



# **AREA X ADMINISTRATION**

## **PRELIMINARY SURVEY VISIT**

### **E. SUPPLY MANAGEMENT**

#### **E.2. Description of the System of Supply Management**



# UNIVERSITY OF SOUTHERN MINDANAO

## PURCHASING PROCEDURE

Document No.

USM-PRO-003-Rev.5.2020.11.18

Rev. No.

5

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EFFECTIVE DATE	REV. NO.	REVISION TYPE	CHANGE DESCRIPTION	PAGE AFFECTED	ORIGINATOR
November 18, 2020	5	Partial	Insertion of Suppliers Evaluation Forms	4	SHIRLY J. MONDIA
June 18, 2020	4	Partial	Revision of the Procedure Details in accordance with Republic Act 9184 and Quality Management System requirements	3	SHIRLY J. MONDIA
February 18, 2020	3	Partial	Insertion of providing feedback mechanism and assignment of responsibilities of providing feedback	ALL	SHIRLY J. MONDIA
September 05, 2019	2	Partial	Revision of the Procedure Details in accordance with Republic Act 9184 and Quality Management System requirements	3, 4 and 5	SHIRLY J. MONDIA
February 15, 2018	1	Total	Revision of the Procedure Details in accordance with Republic Act 9184 requirements	ALL	SHIRLY J. MONDIA
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Prepared by:	Reviewed by:	Approved by:	DCC USE ONLY		
 SHIRLY J. MONDIA Name and Signature	 ANITAC. SORNITO, EdD Name and Signature	 JENNIFER E. SINCO Name and Signature	DOCUMENT CONTROL INDICATOR		
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### 1. PURPOSE

The Purchasing Procedure is established to have a system in acquisition of products, materials and services needed by the organization to have an effective operation, and comply with the standards and requirements set forth by the Implementing Rules and Regulations (IRR of RA 9184).

### 2. SCOPE

This procedure shall cover the process of requisition of products, materials and services, receipt of quotation from the suppliers, preparation and issuance of purchase orders, receiving, checking and monitoring of purchased items and their issuance to the requisitioning party/end user. All colleges and offices in this university shall have a copy of this procedure.

### 3. RESPONSIBILITY AND ACCOUNTABILITY

- 3.1 Requisitioning Unit/End User shall be responsible for the formulation of the specification(s) of the item(s) to be requested/incorporated in their Project Procurement Management Plan (PPMP).
- 3.2 The President as the Head of Procuring Entity (HOPE), shall be the one to approve all Purchase Request and Purchase Orders.
- 3.3 The BAC Secretariat and Technical Working Group (TWG) shall expedite the procurement process.
- 3.4 University Canvasser shall be responsible for the canvassing of the item(s)/product(s)/good(s) requested to the prospected suppliers.
- 3.5 University Purchaser shall be responsible for the facilitation and acquisition of the requested item(s)/product(s)/good(s) from the approved Purchase Order.
- 3.6 Property Officer and Requisitioning Party/End User shall be responsible for the receipt of the delivered item(s)/product(s) in conformance with the specification(s) set.
- 3.7 University Finance Management Service (FMS) shall take responsibility for the management of all financial matters of the University.
- 3.8 The Internal Audit Service Team (IAS) shall ensure the accuracy of the quality and quantity of the delivered item(s)/product(s) by the suppliers as set forth in the Purchase Order.
- 3.9 The Supply Personnel shall be responsible for the payment preparation, distribution and control of the product(s)/item(s) purchased by the requisitioning party/end user.

### 4. DEFINITION OF TERMS

- 4.1 Procurement is the process of selecting and acquiring goods and services on the basis of the Implementing Rules and Regulation (IRR) of Republic Act 9184.
- 4.2 Republic Act 9184 is an act regulating the entire procurement process.
- 4.3 HOPE stands for Head of the Procuring Entity which is the University President.
- 4.4 BAC refers to Bids and Awards Committee with the following composition: BAC Chairman, BAC Members, BAC Secretariat and Technical Working Group (TWG).
- 4.5 TWG refers to the Technical Working Group appointed by the BAC Chairman.
- 4.6 Public/Competitive Bidding refers to a method of procurement which is open to participation by any interested party.
- 4.7 Negotiated Procurement is a method of procurement of Goods, Infrastructure Projects and Consulting Services, whereby the Procuring Entity directly negotiates a contract with a technical, legally and financially capable supplier, contractor or consultant.
- 4.8 Direct Contracting is a method of procurement of Goods that does not require elaborate Bidding Documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale.
- 4.9 Repeat Order is a method of procurement of Goods from the previous winning bidder.
- 4.10 Shopping is a method of procurement of Goods whereby the Procuring Entity simply request for the submission of price quotations for readily available good(s)/equipment(s) to be procured directly from suppliers of known qualification.
- 4.11 Small Value Procurement is a procurement of Goods, Infrastructure Projects and Consulting Services, where the amount involved does not exceed the threshold prescribed in the IRR of RA 9184.
- 4.12 Agency to Agency procurement of Goods, Infrastructure Projects and Consulting Services from another agency of the Government of the Philippines.

### 5. REFERENCES

- 5.1. USM Quality Management System Manual (USM-QMS-002-Rev.3.2020.02.18)
- 5.2. RA 9184
- 5.3. USM Code
- 5.4. Internal Audit Service Manual
- 5.5. COA Regulations Manual



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## 6. PROCEDURE DETAILS

- 6.1 Requisition of Products/Materials/Services – 15 days (Consolidation – 10, PR – 5)
  - 6.1.1 The End User shall submit their PPMP before the deadline set by the management.
  - 6.1.2 The BAC Secretariat shall prepare the consolidated Purchase Request (USM-SYS-F29-Rev.1.2020.03.02) for commonly used office supplies and the End-User for highly technical item(s)/product(s) to be purchased based on the PPMP submitted.
  - 6.1.3 Prepared Purchase Request will be submitted to the Records Office for barcoding and shall be forwarded to the BAC Office for verification against the PPMP.
  - 6.1.4 Verified Purchase Request shall then be forwarded to the Property Office for numbering and signature of the Head certifying as to the non-availability of the item(s), justifying the need for procurement.
  - 6.1.5 The Budget Officer shall certify the budget allocation for the requested item(s)/product(s).
  - 6.1.6 The Head of the Finance & Management Services (FMS) shall recommends the approval of the item(s)/product(s) to be purchased.
  - 6.1.7 The President, as the Head of Procuring Entity (HOPE) approves the Purchase Request.
- 6.2 Upon approval of the Purchase Request, the BAC Secretariat shall prepare Request for Quotation (RFQ) and post the approved Purchase Request together with the Request for Quotation in the PhilGEPS Website within three (3) working days.
- 6.3 As a general rule all procurement must undergo open and competitive bidding
  - 6.3.1 For procurement subject to public/competitive bidding (ABC of 500,000.00 and above) the following procedures and timeline are to be undertaken as stated below:
    - 6.3.1.1 Pre-procurement Conference - (Day 1 after posting @ PhilGEPS)
    - 6.3.1.2 Advertisement/Posting of Invitation to Bid – (Day 1 to 7)
    - 6.3.1.3 Pre-Bid Conference – (Day 8 to 40)
    - 6.3.1.4 Deadline of Submission and Receipts of Bids/Opening of Bids – (Day 52)
    - 6.3.1.5 Bid Evaluation – (Day 53 to 59)
    - 6.3.1.6 Post-Qualification by TWG – (Day 60 to 104)
    - 6.3.1.7 Approval of Resolution/Issuance of Notice of Award – (Day 105 to 119)
    - 6.3.1.9 Contract Preparation and Signing – (Day 120 to 129)
    - 6.3.1.10 Issuance of Notice to Proceed – (Day 130 to 136)
  - 6.3.2 For Alternative Methods of Procurement
    - 6.3.2.1 Direct Contracting – the following steps are to be undertaken:
      - 6.3.2.1.1 The BAC shall prepare the RFQ or pro-forma invoice together with the terms and conditions of sale, and shall send the same to the identified direct supplier.
      - 6.3.2.1.2 Simplified negotiations on the terms and conditions of the contract may be conducted by the BAC to ensure that the supplier is technically, legally and financially capable to deliver the goods at the most advantageous price and contract for the Government.
      - 6.3.2.1.3 The BAC shall recommend to the HOPE that the Procurement Contract be awarded in favor of the winning bidders.
    - 6.3.2.2 Repeat Order - (not to exceed 25% of the quantity of each item in the original contract), the following procedures are to be undertaken:
      - 6.3.2.2.1 Upon determination of the need to replenish the goods earlier procured through competitive bidding, the End-User shall prepare the necessary Purchase Request for the procurement of additional goods, after a careful study and confirmation of the prevailing market price of the goods to be re-ordered and comparing this with the price of the goods in the original contract, accompanied by the appropriate justification why the re-ordering is being pursued.
      - 6.3.2.2.2 When all the conditions are present, the BAC shall recommend to the HOPE to award the Procurement Contract to the supplier through a Repeat Order.
  - 6.3.2.3 Shopping - (ABC of below 50,000.00) the following procedures and timeline are to be undertaken as stated below:
    - 6.3.2.3.1 Distribution and Retrieval of Request for Quotation/Canvass – 10 days
    - 6.3.2.3.2 Opening of Canvass/RFQ (USM-SYS-F40-Rev.1.2020.03.02) – 1 day
    - 6.3.2.3.3 Preparation and Approval of Abstract of Bids and Quotation (USM-BAC-F07-Rev.1.2020.03.02)- 5 days
    - 6.3.2.3.4 Preparation and Approval of Purchase Order (USM-SYS-F30-Rev.1.2020.03.02) – 13 days



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6.3.2.4 Negotiated Procurement

6.3.2.4.1 For Small Value Procurement the following procedures and timeline are to be undertaken as stated below:

- 6.3.2.4.1.1 Distribution and Retrieval of Request for Quotation/Canvass – 10 days
- 6.3.2.4.1.2 Opening of Canvass/RFQ (USM-SYS-F40-Rev.1.2020.03.02) – 1 day
- 6.3.2.4.1.3 Preparation and Approval of Abstract of Bids & Quotation (USM-BAC-F07-Rev.1.2020.03.02) – 5 days
- 6.3.2.4.1.4 Preparation and Approval of BAC Resolution (USM-BAC-F07-Rev.1.2020.03.02) – 7 days
- 6.3.2.4.1.5 TWG Report or Post-Qualification – 5 days
- 6.3.2.4.1.6 Preparation and Issuance of Notice of Award – 5 days
- 6.3.2.4.1.7 Preparation and Approval of Purchase Order (USM-SYS-F30-Rev.1.2020.03.02) – 13 days
- 6.3.2.4.1.8 Preparation and Approval of Notice to Proceed – 5 days

6.3.2.4.2 Agency to Agency – Procurement of Goods, Infrastructure Projects and Consulting Services from another agency of the GoP, such as DBM-PS, which is tasked with a centralized procurement of common-Use Supplies for GoP in accordance with Letters of Instruction No. 755 and E.O. 359, s. 1989.

