 of the Cabinet Order)", "Open Tendering or Selective Tendering Procedures" and "paragraph 1 of Article 72 or paragraph 1 of Article 95 of the Cabinet Order" respectively.
Extracts of Laws and Regulations relevant to the Cabinet Order stipulating special procedures for Government procurement of goods (Cabinet Order No. 300, 1980)

A. The Accounts Law (Law No. 35, 1947)

**Article 29-3**

1. An official charged with concluding contracts or executing other matters under which a Governmental entity becomes indebted, or an official charged with concluding contracts other than those concluded by the former official (both officials hereinafter referred to as the "Official in Charge") shall, except as otherwise provided for in paragraphs 3 and 4 of this Article 29-3, whenever it is necessary to conclude a sales contract, a contract relating to lending or hiring, a contract for work or other contract, adopt Open Tendering Procedures, and shall publish a notice concerning the tendering procedures to be adopted.

2. The qualifications required for participation in the tendering procedures, the methods of the publication of the notice and other matters concerning the tendering procedures stipulated in paragraph 1 of this Article shall be provided for by Cabinet Order.

3. Selective Tendering Procedures shall, in accordance with the provisions stipulated by Cabinet Order, be adopted for procurement where, because of the nature or purpose of the contract concerned, it is
deemed unnecessary for the Governmental entity concerned to adopt the Open Tendering Procedures specified in paragraph 1 of this Article 29-3 for the reason that only a limited number of suppliers would participate in the tendering procedures, or where, because of the nature or purpose of the contract concerned, it is deemed disadvantageous.

4. Single Tendering Procedures shall be adopted for procurement, in accordance with the provisions stipulated by Cabinet Order, where the circumstances do not allow the Governmental entity concerned to adopt Open or Selective Tendering Procedures for a contract for procurement because of the nature or purpose of the contract concerned, or when Open or Selective Tendering Procedures cannot be adopted for the procurement by reason of extreme urgency, or where it is deemed that adopting Open or Selective Tendering Procedures for the contract for procurement would be disadvantageous for the entity concerned.

5. Notwithstanding the provisions of paragraphs 1 and 3 of this Article 29-3, Selective or Single Tendering Procedures may be adopted, in accordance with the provisions of Cabinet Order, where the provisional value of a contract will be small or in the cases specified by Cabinet Order.
Article 29-6

1. In tendering procedures, the Official in Charge shall, in accordance with the provisions of the relevant Cabinet Order(s), award the contract to the supplier submitting the tender offering the lowest or highest price, depending on the objective of contract, within the limits of the provisional value of the contract. When the Official in Charge concludes contracts under which the Governmental entity will become indebted and which are specified by Cabinet Order, the Official in Charge may, in accordance with the provisions of the relevant Cabinet Order, award a contract not to the supplier whose tender is the lowest but to the supplier submitting the tender with the second-lowest price, within the limits of the provisional value, when the Official in Charge deems that the terms of the contract cannot be performed adequately by the former supplier because his tender price is too low in the light of the nature of the contract, or when the Official in Charge deems that it is totally inappropriate to award the contract to that supplier because to do so would not be in the interests of fair and orderly trade.

2. Regarding contracts in which Government property is to be exchanged for that of another person and other contracts
which it is deemed to be difficult to award in accordance with the provisions of paragraph 1 of this Article because of the nature or objective of the contracts, the Official in Charge may, in accordance with Cabinet Order(s), notwithstanding the provision of the previous paragraph, award the contract to the supplier submitting the most advantageous tender in respect of price and other factors (the second most advantageous tender, where the circumstances described in the proviso to the previous paragraph of this Article 29-6 exist).

**Article 50**

Any matters necessary for implementing this Law shall be provided for by Cabinet Order.
B. Cabinet Order concerning the Budget, Auditing, and Accounting (Imperial Edict No. 165, 1947)

(Qualifications for participation in Open Tendering Procedures are to be stipulated by the Head of each Ministry or Agency)

**Article 72**

1. The Head of each Ministry or Agency or an administrative official authorized by the Head referred to as the "Head or Administrative Official" in these Extracts may, where necessary, determine the qualifications required for participation in Open Tendering Procedures, that is, past business performance in construction, production or sales, etc., number of employees, capital authorized, and other matters relating to the scale and state of an organization's operations, in accordance with the nature of the contract for construction, production or purchase of products concerned and with the value of the contract.