6.4 Issuance of Purchase Order

6.4.1 The University Purchaser, within 10 days after receipt of the Purchase Order, shall serve all approved Purchase Orders to the concerned supplier for confirmation of the item to be delivered with full understanding of the specified terms and conditions stated in the said order.

6.4.2 The University Purchaser shall facilitate the purchasing of items/products from the winning suppliers/bidders to be delivered or to be picked up.

6.5 Checking, Receiving and Distribution of purchased items (within 5 days after delivery)

6.5.1 Concerned Property Personnel shall receive all items purchased stated in the Purchase Order.

6.5.2 The Internal Audit Service (IAS) Team along with the Property Personnel shall check and inspect the conformity and/or compliance of the purchased item based on the approved Purchase Order.

6.5.3 The concerned Property Personnel based on the consolidated guide given by the BAC Office shall be responsible for the distribution of the purchased items to the end user.

6.6 Payment Procedure

6.6.1 The Property Personnel shall prepare the Disbursement Voucher (DV) supported by the entire pertinent document(s) for the payment of the item(s) purchased and forward the same to the Records Office.

6.6.2 The Record's Office shall forward the DV to the end user for signature, after which it will be forwarded to the Accounting Office.

6.6.3 The Journal Entry Voucher (JEV) shall be prepared by the concerned accounting personnel approved by the Head of the FMS/Accountant and shall be submitted to the Head of the Procuring Entity (HOPE) for approval.

6.6.4 Approved DV shall be returned to the Accounting Office for release and to the Cashier's Office for the payment.

6.7 Supplier's Performance Evaluation

6.7.1 The University Purchaser shall facilitate the issuance of Supplier's Performance Evaluation Sheet – External Provider (USM-PRO-F09-Rev.2.2020.11.18), Supplier's Performance Evaluation Sheet – Calibration (USM-PRO-F11-Rev.1.2020.11.18), Supplier's Performance Evaluation Sheet – Printing Job (USM-PRO-F14-Rev.1.2020.11.18), Supplier's Performance Evaluation Sheet – Car Aircon (USM-PRO-F15-Rev.1.2020.11.18), Consultancy Services Evaluation Sheet (USM-PRO-F16-Rev.1.2020.11.18) to the end-user for them to rate the performance of the supplier specifically on the quality of the products, time and duration of the delivery and after sales services.

6.7.2 The end-user shall immediately return the accomplished evaluation sheet or shall be due for retrieval one (1) day after the receipt of the evaluation form.

6.7.3 The purchaser shall consolidate and analyze all SPES and SES received from end-user every quarter and make a report out of them.

6.7.4 Summarized report shall be submitted to the HOPE for final evaluation, comments and suggestions.

6.7.5 Feedback Mechanism

6.7.5.1 Provide external service providers with the results of the SPES

6.7.5.2 For providers with Satisfactory or Needs Improvement results, require action to improve services within 5 working days.

6.7.5.3 Forward the reply of the service providers to the HOPE for appropriate action.

7. RECORDS RETENTION AND DISPOSAL

7.1 Records of this procedure shall be retained for a period of three years for possible review and recall.

7.2 Disposal shall be done through shredding/tearing or burning with permission and authorization of the higher authorities.

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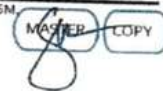


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**8. FORMS AND RECORDS**

- 8.1 Purchase Request (USM-SYS-F29-Rev.1.2020.03.02)
- 8.2 Purchase Order (USM-SYS-F30-Rev.1.2020.03.02)
- 8.3 RFQ/Canvass Form (USM-SYS-F40-Rev.1.2020.03.02)
- 8.4 Abstract of Bids and Quotation (USM-BAC-F07-Rev.1.2020.03.02)
- 8.5 Supplier Performance Evaluation Sheet- External Provider (USM-PRO-F09-Rev.2.2020.11.18)
- 8.6 Supplier Performance Evaluation Sheet - Calibration (USM-PRO-F11-Rev.1.2020.11.18)
- 8.7 Supplier Performance Evaluation Sheet -Printing Job (USM-PRO-F14-Rev.1.2020.11.18)
- 8.8 Supplier Performance Evaluation Sheet- Car Aircon) (USM-PRO-F15-Rev.1.2020.11.18)
- 8.9 Consultancy Services Evaluation Sheet (USM-PRO-F16-Rev.1.2020.11.18)

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**THE 2016 REVISED IMPLEMENTING RULES AND REGULATIONS OF  
REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE  
GOVERNMENT PROCUREMENT REFORM ACT**

**RULE I – GENERAL PROVISIONS**

**Section 1. Short Title and Purpose**

This 2016 Revised Implementing Rules and Regulations, hereinafter called the IRR, is promulgated pursuant to Section 75 of Republic Act No. (R.A.) 9184, otherwise known as the "Government Procurement Reform Act," for the purpose of prescribing the necessary rules and regulations for the modernization, standardization, and regulation of the procurement activities of the Government of the Philippines (GoP).<sup>(a)</sup>

**Section 2. Declaration of Policy**

The provisions of this IRR are in line with the commitment of the GoP to promote good governance and its effort to adhere to the principles of transparency, accountability, equity, efficiency, and economy in its procurement process. It is the policy of the GoP that procurement of Goods, Infrastructure Projects and Consulting Services shall be competitive and transparent, and therefore shall undergo competitive bidding, except as provided in Rule XVI of this IRR.<sup>(a)</sup>

**Section 3. Governing Principles on Government Procurement**

The procurement of the GoP shall be governed by these principles:

- a) Transparency in the procurement process and in the implementation of procurement contracts through wide dissemination of bid opportunities and participation of pertinent non-government organizations.
- b) Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in competitive bidding.
- c) Streamlined procurement process that will uniformly apply to all government procurement. The procurement process shall be simple and made adaptable to advances in modern technology in order to ensure an effective and efficient method.
- d) System of accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts and the private parties that deal with GoP are, when warranted by circumstances, investigated and held liable for their actions relative thereto.
- e) Public monitoring of the procurement process and the implementation of awarded contracts with the end in view of guaranteeing that these contracts are awarded pursuant to the provisions of the Act and this IRR, and that all these contracts are performed strictly according to specifications.

**Section 4. Scope and Application of the IRR**

- 4.1 This IRR shall apply to all procurement of any branch, agency, department, bureau, office, or instrumentality of the GoP, including government-owned and/or -controlled corporations (GOCCs), government financial institutions (GFIs), state universities and colleges (SUCs), and local government units (LGUs).
- 4.2 Any Treaty or International or Executive Agreement to which the GoP is a signatory affecting the subject matter of the Act and this IRR shall be observed. In case of conflict between the terms of the Treaty or International or Executive Agreement and this IRR, the former shall prevail.
- 4.3 Unless the Treaty or International or Executive Agreement expressly provides another or different procurement procedures and guidelines, R.A. 9184 and this IRR shall apply to Foreign-funded Procurement of Goods, Infrastructure Projects, and Consulting Services by the GoP.

The GoP negotiating panels shall, as its default position, adhere to R.A. 9184 and this IRR, or at the very least, selection through competitive bidding, in all Foreign-funded Procurement. If the Treaty or International or Executive Agreement states otherwise, then the negotiating panel shall ensure that the reasons for the adoption of a different rule or method of procurement are clearly reflected in the records of discussion.<sup>(a)</sup>

- 4.4 This IRR shall not apply to the following activities:
  - a) Procurement of Goods, Infrastructure Projects and Consulting Services funded from Foreign Grants covered by R.A. 8182, as amended by R.A. 8555, entitled "An Act Excluding Official Development Assistance (ODA) from the Foreign Debt Limit in order to Facilitate the Absorption and Optimize the Utilization of ODA Resources, Amending for the Purpose Paragraph 1, Section 2 of R.A. 4860, As Amended," unless the GoP and the foreign grantor/foreign or international financing institution agree otherwise;
  - b) Acquisition of real property which shall be governed by R.A. 10752, entitled "An Act Facilitating the Acquisition of Right-Of-Way Site or Location for National Government Infrastructure Projects," and other applicable laws, rules and regulations; and
  - c) Public-Private sector infrastructure or development projects and other procurement covered by R.A. 6957, as amended by R.A. 7718, entitled "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes," as amended: *Provided, however,* That for the portions financed by the GoP, in whole or in part, the provisions of the Act and this IRR shall apply.<sup>(a)</sup>
- 4.5 The following are not procurement activities under R.A. 9184 and this IRR:
  - a) Direct financial or material assistance given to beneficiaries in accordance with the existing laws, rules and regulations, and subject to the guidelines of the concerned agency;
  - b) Participation in local or foreign scholarships, trainings, continuing education, conferences, seminars or similar activities that shall be governed by applicable COA, CSC, and DBM rules;
  - c) Lease of government-owned property as lessor for private use;

- d) Hiring of Job Order Workers;
- e) Joint Venture under the revised NEDA Guidelines (GOCC and Private Entities), and Joint Venture Agreements by LGU with Private entities; and
- f) Disposal of Property and Other Assets of the Government.<sup>(n)</sup>

## Section 5. Definition of Terms

For purposes of this IRR, the following terms or words and phrases shall mean or be understood as follows:

- a) **Act.** Refers to R.A. 9184, entitled "An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for other Purposes," otherwise known as the Government Procurement Reform Act.
- b) **Approved Budget for the Contract (ABC).** Refers to the budget for the contract duly approved by the HoPE, as provided for in the General Appropriations Act (GAA), continuing, and automatic appropriations, in the case of national government agencies (NGAs); the corporate budget for the contract approved by the governing board, pursuant to Executive Order (E.O). No. 518, s. 1979, in the case of GOCCs and GFIs, and R.A. 8292 in the case of SUCs; the budget approved by the Sanggunian through an appropriations ordinance in the case of LGUs. For multi-year contracts, for which a Multi-Year Obligational Authority (MYOA) or an equivalent document is required, the ABC shall be that incorporated in the project cost reflected in the MYOA or equivalent document.

For Foreign-funded Procurement, the ABC refers to the cost estimate prepared by the Procuring Entity and approved by the foreign government/foreign or international financing institution as specified in the Treaty or International or Executive Agreement.<sup>(a)</sup>

- c) **Bid.** Refers to a signed offer or proposal to undertake a contract submitted by a bidder in response to and in consonance with the requirements of the Bidding Documents. For purposes of, and throughout this IRR, the term "Bid" shall be equivalent to and be used interchangeably with "Proposal" and "Tender."<sup>(5.d)</sup>
- d) **Bidder.** Refers to a contractor, manufacturer, supplier, distributor and/or consultant who submits a bid in response to the requirements of the Bidding Documents.<sup>(5.ea)</sup>
- e) **Bidding Documents.** Refer to the documents issued by the Procuring Entity as the basis for bids, furnishing all information necessary for a prospective bidder to prepare a bid for the Goods, Infrastructure Projects and/or Consulting Services required by the Procuring Entity.<sup>(5.f)</sup>
- f) **Bids and Awards Committee (BAC).** Refers to the Committee established in accordance with Rule V of this IRR.<sup>(5.c)</sup>
- g) **Common-Use Supplies and Equipment (CSE).** Refer to those goods, materials and equipment that are used in the day-to-day operations of Procuring Entities in the performance of their functions. For the purpose of this IRR, CSE shall be those included in the Electronic Catalogue of the PhilGEPS.<sup>(a)</sup>

- h) **Competitive Bidding.** Refers to a method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post-qualification, and award of contract. For purposes of, and throughout this IRR, the terms "Competitive Bidding" and "Public Bidding" shall have the same meaning and shall be used interchangeably.
- i) **Consulting Services.** Refer to services for infrastructure projects and other types of projects or activities of the GoP requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the GoP to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies. General principles on Consulting Services are provided for in Annex "B" of this IRR.
- j) **Domestic Bidder.** Refers to any person or entity offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.
- k) **Domestic Entity.** Refers to an individual or a sole proprietor who is a citizen of the Philippines or a partnership, corporation, cooperative, or association duly organized under the laws of the Philippines and of which at least seventy five percent (75%) of the interest or outstanding capital stock belongs to citizens of the Philippines, habitually established in business and habitually engaged in the manufacture or sale of the merchandise covered by his bid, and the business has been in existence for at least five (5) consecutive years prior to the advertisement and/or posting of the Invitation to Bid.<sup>1</sup>
- l) **Executive Agreements.** Refer to International Agreements except that they do not require legislative ratification.
- m) **Expendable Supplies.** Refer to articles which are normally consumed in use within one (1) year or converted in the process of manufacture or construction, or those having a life expectancy of more than one (1) year but which shall have decreased substantially in value after being put to use for only one (1) year (*e.g.*, medicines, stationery, fuel, and spare parts).
- n) **Foreign Bid.** Refers to any offer of articles, materials or supplies not manufactured or not to be manufactured in the Philippines, substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.
- o) **Foreign-funded Procurement.** Refers to the acquisition of goods, consulting services, and the contracting for infrastructure projects by the GoP which are wholly or partly funded by Foreign Loans or Grants pursuant to a Treaty or International or Executive Agreement. For purposes of, and throughout this IRR, the term "foreign-funded procurement" shall have the same meaning as and shall be used interchangeably with "foreign-funded projects" or "foreign-assisted projects."

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<sup>1</sup> Preference to domestic entities, provided for under Commonwealth Act 138, dated 7 November 1936, which has been expressly repealed by R.A. 10667, The Philippine Competition Act of 2015, shall no longer be applied.

- p) **Foreign Grants.** Refer to grants with no repayment obligations and are provided in monetary form, goods, works, and consultancy services, among others.
- q) **Foreign Loans.** Refer to loans, credits, and indebtedness with private foreign banks or with foreign governments, agencies, or instrumentalities of such foreign governments, foreign financial institutions, or other international organizations with whom, or belonging to countries with which, the Philippines has diplomatic relations, as may be necessary and upon such terms and conditions as may be agreed upon, to enable the GoP to finance, either directly or through any government office, agency or instrumentality or any government-owned and controlled corporation, industrial, agricultural or other economic development purposes or projects authorized by law.
- r) **Goods.** Refer to all items, supplies, materials and general support services, except Consulting Services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal or contractual services, such as, the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the Procuring Entity for such services. The term "related" or "analogous services" shall include, but is not limited to, lease of office space, media advertisements, health maintenance services, and other services essential to the operation of the Procuring Entity.<sup>(a)</sup>
- s) **Government Procurement Policy Board (GPPB).** Refers to the Body created in accordance with Rule XX of this IRR.
- t) **Head of the Procuring Entity (HoPE).** Refers to: (i) the head of the agency or body, or his duly authorized official, for NGAs and the constitutional commissions or offices, and other branches of government; (ii) the governing board or its duly authorized official, for GOCCs, GFIs and SUCs; or (iii) the local chief executive, for LGUs: *Provided, however,* That in an agency, department, or office where the procurement is decentralized, the head of each decentralized unit shall be considered as the HoPE, subject to the limitations and authority delegated by the head of the agency, department, or office.<sup>(a)</sup>
- u) **Infrastructure Projects.** Include the construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of roads and bridges, railways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification facilities, national buildings, school buildings, hospital buildings, and other related construction projects of the government. For purposes of, and throughout this IRR, the term "Infrastructure Projects" shall have the same meaning as, and shall be used interchangeably with, "civil works" or "works."
- v) **International Agreement.** Refers to a contract or understanding, regardless of nomenclature, entered into between the GoP and another government or foreign or international financing institution in written form and governed by international law, whether embodied in a single instrument or in two (2) or more related instruments.
- w) **Non-expendable Supplies.** Refer to articles which are not consumed in use and ordinarily retain their original identity during the period of use, whose serviceable life is more than one (1) year and which add to the assets of the GoP (*e.g.*, furniture,

fixtures, transport and other equipment). For this IRR, the term non-expendable supplies shall include semi-expendable property.<sup>(a)</sup>

- x) **Philippine Government Electronic Procurement System (PhilGEPS).** Refers to the **electronic** System as provided in Section 8 of this IRR. For purposes of, and throughout this IRR, the term "PhilGEPS" shall have the same meaning as, and shall be used interchangeably with, "G-EPS" referred to in the Act.
- y) **Philippine National.** Refers to an individual or a sole proprietor who is a citizen of the Philippines or a partnership, corporation, or association organized under the laws of the Philippines of which at least sixty percent (60%) of the capital or interest is owned by citizens of the Philippines, or cooperatives registered with the Cooperative Development Authority.<sup>(a)</sup>
- z) **Portal.** Refers to a website that integrates a wide variety of contents for the purpose of attracting and aggregating multiple users together in a central virtual space.
- aa) **Procurement.** Refers to the acquisition of goods, consulting services, and the contracting for infrastructure projects by the Procuring Entity. In case of projects involving mixed procurements, the nature of the procurement, *i.e.*, Goods, Infrastructure Projects or Consulting Services, shall be determined based on the primary purpose of the contract. Procurement shall also include the lease of goods and real estate. With respect to real property, its procurement shall be governed by the provisions of R.A. 10752 and other applicable laws, rules and regulations.<sup>(a)</sup>
- bb) **Procuring Entity.** Refers to any branch, constitutional commission or office, agency, department, bureau, office, or instrumentality of the GoP (NGA), including GOCC, GFI, SUC and LGU procuring goods, infrastructure projects and consulting services.
- cc) **Treaties.** Refer to international agreements entered into by the GoP which require legislative ratification after executive concurrence.
- dd) **Universal or Commercial Banks.** Refer to universal or commercial banks duly authorized under R.A. 8791, otherwise known as "The General Banking Act of 2000."

## **Section 6. Standardization of Procurement Process and Forms**

- 6.1 To systematize the procurement process, avoid confusion and ensure transparency, the GPPB shall pursue the development and approval of generic procurement manuals, standard Bidding Documents, and forms, including those to be used for major procurement like drugs and textbooks.<sup>(a)</sup>
- 6.2 Procuring Entities are mandated to use the Generic Procurement Manuals (GPMs), Philippine Bidding Documents (PBDs), and other standard forms issued by the GPPB. However, whenever necessary, to suit the particular needs of the Procuring Entity, modifications may be made, particularly for major and specialized procurement, subject to the approval of the GPPB.<sup>(a)</sup>

## **RULE II – PROCUREMENT PLANNING**

### **Section 7. Procurement Planning and Budgeting Linkage**

- 7.1. All procurement shall be within the approved budget of the Procuring Entity and should be meticulously and judiciously planned by the Procuring Entity. Consistent with government fiscal discipline measures, only those considered crucial to the efficient discharge of governmental functions shall be included in the Annual Procurement Plan (APP). For purposes of this IRR, a procurement project shall be considered crucial to the efficient discharge of governmental functions if it is required for the day-to-day operations or is in pursuit of the principal mandate of the Procuring Entity concerned. The APP shall include provisions for foreseeable emergencies based on historical records. In the case of Infrastructure Projects, the APP shall consider the appropriate timing/phasing of related project activities, such as, engineering design and acquisition of right-of-way site or location, to reduce/lower project costs.<sup>(a)</sup>
- 7.2. No procurement shall be undertaken unless it is in accordance with the approved APP, including approved changes thereto. The APP must be consistent with the duly approved yearly budget of the Procuring Entity and shall bear the approval of the HoPE or second-ranking official designated by the HoPE to act on his behalf.<sup>(a)</sup>
- 7.3. The APP shall be formulated and revised only in accordance with the following guidelines:
  - 7.3.1. Upon issuance of the budget call in the case of NGAs, SUCs, Constitutional Commissions or Offices, or similar document for GOCCs, GFIs and LGUs, the Procuring Entity shall prepare its indicative APP for the succeeding calendar year to support its proposed budget taking into consideration the budget framework for that year in order to reflect its priorities and objectives.<sup>(a)</sup>
  - 7.3.2. In the preparation of the indicative APP, the end-user or implementing units of the Procuring Entity shall formulate their respective Project Procurement Management Plans (PPMPs) for their different programs, activities, and projects (PAPs). The PPMP shall include:
    - a) information on whether PAPs will be contracted out, implemented by administration in accordance with the guidelines issued by the GPPB, or consigned;
    - b) the type and objective of contract to be employed;
    - c) the extent/size of contract scopes/packages;
    - d) the procurement methods to be adopted, and indicating if the procurement tasks are to be outsourced as provided in Section 7.3.3 of this IRR;
    - e) the time schedule for each procurement activity and for the contract implementation; and
    - f) the estimated budget for the general components of the contract.