2. When the qualifications are determined in accordance with paragraph 1 of this Article, the Head or Administrative Official shall, periodically or as necessary, in accordance with the regulations established by the Head or Administrative Official, verify whether suppliers who have requested such verification possess the relevant qualifications.
3. The Head or Administrative Official shall maintain a list of suppliers who possess the qualifications stipulated in paragraph 1 of this Article.

4. When the Head or Administrative Official has determined the qualifications required in accordance with paragraph 1 of this Article, the Head or Administrative Official shall make public the essential details of the qualifications and both the time and method, etc., for submitting the request provided for in paragraph 2 of this Article.

(Publication of notice concerning proposed purchases by means of Open Tendering Procedures)

Article 74

Where the Official in Charge decides that a contract for procurement shall be awarded by means of Open Tendering Procedures, the Official in Charge shall issue a public notice of a contract for procurement in the Kanpō or newspapers or by notice on board or other method(s) not less than ten days before the day preceding the date for submitting tenders. This period may be reduced to five days in cases of emergency.
(Information to be included in a notice of Open Tendering Procedures)

**Article 75**

The public notice provided for in Article 74 of this Order shall include the following information:

i) matters to be covered in the tender (nature, quantity, specifications and date of delivery of the Products to be procured, etc.);

ii) qualifications required for participating in the tendering procedures;

iii) place for displaying or providing information regarding the proposed purchase;

iv) dates and place(s) for submission of tenders and opening of tenders;

v) financial guarantees for participation in tendering procedures provided for in paragraph 1 of Article 29-4 of the Accounts Law.

(Invalidity of tenders)

**Article 76**

The Official in Charge shall state in the notice provided for in Article 74 of this Order that a tender shall be deemed to be invalid where the tenderer does not possess the qualifications required for participating in the Open Tendering Procedures, or where the tender does not satisfy any other conditions stated in the said notice.
(Method for determining provisional value)

Article 30

1. The provisional value shall be the total cost of the contract to be awarded by means of Open Tendering Procedures. It may, however, be decided as a unit price, where contracts of a recurring nature for manufacture, repair, processing, purchase or sale, supply, hire, etc., are to be awarded in a fixed period.

2. The provisional value of the Products or services to be subject to Open Tendering Procedures shall be calculated appropriately, in the light of the cost of an actual similar transaction, the supply and demand situation, difficulty of performance, quantity, the period for performance, etc.

(Second-Tendering Procedures with Publishing of Notice)

Article 92

Where Second-Tendering Procedures with Publishing of Notice is adopted in cases where no tender was submitted or a contract was not concluded with the successful tenderer, the Official in Charge may reduce the period provided for in Article 74 of this Order to five days.
(Qualifications for participation in Selective Tendering procedures)

**Article 95**

1. The Head or Administrative Official shall decide the qualifications for participation in Selective Tendering Procedures with regard to the matters provided for in paragraph 1 of Article 72 of this Order, in accordance with the nature of the contract for construction, production or purchase of products concerned and with the value of the contract.

2. The provisions of paragraphs 2 and 3 of Article 72 of this Order shall apply *mutatis mutandis* to cases where the Head or Administrative Official, in accordance with the provisions of paragraph 1 of this Article, decides the qualifications required for participation in Selective Tendering Procedures.

3. When the Head or Administrative Official deems that the verification procedures and the maintaining of the list of qualified suppliers provided for in paragraphs 2 and 3 of Article 72, which are applicable *mutatis mutandis* to paragraph 2 of this Article, are not required because the qualifications provided for in paragraph 1 of this Article are the same as the qualifications determined in accordance with the provisions of paragraph 1 of Article 72, the Head
or Administrative Official need neither determine
the qualifications nor maintain a list of qualified
suppliers for Selective Tendering Procedures and
shall use the qualifications determined and the list
maintained in accordance with the provisions of
paragraphs 2 and 3 of Article 72.

4. The Head or Administrative Official may establish
qualifications and verification procedures different
from those provided for in paragraphs 1 and 2 of
this Article, and may dispense with the drawing up
of a list of qualified suppliers with regard to
Selective Tendering Procedures adopted by the Official
in Charge by whom the number of contracts to be
concluded is very small or where special circumstances exist.

(Eligibility to participate in Selective Tendering Procedures)

Article 96

1. The Head or Administrative Official shall stipulate
the criteria in accordance with which the Official in
Charge shall invite the suppliers participating in
Selective Tendering Procedures from among those who
have been found to possess the qualifications provided
for in Article 95.