For purposes of this Section, consignment refers to an arrangement where the following requisites are present: (a) delivery of goods by their owner (consignor), without sale, to a government agency (consignee); (b) consignee must try to sell the goods and remit the price of the sold goods to the consignor; (c) consignee accepts without any liability except for failure to reasonably protect them from damage; (d) no disbursement of government funds is involved; and (e) at terms not disadvantageous to the GoP.

Based on the specific needs, the end-user or implementing units of the Procuring Entity shall be responsible for the preparation of all documents necessary for the procurement activity, including but shall not be limited to, the technical specifications, scope of work, or terms of reference.<sup>(a)</sup>

7.3.3. In order to hasten project implementation, Procuring Entities which may not have the proficiency or capability to undertake a particular procurement, as determined by the HoPE concerned, may outsource the procurement tasks by:

- a) Requesting other GoP agencies to undertake such procurement for them, through the execution of a memorandum of agreement containing specific arrangements, stipulations and covenants, in accordance with government budgeting, accounting and auditing rules;
- b) Engaging private procurement agents to directly undertake the procurement for them, subject to the guidelines to be issued by the GPPB; or
- c) Recruiting or engaging consultants to assist them directly and/or train their staff in the management of the procurement function.<sup>(53.6a)</sup>

7.3.4. The PPMPs shall then be submitted to the Procuring Entity's Budget Office for evaluation in order to ensure consistency with the Procuring Entity's budget proposal and compliance with existing budgeting rules. The PPMPs included in the budget proposal shall be forwarded to the BAC Secretariat for consolidation into an indicative APP, and to the BAC for final recommendation of the appropriate procurement modality. For this purpose, the indicative APP shall include the following:

- a) Name of Procurement Project;
- b) Procurement Management Office (PMO)/end-user/implementing unit;
- c) Method of Procurement;
- d) Schedule of identified procurement activities as reflected in the APP form approved by the GPPB;
- e) Source of funds;
- f) Indicative ABC; and
- g) Other relevant descriptions of the project, if applicable.

The indicative APP and budget proposal shall be simultaneously submitted to the HoPE and/or other oversight bodies for approval.<sup>(a)</sup>

7.3.5. As soon as the GAA, corporate budget, or appropriation ordinance, as the case may be, becomes final, the end-user or implementing units shall revise and adjust the PPMPs to reflect the budgetary allocation for their respective PAPs. The revised PPMPs shall be submitted to the BAC, through its Secretariat, for the final recommendation of the methods of procurement. The indicative APP shall then be revised and approved in accordance with Section 7.2 of this IRR. The APP shall be submitted to the GPPB on or before the end of January of the budget year, and shall be posted in accordance with E.O. 662, series of 2007, as amended.<sup>(a)</sup>

- 7.4. Changes to the individual PPMPs and the consolidated APP may be undertaken every six (6) months or as often as may be required by the HoPE. The respective end-user or implementing units of the Procuring Entity shall be responsible for the changes to the PPMPs, while the BAC Secretariat shall be responsible for the consolidation of these PPMPs into an APP, which shall be subject to the approval of the HoPE.

Changes in the APP, if any, for the budget year shall be submitted to the GPPB in July of the current budget year, and in January of the following budget year.<sup>(a)</sup>

- 7.5. The ABC as reflected in the approved APP shall be at all times consistent with the appropriations for the project authorized in the GAA, continuing, and automatic appropriations, the corporate budget, and the appropriations ordinance, as the case may be.<sup>(a)</sup>
- 7.6. To facilitate the immediate implementation of procurement of Goods, Infrastructure Projects or Consulting Services, even pending approval of the GAA, corporate budget or appropriations ordinance, as the case may be, and notwithstanding Section 7.2 hereof, the Procuring Entity may undertake the procurement activities short of award.

NGAs, SUCs, Constitutional Commissions or Offices are encouraged to start their procurement activities immediately after the National Expenditure Program (NEP) has been submitted by the President to Congress, provided that the HoPE has approved the corresponding indicative APP. This will facilitate the awarding of procurement contracts after the enactment of the GAA, enabling the timely implementation and completion of programs and projects.

For a contract with a period not exceeding one (1) year, the ABC shall be based on the amount in the indicative APP as included in the proposed national budget submitted by the President to Congress; for GOCCs, on budget levels as proposed to the governing board; or for LGUs, on budget levels as proposed in the executive budget submitted to the Sanggunian. In the case of multi-year contracts, for which a MYOA or an equivalent document is required, the ABC shall be the amount reflected in the MYOA or equivalent document.

No award of contract shall be made until the GAA, corporate budget or appropriations ordinance, as the case may be, has been approved or enacted.<sup>(n)</sup>

### **RULE III – PROCUREMENT BY ELECTRONIC MEANS**

#### **Section 8. Procurement by Electronic Means and the Philippine Government Electronic Procurement System (PhilGEPS)**

##### **8.1. *The PhilGEPS***

- 8.1.1. To promote transparency and efficiency, information and communications technology shall be utilized in the conduct of procurement procedures. Accordingly, there shall be a single portal that shall serve as the primary source of information on all government procurement. The PhilGEPS shall serve as the primary and definitive source of information on government procurement. For this purpose, the

Electronic Procurement System (EPS) established in accordance with E.O. 322, s. 2000, and E.O. 40, s. 2001, shall continue to be managed by the DBM-PS under the supervision of the GPPB, as the PhilGEPS, in accordance with this IRR.

8.1.2. To take advantage of the significant built-in efficiencies of the PhilGEPS and the volume discounts inherent in bulk purchasing, all Procuring Entities shall utilize the PhilGEPS for the procurement of Common-Use Supplies in accordance with the rules and procedures to be established by the GPPB. With regard to the procurement of non-common use items, Infrastructure Projects, and Consulting Services, agencies may hire service providers through competitive bidding to undertake their electronic procurement: *Provided, however,* That these service providers meet the following minimum requirements:

- a) Comply with the provisions of the Act and this IRR, and R.A. 8792, otherwise known as the "Electronic Commerce Act;"
- b) Linked to the PhilGEPS, particularly with regard to the posting of all bid opportunities and awards;
- c) Allow parallel manual submission of bids to the Procuring Entity;
- d) Ensure that the BAC shall have complete control of the bidding process, and that the BAC's sole authority to open bids is strictly observed;
- e) Its system must be virus-resilient and must provide sufficient security which is at least equivalent to that employed by the PhilGEPS, such as, but not limited to, firewall and encryption devices;
- f) Must provide for the use of electronic signatures and other current electronic authentication devices;
- g) Must have sufficient redundant back-up facilities;
- h) Must have provisions for linkage to the Procuring Entity's Financial Management Information System (FMIS), Logistics Management Systems, and other internal information systems that may interact with the procurement process; and
- i) Electronic payment facilities, if used, shall comply with all laws, rules and regulations issued by the Government.

8.1.3. The GPPB shall determine and certify compliance with the above requirements. However, the GPPB may delegate this task to technically capable agencies/offices/units of the Government.

## 8.2. *Features of the PhilGEPS*

### 8.2.1. The Electronic Bulletin Board

- a) The PhilGEPS shall have a centralized electronic bulletin board for posting procurement opportunities, notices, awards and reasons for award. All Procuring Entities are required to post all procurement opportunities, results of bidding and related information in the PhilGEPS bulletin board.

- b) Procuring Entities shall post the Invitation to Bid for Goods and Infrastructure Projects or the Request for Expression of Interest for Consulting Services, in the electronic bulletin board in accordance with Section 21 of this IRR.

#### 8.2.2. Registry of Manufacturers, Suppliers, Distributors, Contractors and Consultants

- a) The PhilGEPS shall have a centralized electronic database of all manufacturers, suppliers, distributors, contractors and consultants registered under the system.
- b) Registration shall entail the submission of the requirements specified by the DBM-PS. Submission of these requirements may be done on-line at the PhilGEPS website or physically at the PhilGEPS office. Registration shall be effective for one year and may be renewed, provided that the manufacturer, supplier, distributor, contractor or consultant concerned maintains its registration current and updated at least once a year, or more frequently when needed.
- c) Manufacturers, suppliers, distributors, contractors and consultants applying for registration must also indicate their account number with a bank duly licensed by the *Bangko Sentral ng Pilipinas* (BSP) to facilitate payment as well as the posting of bid and performance security, when applicable. Any information submitted in connection with this subsection shall be kept confidential.
- d) The PhilGEPS shall deny registration to or exclude from the registry any party that is found to have willfully misrepresented any of the information provided in the application for registration or who is in the "blacklist" of the Government or any of its Procuring Entities in accordance with Section 69.4 of this IRR, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB.
- e) A manufacturer, supplier, distributor, contractor or consultant applying for registration shall be required to provide an e-mail address to which all communications from the BAC and the Procuring Entity shall be sent. The e-mail address provided shall be considered as such applicant's information system for purposes of reckoning the date of sending or receipt of electronic messages or documents.
- f) Registered manufacturers, suppliers, distributors, contractors and consultants shall secure a digital certificate from the government-accredited certification authority to be able to participate in the procurement activities of the PhilGEPS.
- g) Registration with the PhilGEPS is not an accreditation and thus not tantamount to a finding of eligibility, nor is it a guaranty that a manufacturer, supplier, distributor, contractor or consultant may participate in a competitive bidding without first being determined to be eligible for that particular competitive bidding.

#### 8.2.3. The Electronic Catalogue

- a) The PhilGEPS shall have a centralized electronic catalogue of common and non-common use goods, supplies, materials and equipment.

- b) Procuring Entities shall procure common-use goods, supplies, materials and equipment from the Electronic Catalogue in the PhilGEPS. To be able to use the PhilGEPS, Procuring Entities shall be required to register and designate the officials or personnel authorized to transact with and operate the PhilGEPS from such Procuring Entities' terminals.
- c) Procuring Entities without internet access may avail of the PhilGEPS Public Access Terminals which shall be installed at DBM-designated locations in the provinces and in Metro Manila: *Provided, however,* That they shall comply with Section 8.3 of this IRR.
- d) The Electronic Catalogue may also feature non-common use items that may be procured directly and without competitive bidding by Procuring Entities from suppliers through the PhilGEPS Virtual Store: *Provided, however,* That for an item to be carried in the Electronic Catalogue for this purpose, the supplier thereof must have been determined as the Lowest Calculated Responsive Bidder in a previous bidding conducted by DBM-PS or by a Procuring Entity for DBM-PS: *Provided, further,* That such item will be featured in the Electronic Catalogue for a maximum period of six (6) months unless another supplier offers a price lower by at least five percent (5%) and such supplier is determined by the DBM-PS or by the Procuring Entity that conducted the previous bidding for DBM-PS to meet the eligibility and bidding requirements for the item, in which case the item from the latter supplier will be that featured in the Electronic Catalogue for the remainder of the six (6)-month period.

#### 8.2.4. Additional Features

The PhilGEPS shall also feature a Virtual Store, Electronic Payment, Electronic Bid Submission, and such other features as may be developed in the future.

##### 8.2.4.1. Virtual Store

The PhilGEPS may have a feature that will enable the ordering of common-use and non-common use items online called a virtual store. The virtual store shall be open only to registered Procuring Entities and may not be accessed by suppliers.

##### 8.2.4.2. Electronic Payment

The PhilGEPS may support e-payment functions to pay for goods purchased through the Virtual Store to manage the generation of purchase orders and the payment of bids processed through the system.

The focus of this feature is to facilitate the electronic transfer of funds from DBM-PS to and from Procuring Entities and suppliers, and from Procuring Entities to suppliers, for bids managed directly by the Procuring Entity. The system shall:

- a) Generate purchase orders from a bid notice, award notice or contract;
- b) Support approval process for purchase orders before any payment or fund transfer is processed;

- c) Have a process to submit request for payment upon delivery of goods and/or services and the completion of the approval process; and
- d) Have the ability to interface with the designated bank of the Procuring Entity and suppliers to support the electronic transfer of funds.

#### 8.2.4.3. Electronic Bid Submission

The PhilGEPS may support the implementation of e-Bid submission processes, which includes creation of electronic bid forms, creation of bid box, delivery of bid submissions, notification to supplier of receipt of bids, bid receiving and electronic bid evaluation. This facility shall cover all types of procurement for Goods, Infrastructure Projects and Consulting Services.

### 8.3. *Use of the PhilGEPS*

- 8.3.1. All Procuring Entities are mandated to fully use the PhilGEPS in accordance with the policies, rules, regulations, and procedures adopted by the GPPB and embodied in this IRR. In this connection, all Procuring Entities shall register with the PhilGEPS and shall undertake measures to ensure their access to an on-line network to facilitate the open, speedy and efficient on-line transmission, conveyance and use of electronic data messages or electronic documents. The DBM-PS shall assist Procuring Entities to ensure their on-line connectivity and help in training their personnel responsible for the operation of the PhilGEPS from their terminals.
- 8.3.2. The rules and regulations governing the manual method of procurement shall apply whenever the rules in this Section are silent. Further, the GPPB is authorized to approve changes in the procurement process to adapt to improvements in modern technology, provided that such modifications are consistent with the provisions of Section 3 of the Act and this IRR.

### 8.4. *Pre-bid Conferences and Notices under the PhilGEPS*

- 8.4.1. Pre-bid conferences shall be conducted in accordance with Section 22 of this IRR.<sup>(a)</sup>
- 8.4.2. Requests for clarification from bidders may be sent electronically to the BAC. To be binding on bidders, clarifications and amendments to the Invitation to Bid/Request for Expression of Interest and to the Bidding Documents shall be in the form of Supplemental/Bid Bulletins which shall be posted in the PhilGEPS bulletin board.
- 8.4.3. The Supplemental/Bid Bulletins mentioned in the immediately preceding Subsection as well as all other notices to be made by the BAC to the bidders or prospective bidders shall be posted in the PhilGEPS bulletin board and sent electronically to the e-mail address indicated in the bidders' registration.

### 8.5. *Registration, Eligibility Requirements and Submission of Bids under the PhilGEPS*

- 8.5.1. To ensure the widest dissemination of the Invitation to Bid/Request for Expression of Interest, manufacturers, suppliers, distributors, contractors and/or consultants shall register with the PhilGEPS. All Procuring Entities already maintaining an electronic registry upon the effectivity of this IRR shall integrate the same with that of the PhilGEPS. A manufacturer, supplier, distributor, contractor or consultant duly registered with the PhilGEPS may participate in a procurement undertaken by any Procuring Entity, provided that the said manufacturer, supplier, distributor,

contractor or consultant maintains its registration current and updated in accordance with the provisions of this IRR, and its registration is proper and relevant to the particular type of procurement.

8.5.2. All bidders shall upload and maintain in PhilGEPS a current and updated file of the following Class "A" eligibility documents under Sections 23.1(a) and 24.1(a):

- a) Registration Certificate;
- b) Mayor's/Business Permit or its Equivalent Document;
- c) Tax Clearance;
- d) Philippine Contractors Accreditation Board (PCAB) license and registration; and
- e) Audited Financial Statements.

For Foreign Bidders, the foregoing documents may be substituted by the appropriate equivalent documents in English, if any, issued by the country of the bidder concerned. Otherwise, it must be accompanied by a translation of the documents in English issued by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines.

These documents shall be accompanied by a Sworn Statement in a form prescribed by the GPPB stating that the documents submitted are complete and authentic copies of the original, and all statements and information provided therein are true and correct. Upon receipt of the said documents, the PhilGEPS shall process the same in accordance with the guidelines on the Government of the Philippines – Official Merchants Registry (GoP-OMR).<sup>(a)</sup>

8.5.3. Registered bidders determined to be eligible may submit their bids at any time before the closing date specified in the Bidding Documents. The PhilGEPS shall bar all incoming bids after such prescribed date and time.<sup>(a)</sup>

8.5.4. The PhilGEPS shall have a feature that allows the electronic submission of eligibility requirements and bids.

8.5.5. Upon receipt of a bid, the PhilGEPS shall generate and send a message to the bidder acknowledging such receipt.

#### 8.6. *Opening of Bids under the PhilGEPS*

8.6.1. The BAC shall have the sole authority to open the bids.

8.6.2. Only the financial proposals of bidders whose technical proposals meet the minimum technical requirements shall be opened or decrypted.

8.6.3. An update of all procurement contracts, regardless of whether procurement is done electronically or manually, shall be posted on the PhilGEPS bulletin board. The update shall include, but shall not be limited to, the status of procurement contracts, including the names of contract awardees and the amount of the contract.

8.6.4. Without prejudice to criminal prosecution under the applicable provisions of the Act and this IRR, R.A. 8792, R.A. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act," and other applicable penal laws, public officials and employees who

commit any of the following acts shall be deemed to have committed grave misconduct and shall be sanctioned and/or penalized in accordance with the applicable Civil Service rules and regulations:

- a) Opening or decryption, by whatever means, of bids submitted through the PhilGEPS ahead of the appointed time for the opening or decryption of such bids;
- b) Causing the unauthorized disclosure of any information or document submitted through the PhilGEPS;
- c) Hacking into or cracking the PhilGEPS, or aiding another person to hack into or crack the same; or
- d) Any other act that breaches or violates the security, integrity, and confidentiality of the PhilGEPS.

8.6.5. When any of the foregoing acts is done by the administrator(s) or employee(s) of a service provider hired by a Procuring Entity, or in collusion with, or by a private party who is a participant in the bidding process, said administrator(s), employee(s) or private party shall be imposed the corresponding sanctions and/or penalties under this IRR.

#### 8.7. *Observers*

The PhilGEPS shall allow observers, duly authorized by the BAC, to monitor the procurement proceedings on-line: *Provided, however,* That such observers do not have any direct or indirect interest in the contract to be bid as prescribed in Section 13 of this IRR.

### **Section 9. Security, Integrity and Confidentiality**

The PhilGEPS shall incorporate the following features, which shall be periodically upgraded to keep abreast with developments in technology:

- a) *Security* – The PhilGEPS shall be protected from unauthorized access or interference through the incorporation of security features such as, but not limited to, firewalls. Periodic tests shall be conducted to ensure that the system cannot be breached.
- b) *Integrity* – The PhilGEPS shall ensure that no person, including the system administrators and chairperson and members of the BAC, shall be able to alter the contents of bids submitted through the system or read the same ahead of the stipulated time for the decryption or opening of bids. For this purpose, bids submitted through the PhilGEPS shall be sealed through electronic keys. The authenticity of messages and documents submitted through the PhilGEPS shall also be ensured by the use of electronic signatures.
- c) *Confidentiality* – The PhilGEPS shall ensure the privacy of parties transacting with it. For this purpose, no electronic message or document sent through the system shall be divulged to third parties unless such electronic message or document was sent after the sender was informed that the same will be made publicly available. The PhilGEPS shall protect the intellectual property rights over documents, including technical designs, submitted in response to Invitations to Bid.