2. (omitted)
(Information to be furnished to the suppliers participating in Selective Tendering Procedures)

Article 97

1. Where Selective Tendering Procedures are adopted, the Official in Charge shall, in accordance with the criteria provided for in paragraph 1 of Article 96, invite ten or more suppliers, where possible, from among those who have been found to possess the qualifications provided for in Article 95.

2. The Official in Charge shall, where the provision of paragraph 1 of this Article applies, furnish the information stipulated in each of sub-paragraphs i), iii), iv) and v) of Article 75 of this Order to those suppliers who are invited to participate in Selective Tendering Procedures.

(Application of Articles relating to Open Tendering Procedures to Selective Tendering Procedures)

Article 98

Articles 70 and 71 and Articles 76 through 91 of this Order shall apply mutatis mutandis to cases where Selective Tendering Procedures are adopted.

(Use of Single Tendering Procedures)

Article 99

Single Tendering Procedures in accordance with the provision of paragraph 5 of Article 29-3 of the Accounts Law shall be used only in the cases provided for hereunder:
i) where there is a need for secrecy in the national interest;

ii)-xv) (omitted)

xvi) where a Governmental entity will be purchasing or hiring products directly from prefectural, municipal or local governments, public corporations, public utility corporations and agricultural co-operatives, associations thereof, or relief organizations established for charity;

xvii) (omitted)

xviii) where a Governmental entity will be purchasing products directly from co-operatives composed mainly of small and medium enterprises or associations thereof in order to protect and foster them;

xix-xxiv) (omitted)

Article 99-2

The Official in Charge may, where no tenders are submitted in response to Open or Selective Tendering Procedures or where there is no successful tenderer in Re-tendering Procedures, adopt Single Tendering Procedures. In such cases, the Official in Charge shall not change the provisional value or other conditions
decided for the Tendering Procedures other than the financial guarantee for concluding contracts and the period for performance.

**Article 99-3**

The Official in Charge may, where the successful tenderer does not conclude a contract, adopt Single Tendering Procedures for a contract at a price no higher than the price offered by that successful tenderer. In this case, the Official in Charge shall not change any of the conditions decided for the Tendering Procedures other than the period for performance.
C. Special Provisions for the Cabinet Order concerning the Budget, Auditing and Accounting (Imperial Edict No. 558, 1946)

(Procurement of Products by means of Multiple Contract Awarding Procedures)

Article 4-2

Where Open Tendering Procedures in accordance with the provisions of paragraph 1 of Article 29-3 of the Accounts Law (hereinafter referred to as "Open Tendering Procedures") or Selective Tendering Procedures are adopted for the purchase of Products or for commissioning the manufacture of Products for the use of the Self Defense Forces as equipment or Products relating to their equipment, the Prime Minister may, for the time being, when a large quantity of the Products is required, utilize special procedures under which suppliers may submit bids for prices for the quantities they are capable of supplying less than the total quantity to be procured by the Defense Agency. and the Defense Agency may award, in sequential bid price order (Lowest bid, second lowest bid, etc.), contracts to suppliers whose bid prices for a unit do not exceed the provisional value for a unit until the quantity required is obtained.
(Information to be included in a notice of Multiple Contract Awarding Procedures)

Article 4-4

Where the Official in Charge adopts tendering procedures in accordance with the provisions of paragraph 1 of Article 4-2 of these Provisions, the notice concerning the tendering procedures shall include the following information: the information enumerated in each of the sub-paragraphs of Article 75 of the Cabinet Order, a statement to the effect that the tendering procedures are adopted in accordance with the provisions of paragraph 1 of Article 4-2 of these Provisions, and that there is the possibility that the last bidder awarded a contract might be asked to supply only a part of the quantity stated in the tender, in accordance with the provisions of paragraph 2 of Article 4-2 of these Provisions, and that the tendering procedures might be cancelled in the case provided for in paragraph 1 of Article 4-9 of these Provisions, and that the quantity in a bid shall be rounded off where the Official in Charge so requests.

(Use of Single Tendering Procedures)

Article 4-8

Where Tendering Procedures are adopted in accordance with the provisions of paragraph 1 of Article
4-2 of these Provisions, when the quantity of the Products to be supplied by the successful tenderer(s) falls short of the quantity to be procured or when there is any successful tenderer who does not conclude a contract, in order to complete the procurement quantity, Single Tendering Procedures may be adopted for the purchase of the Products, in the manner stipulated in Article 99-3 and Article 99-4 of the Cabinet Order, at a price no higher than the unit price offered by the tenderer submitting the lowest successful bid.