- d) *Audit Trail* – The PhilGEPS shall include a feature that provides for an audit trail for on-line transactions, and allows the Commission on Audit (COA) to verify the security and integrity of the system at any time.
- e) *Performance Tracking* – The performance of manufacturers, suppliers, distributors, contractors and consultants shall be tracked to monitor compliance with delivery schedules and other performance indicators. Similarly, the performance of Procuring Entities shall be tracked to monitor the settlement of their obligations to manufacturers, suppliers, distributors, contractors and consultants.

## **RULE IV – COMPETITIVE BIDDING**

### **Section 10. Competitive Bidding**

All procurement shall be done through competitive bidding, except as provided in Rule XVI of this IRR.

## **RULE V – BIDS AND AWARDS COMMITTEE**

### **Section 11. The BAC and its Composition**

#### *11.1. BAC Structure*

- 11.1.1. Each Procuring Entity shall establish in its head office a single BAC to undertake the functions specified in Section 12 of this IRR in order to facilitate professionalization and harmonization of procedures and standards. In line with the standardization of procurement procedures and the thrust towards strengthening the procurement function to increase operational efficiency and effectiveness, Heads of Procuring Entities shall aim to consolidate or unify all procurement activities of the organization, whether locally-funded or foreign-assisted, and whether pertaining to Goods, Infrastructure Projects or Consulting Services.
- 11.1.2. However, to expedite the procurement process for practical intents and purposes, the HoPE may create separate BACs where the number and complexity of the items to be procured shall so warrant. The BACs may be organized either according to: (a) geographical location of PMO or end-user or implementing units of the Procuring Entity; or (b) nature of procurement. Similar committees for decentralized and lower level offices may also be formed when deemed necessary by the HoPE.

#### *11.2. BAC Composition*

- 11.2.1. The HoPE shall designate at least five (5) but not more than seven (7) members to the BAC of unquestionable integrity and procurement proficiency.
- 11.2.2. The BAC for NGAs, departments, bureaus, offices, or instrumentalities of the GoP, including the judicial and legislative branches, constitutional commissions, SUCs, GOCCs, and GFIs shall be composed of the following:

Regular Members:

- a) Chairperson, who is at least a third (3<sup>rd</sup>) ranking permanent official of the Procuring Entity;
- b) An officer, who is at least a fifth (5<sup>th</sup>) ranking permanent official, or if not available, an officer of the next lower rank with knowledge, experience and/or expertise in procurement who, to the extent possible, represents the legal or administrative area of the Procuring Entity: *Provided*, That in the case of bureaus, regional offices and sub-regional/district offices, BAC members shall be at least a third (3<sup>rd</sup>) ranking permanent personnel or if not available, an officer of the next lower rank;
- c) An officer, who is at least a fifth (5<sup>th</sup>) ranking permanent official, or if not available, an officer of the next lower rank with knowledge, experience and/or expertise in procurement who, to the extent possible, represents the finance area of the Procuring Entity: *Provided*, That in the case of bureaus, regional offices and sub-regional/district offices, BAC members shall be at least a third (3<sup>rd</sup>) ranking permanent personnel or if not available, an officer of the next lower rank;

Provisional Members:

- d) An officer who has technical expertise relevant to the procurement at hand, and, to the extent possible, has knowledge, experience and/or expertise in procurement; and
- e) A representative from the end-user or implementing unit who has knowledge of procurement laws and procedures. When procurement tasks are outsourced to another GoP agency as a procurement agent pursuant to Section 7.3.3, a representative from the Procuring Entity may be designated as a provisional member to the BAC. For this purpose, the procuring entity shall recommend the provisional member to be designated.

The Chairperson and the Vice-Chairperson shall also be designated by the HoPE. Moreover, the Vice-Chairperson shall be a regular member of the BAC. For purposes of this IRR, the term "permanent" shall refer to a *plantilla* position within the Procuring Entity concerned.<sup>(a)</sup>

11.2.3 The BAC for Local Government Units shall be composed of the following:

- a.) For Provinces, Cities, and Municipalities
  - i. One representative each from the regular offices under the Office of the Local Chief Executive such as, but not limited to, the following: Office of the Administrator, Budget Office, Legal Office, Engineering Office, General Services Offices; and
  - ii. A representative from the end user unit.

The Chairperson and Vice-Chairperson shall be designated by the Local Chief Executive. The Chairperson of the BAC shall be at least a third (3<sup>rd</sup>) ranking permanent official of the Procuring Entity. The members of the BAC shall be personnel occupying *plantilla* positions of the Procuring Entity concerned.

b.) For Barangays:

- i. The BAC shall be composed of at least five (5), but not more than seven (7) regular members of the Sangguniang Barangay, except the Punong Barangay.
- ii. The Punong Barangay, being the Local Chief Executive, shall designate the Chairperson, Vice-Chairperson, and members of the BAC.<sup>(a)</sup>

11.2.4. The HoPE may designate alternate BAC members, who shall have the same qualifications as that of the members originally designated under Section 11.2.2 of this IRR. The alternate members shall attend meetings of the BAC and receive the proportionate honoraria, whenever the original members are absent. The alternate members shall have the same term as the original members.<sup>(a)</sup>

11.2.5. In no case shall the HoPE and/or the approving authority be the Chairperson or a member of the BAC.

11.2.6. Unless sooner removed for a cause, the members of the BAC shall have a fixed term of one (1) year reckoned from the date of appointment, renewable at the discretion of the HoPE. Upon expiration of the terms of the current members, they shall continue to exercise their functions until new BAC members are designated. In case of resignation, retirement, separation, transfer, re-assignment, removal, or death, the replacement shall serve only for the unexpired term: *Provided, however,* That in case of leave or suspension, the replacement shall serve only for the duration of the leave or suspension. For justifiable causes, a member shall be suspended or removed by the HoPE.

## **Section 12. Functions of the BAC**

12.1. The BAC shall have the following functions: (a) advertise and/or post the invitation to bid/request for expressions of interest; (b) conduct pre-procurement and pre-bid conferences; (c) determine the eligibility of prospective bidders; (d) receive and open bids; (e) conduct the evaluation of bids; (f) undertake post-qualification proceedings; (g) resolve requests for reconsideration; (h) recommend award of contracts to the HoPE or his duly authorized representative; (i) recommend the imposition of sanctions in accordance with Rule XXIII; (j) recommend to the HoPE the use of Alternative Methods of Procurement as provided in Rule XVI hereof; k) conduct any of the Alternative Methods of Procurement; l) conduct periodic assessment of the procurement processes and procedures to streamline procurement activities pursuant to Section 3(c) of this IRR; and m) perform such other related functions as may be necessary, including the creation of a Technical Working Group (TWG) from a pool of technical, financial, and/or legal experts to assist in the following:

- 1.) Review of the Technical Specifications, Scope of Work, and Terms of Reference;
- 2.) Review of Bidding Documents;
- 3.) Shortlisting of Consultants;
- 4.) Eligibility Screening;

5.) Evaluation of Bids;

6.) Post-Qualification; and

7.) Resolution of Request for Reconsideration.

To the extent possible, the BAC in central offices shall render necessary assistance to its regional or lower office BACs to facilitate the conduct of procurement from pre-procurement conference to the post-qualification stage.<sup>(a)</sup>

12.2. The BAC shall be responsible for ensuring that the Procuring Entity abides by the standards set forth by the Act and this IRR, and it shall prepare a Procurement Monitoring Report (PMR) in the form prescribed by the GPPB. The PMR shall cover all procurement activities specified in the APP, whether ongoing and completed, from the holding of the pre-procurement conference to the issuance of notice of award and the approval of the contract, including the standard and actual time for each major procurement activity. The PMR shall be approved and submitted by the HoPE to the GPPB in printed and electronic format within fourteen (14) calendar days after the end of each semester. The PMR shall likewise be posted in accordance with E.O. 662, s. 2007, as amended.<sup>(a)</sup>

12.3. *Quorum*

A majority of the total BAC composition as designated by the HoPE shall constitute a quorum for the transaction of business, provided that the presence of the Chairperson or Vice-Chairperson shall be required.

12.4. *Meetings*

The Chairperson or, in his absence, the Vice-Chairperson, shall preside at all meetings of the BAC. The decision of at least a majority of those present at a meeting at which there is quorum shall be valid and binding as an act of the BAC: *Provided, however,* That the Chairperson or, in his absence, the Vice-Chairperson, shall vote only in case of a tie.

### **Section 13. Observers**

13.1. To enhance the transparency of the process, the BAC shall, during the eligibility checking, shortlisting, pre-bid conference, preliminary examination of bids, bid evaluation, and post-qualification, invite, in addition to the representative of the COA, at least two (2) observers, who shall not have the right to vote, to sit in its proceedings where:

1. At least one (1) shall come from a duly recognized private group in a sector or discipline relevant to the procurement at hand, for example:

a) For Infrastructure Projects, national associations of constructors duly recognized by the Construction Industry Authority of the Philippines (CIAP), such as, but not limited to the following:

- (1) Philippine Constructors Association, Inc.; or
- (2) National Constructors Association of the Philippines, Inc.

- b) For Goods, a specific relevant chamber-member of the Philippine Chamber of Commerce and Industry.
  - c) For Consulting Services, a project-related professional organization accredited or duly recognized by the Professional Regulation Commission or the Supreme Court, such as, but not limited to:
    - (1) Philippine Institute of Civil Engineers (PICE);
    - (2) Philippine Institute of Certified Public Accountants (PICPA); or
    - (3) Confederation of Filipino Consulting Organizations; and
2. The other observer shall come from a non-government organization (NGO).<sup>(a)</sup>
- 13.2. The observers shall come from an organization duly registered with the Securities and Exchange Commission (SEC) or the Cooperative Development Authority (CDA), and should meet the following criteria:
- a) Knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid;
  - b) Absence of actual or potential conflict of interest in the contract to be bid; and
  - c) Any other relevant criteria that may be determined by the BAC.
- 13.3. Observers shall be invited at least five (5) calendar days before the date of the procurement stage/activity. The absence of observers will not nullify the BAC proceedings: *Provided*, That they have been duly invited in writing. The Procuring Entities should ensure that the invitation is received at least five (5) calendar days before each procurement activity. In the event that a procurement activity has to be postponed, the observers shall be notified immediately of the change in schedule. <sup>(a)</sup>
- 13.4. The observers shall have the following responsibilities:
- a) To prepare the report either jointly or separately indicating their observations made on the procurement activities conducted by the BAC for submission to the HoPE, copy furnished the BAC Chairperson. The report shall assess the extent of the BAC's compliance with the provisions of this IRR and areas of improvement in the BAC's proceedings;
  - b) To submit their report to the Procuring Entity and furnish a copy to the GPPB and Office of the Ombudsman/Resident Ombudsman. If no report is submitted by the observer within seven (7) calendar days after each procurement activity, then it is presumed that the bidding activity conducted by the BAC followed the correct procedure; and
  - c) To immediately inhibit and notify in writing the Procuring Entity concerned of any actual or potential interest in the contract to be bid.<sup>(a)</sup>
- 13.5. Observers shall be allowed access to or be provided with the following documents free of charge upon their request: (a) minutes of BAC meetings; (b) abstract of Bids; (c) post-qualification summary report; (d) APP and related PPMP; and (e) opened proposals. In all instances, observers shall be required to enter into a confidentiality

agreement with the concerned Procuring Entity in accordance with the form prescribed by the GPPB.<sup>2(a)</sup>

#### **Section 14. BAC Secretariat / Procurement Unit**

- 14.1. The HoPE shall create a Secretariat which will serve as the main support unit of the BAC. An existing organic office within the Procuring Entity may also be designated to serve as Secretariat. To strengthen and promote the professionalization of the organizations' procuring unit, the HoPE may create procurement units that may serve concurrently as BAC Secretariat in accordance with the guidelines issued by DBM. The Secretariat shall have the following functions and responsibilities:
- a) Provide administrative support to the BAC and the TWG;
  - b) Organize and make all necessary arrangements for BAC and the TWG meetings and conferences;
  - c) Prepare minutes of meetings and resolutions of the BAC;
  - d) Take custody of procurement documents and other records and ensure that all procurements undertaken by the Procuring Entity are properly documented;
  - e) Manage the sale and distribution of Bidding Documents to interested bidders;
  - f) Advertise and/or post bidding opportunities, including Bidding Documents, and notices of awards;
  - g) Assist in managing the procurement processes;
  - h) Monitor procurement activities and milestones for proper reporting to relevant agencies when required;
  - i) Consolidate PPMPs from various units of the Procuring Entity to make them available for review as indicated in Section 7 of this IRR and prepare the APP; and
  - j) Act as the central channel of communications for the BAC with end-user or implementing units, PMOs, other units of the line agency, other government agencies, providers of goods, infrastructure projects, and consulting services, observers, and the general public.<sup>(a)</sup>
- 14.2. In case of an existing *ad hoc* Secretariat, the HoPE shall assign full-time support staff to their BAC Secretariat. The head of the Secretariat in central offices shall be at least a fifth (5<sup>th</sup>) ranking permanent employee or, if not available, a permanent employee of lower rank; or shall be at least a third (3<sup>rd</sup>) ranking permanent employee in bureaus, regional offices and sub-regional/ district offices, or if not available, a permanent employee of lower rank. In addition to integrity, Heads of Procuring Entities shall consider procurement proficiency as a factor in designating the head of the Secretariat and Procurement Unit.<sup>(a)</sup>
- 14.3. To expedite the procurement process, the HoPE shall ensure that the members of the BAC, its Secretariat and TWG, shall give utmost priority to BAC assignments over all

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<sup>2</sup> Confidentiality Agreement based on the 2014 Procurement Observer's Guide.

other duties and responsibilities, until the requirements for the said assignments at hand are completed.<sup>(a)</sup>

### **Section 15. Honoraria of BAC, BAC Secretariat, and TWG Members**

The Procuring Entity may grant payment of honoraria to the BAC members in an amount not to exceed twenty five percent (25%) of their respective basic monthly salary subject to availability of funds. For this purpose, the DBM shall promulgate the necessary guidelines. The Procuring Entity may also grant payment of honoraria to the BAC Secretariat and the TWG members, subject to the relevant rules of the DBM.

### **Section 16. Professionalization of BAC, TWG Members and Procurement Units**

The GPPB shall establish a sustained training program to develop the capability of the BACs, BAC Secretariats, TWGs, and the Procurement Units of Procuring Entities, and professionalize the same.

The HoPE shall ensure that the BAC, its Secretariat and TWG members, including other relevant procurement personnel are sent to attend procurement training or capacity development program. Within six (6) months upon designation, the BAC, its Secretariat and TWG members should have satisfactorily completed such training or program conducted, authorized or accredited by the GPPB through its Technical Support Office.

The HoPE is encouraged to attend similar procurement training and capacity development activities.<sup>(a)</sup>

## **RULE VI - PREPARATION OF BIDDING DOCUMENTS**

### **Section 17. Form and Contents of Bidding Documents**

17.1. The Bidding Documents shall be prepared by the Procuring Entity following the standard forms and manuals prescribed by the GPPB. The Bidding Documents shall include the following:

- a) ABC;
- b) Invitation to Bid/Request for Expression of Interest;
- c) Eligibility Requirements;
- d) Instructions to Bidders, including scope of bid, documents comprising the bid, criteria for eligibility, bid evaluation methodology/criteria in accordance with the Act, and post-qualification, as well as the date, time and place of the pre-bid conference (where applicable), submission of bids and opening of bids;
- e) Terms of Reference, for Consulting Services;
- f) Scope of work, where applicable;
- g) Plans/Drawings and Technical Specifications;
- h) Form of Bid, Price Form, and List of Goods or Bill of Quantities;

- i) Delivery Time or Completion Schedule;
- j) Form, Amount, and Validity Period of Bid Security;
- k) Form, Amount, and Validity of Performance Security and Warranty; and
- l) Form of Contract and General and Special Conditions of Contract.

17.2. The specifications and other terms in the Bidding Documents shall reflect the necessary specifications required to meet the needs of the Procuring Entity in clear and unambiguous terms.

In mixed procurements, the Procuring Entity shall specify in the Bidding Documents the requirements, criteria and other conditions of the bidding procedures and of the ensuing contract as applicable to each component of the project. In the preparation of Bidding Documents, the Procuring Entity shall ensure compliance with existing laws, rules and regulations, especially those concerning licenses and permits required for the project, in accordance with Section 34.2 of this IRR.<sup>(a)</sup>

17.3. To provide prospective bidders ample time to examine the Bidding Documents and to prepare their respective bids, the concerned BAC shall make the Bidding Documents available from the time the Invitation to Bid / Request for Expression of Interest is first advertised/posted until the deadline for the submission and receipt of bids.<sup>(a)</sup>

17.4. Bidders may be asked to pay a fee to recover the cost for the preparation and development of the Bidding Documents pursuant to the Guidelines on the Sale of Bidding Documents. The Procuring Entity shall post the complete Bidding Documents at its website and the PhilGEPS website from the time the Invitation to Bid/Request for Expression of Interest is advertised. Bidding Documents may be downloaded from any of the said websites: *Provided*, That upon submission of their bids, the bidders shall pay the applicable fee, if required. The Bidding Documents may also be secured from the BAC Secretariat upon payment of the corresponding fee, if required.<sup>(a)</sup>

17.5. Bidding Documents Fee may be refunded in accordance with the aforementioned Guidelines based on the grounds provided for under Section 41 of the Act and this IRR.<sup>(n)</sup>

17.6. *Detailed Engineering for the Procurement of Infrastructure Projects*

No bidding and award of contract for Infrastructure Projects shall be made unless the detailed engineering investigations, surveys and designs, for the project have been sufficiently carried out and duly approved in accordance with the standards and specifications prescribed by the HoPE concerned or his duly authorized representative, pursuant to the recommendation of the end-user or implementing unit and in accordance with the provisions of Annex "A" of this IRR. In case of projects with pending acquisition of right-of-way site or location, the procurement process may commence, but no award of contract shall be made until an authority or permit to enter is issued by the property owner; or a notarized deed of sale or deed of donation is executed in favor of the government; or a writ of possession is issued by a court of competent jurisdiction, as the case may be.

The exception is in case of design and build scheme, wherein the bidders shall be allowed to submit its preliminary engineering designs as part of its bid. The procedures

for the procurement and contract implementation of Infrastructure Projects using a design and build scheme shall be in accordance with the provisions of Annex "G" of this IRR.<sup>(a)</sup>

### **Section 18. Reference to Brand Names**

Specifications for the procurement of Goods shall be based on relevant characteristics, functionality and/or performance requirements. Reference to brand names shall not be allowed except for items or parts that are compatible with the existing fleet or equipment of the same make and brand, and to maintain the performance, functionality and useful life of the equipment.

This Section shall also apply to the goods component of Infrastructure Projects and Consulting Services.<sup>(a)</sup>

### **Section 19. Access to Information**

In all stages of the preparation of the Bidding Documents, the Procuring Entity shall ensure equal access to information. Prior to their official release to prospective bidders, no aspect or part of the Bidding Documents shall be divulged or released to any prospective bidder or person having direct or indirect interest in the project to be procured, or to any party, except those officially authorized in the handling of the documents.<sup>(a)</sup>

## **RULE VII – INVITATION TO BID**

### **Section 20. Pre-procurement Conference**

20.1. Prior to the advertisement or the issuance of the Invitation to Bid/Request for Expression of Interest for each procurement undertaken through a competitive bidding, the BAC, through its Secretariat, shall call for a pre-procurement conference. The pre-procurement conference shall be attended by the BAC, the Secretariat, the unit or officials, including consultants hired by the Procuring Entity, who prepared the Bidding Documents and the draft Invitation to Bid/Request for Expression of Interest for each procurement. During this conference, the participants, led by the BAC, shall:

- a) Confirm the description and scope of the contract, the ABC, and contract duration;
- b) Ensure that the procurement is in accordance with the PPMP and APP;
- c) Determine the readiness of the procurement at hand, including, among other aspects, the following:
  - i) availability of appropriations and programmed budget for contract. For the purpose of pre-procurement conference, pending the approval or enactment of the GAA, corporate budget or appropriations ordinances, as the case may be, the certification of availability of funds refers to the amount in the indicative APP consistent with the NEP, or MYOA or its equivalent document, the proposed corporate budget or executive budget, in accordance with Section 7.6 of this IRR on procurement activities short of award;
  - ii) completeness of the Bidding Documents and their adherence to relevant general procurement guidelines;

- iii) completion of the detailed engineering according to the prescribed standards in the case of Infrastructure Projects; and
  - iv) confirmation of the availability of right-of-way site or location, and the possession of affected properties, subject to Section 17.6 of this IRR.
- d) Review, modify and agree on the criteria for eligibility screening, evaluation, and post-qualification;
  - e) Review and adopt the procurement schedule, including deadlines and timeframes, for the different activities; and
  - f) Reiterate and emphasize the importance of confidentiality, in accordance with Section 19 of this IRR, and the applicable sanctions and penalties, as well as agree on measures to ensure compliance with the foregoing.<sup>(a)</sup>

20.2. The holding of a pre-procurement conference may not be required for small procurements, *i.e.*, procurement of Goods costing Two Million Pesos ( 2,000,000.00) and below, procurement of Infrastructure Projects costing Five Million Pesos ( 5,000,000.00) and below, and procurement of Consulting services costing One Million Pesos ( 1,000,000.00) and below.

## **Section 21. Advertising and Contents of the Invitation to Bid/Request for Expression of Interest**

### *21.1. Contents of the Invitation to Bid/Request for Expression of Interest*

The Invitation to Bid/Request for Expression of Interest shall provide prospective bidders the following information, among others:

- a) For the procurement of:
  - i) Goods, the name of the contract to be bid and a brief description of the goods to be procured;
  - ii) Infrastructure Projects, the name and location of the contract to be bid, the project background and other relevant information regarding the proposed contract works, including a brief description of the type, size, major items, and other important or relevant features of the works; and
  - iii) Consulting services, the name of the contract to be bid, a general description of the project and other important or relevant information;
- b) The name of the project, identification and number of lots or items specific to the bidding, as well as the basis of evaluation of the project, lots, or items, where applicable;
- c) A general statement on the criteria to be used by the Procuring Entity for the eligibility check, the short listing of prospective bidders, in the case of the procurement of Consulting Services, the examination and evaluation of bids, post-qualification, and award;

- d) The date, time and place of the deadline for the submission and receipt of the eligibility requirements, the pre-bid conference if any, the submission and receipt of bids, and the opening of bids;
- e) ABC for the project, lot, or item to be bid;
- f) The source of funding;
- g) The place, time and website where the Bidding Documents may be secured or downloaded, and, where required, the price of the Bidding Documents, in accordance with Section 17.4 of this IRR;
- h) The contract duration or delivery schedule;
- i) The name, address, telephone number, facsimile number, e-mail and website addresses of the concerned Procuring Entity, as well as its designated contact person; and
- j) Such other necessary information deemed relevant by the Procuring Entity.<sup>(a)</sup>

## 21.2. *Advertising and Posting of the Invitation to Bid/Request for Expression of Interest*

21.2.1. Except as otherwise provided in Section 54.2 of this IRR and for the procurement of common-use goods and supplies, the Invitation to Bid/Request for Expression of Interest shall be:

- a) Posted at any conspicuous place reserved for this purpose in the premises of the Procuring Entity concerned for seven (7) calendar days as certified by the head of the BAC Secretariat of the Procuring Entity concerned.
- b) Posted continuously in the PhilGEPS website, the website of the Procuring Entity concerned, if available, and the website prescribed by the foreign government/foreign or international financing institution, if applicable, for seven (7) calendar days starting on date of advertisement; and
- c) Advertised at least once in one (1) newspaper of general nationwide circulation which has been regularly published for at least two (2) years before the date of issue of the advertisement: *Provided*, That advertisement shall not be required for contracts to be bid with an ABC of Ten Million Pesos ( 10,000,000.00) and below for the procurement of goods, Fifteen Million Pesos ( 15,000,000.00) and below for the procurement of Infrastructure Projects, and Five Million Pesos ( 5,000,000.00) and below for the procurement of Consulting Services.

Two (2) years after the effectivity of this IRR, advertisement in a newspaper of general nationwide circulation shall no longer be required. However, a Procuring Entity that cannot post its opportunities in the PhilGEPS for justifiable reasons shall continue to publish its advertisements in a newspaper of general nationwide circulation.<sup>(a)</sup>

## **Section 22. Pre-bid Conference**

22.1. For contracts to be bid with an ABC of One Million Pesos ( 1,000,000.00) or more, the BAC shall convene at least one (1) pre-bid conference to clarify and/or explain any of

the requirements, terms, conditions, and specifications stipulated in the Bidding Documents. For contracts to be bid with an ABC of less than One Million Pesos ( 1,000,000), pre-bid conferences may be conducted at the discretion of the BAC. Subject to the approval of the BAC, a pre-bid conference may also be conducted upon written request of any prospective bidder.

- 22.2. The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of bids, but not earlier than seven (7) calendar days from the PhilGEPS posting of the Invitation to Bid or Bidding Documents and in the case of Consulting Services, from the determination of the shortlisted consultants. If the Procuring Entity determines that, by reason of the method, nature, or complexity of the contract to be bid or when international participation will be more advantageous to the GoP, a longer period for the preparation of bids is necessary, the pre-bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids.<sup>(a)</sup>
- 22.3. The pre-bid conference shall discuss, clarify and explain, among other things, the eligibility requirements and the technical and financial components of the contract to be bid including questions and clarifications raised by the prospective bidders before and during the Pre-Bid Conference.

Pre-bid conference may be conducted in person or face-to-face through videoconferencing, webcasting, or similar technology, or a combination thereof. Procuring Entities with videoconferencing capabilities that have manufacturers, suppliers, distributors, contractors and/or consultants that also have videoconferencing capabilities may conduct their pre-bidding conferences electronically. The Pre-Bid Conference is open to prospective bidders, and in case of procurement of consulting services, the shortlisted bidder, but attendance shall not be mandatory.<sup>(a)</sup>

- 22.4. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference, and shall be made available to prospective bidders not later than five (5) days upon written request.

Decisions of the BAC amending any provision of the Bidding Documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.<sup>(a)</sup>

22.5. *Supplemental/Bid Bulletins*

- 22.5.1. Requests for clarification(s) on any part of the Bidding Documents or for an interpretation must be in writing and submitted to the BAC of the Procuring Entity concerned at least ten (10) calendar days before the deadline set for the submission and receipt of bids. The BAC shall respond to the said request by issuing a Supplemental/Bid Bulletin, duly signed by the BAC Chairperson, to be made available to all those who have properly secured the Bidding Documents, at least seven (7) calendar days before the deadline for the submission and receipt of bids.<sup>(a)</sup>
- 22.5.2. For purposes of clarifying or modifying any provision of the Bidding Documents, Supplemental/Bid Bulletins may be issued upon the Procuring Entity's initiative at least seven (7) calendar days before the deadline for the submission and receipt of bids. Any modification to the Bidding Documents shall be identified as an amendment.<sup>(a)</sup>

- 22.5.3. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted in the PhilGEPS, the website of the Procuring Entity concerned, if available, and at any conspicuous place within the premises of the Procuring Entity. It shall be the responsibility of all those who have properly secured the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids in accordance with Section 26 of this IRR.<sup>(a)</sup>

## **RULE VIII – RECEIPT AND OPENING OF BIDS**

### **Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects**

- 23.1. For purposes of determining the eligibility of bidders using the criteria stated in Section 23.4 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:

a) Class "A" Documents

*Legal Documents*

- i) Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives.
- ii) Mayor's/Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas.

In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit, provided that the renewed permit shall be submitted as a post-qualification requirement in accordance with Section 34.2 of this IRR.

- iii) Tax clearance per E.O. 398, s. 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR).

*Technical Documents*

- iv) Statement of the prospective bidder of all its ongoing government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid.
- v) Statement of the bidder's Single Largest Completed Contract (SLCC) similar to the contract to be bid, except under conditions provided for in Sections 23.4.1.3 and 23.4.2.4 of this IRR, within the relevant period as provided in the Bidding Documents in the case of Goods.

All of the above statements shall include all information required in the PBDs prescribed by the GPPB.

- vi) In the case of procurement of Infrastructure Projects, a valid Philippine Contractors Accreditation Board (PCAB) License or Special PCAB License in case of Joint Ventures, and registration for the type and cost of the contract to be bid.

*Financial Documents*

- vii) The prospective bidder's audited financial statements, showing, among others, the prospective bidder's total and current assets and liabilities, stamped "received" by the BIR or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission.
- viii) The prospective bidder's computation of Net Financial Contracting Capacity (NFCC). However, in the case of procurement of Goods, a bidder may submit a committed Line of Credit from a Universal or Commercial Bank, in lieu of its NFCC computation.

b) Class "B" Document

For Goods, valid joint venture agreement (JVA), in case the joint venture is already in existence. In the absence of a JVA, duly notarized statements from all the potential joint venture partners should be included in the bid, stating that they will enter into and abide by the provisions of the JVA in the event that the bid is successful. Failure to enter into a joint venture in the event of a contract award shall be ground for the forfeiture of the bid security.

For Infrastructure Projects, JV bidders shall submit a JVA in accordance with R.A. 4566 and its IRR.

Each partner of the joint venture shall submit their respective PhilGEPS Certificates of Registration in accordance with Section 8.5.2 of this IRR. The submission of technical and financial eligibility documents by any of the joint venture partners constitutes compliance: *Provided*, That the partner responsible to submit the NFCC shall likewise submit the Statement of all of its ongoing contracts and Audited Financial Statements.<sup>(a)</sup>

23.2. In case of foreign bidders, the eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines.<sup>(a)</sup>

23.3. To facilitate determination of eligibility, the BAC of a Procuring Entity shall use the contents of the PhilGEPS electronic registry of manufacturers, suppliers, distributors, contractors, and/or consultants, in accordance with Section 8.5.2 of this IRR.<sup>(23.4a)</sup>

23.4. *Eligibility Criteria*

23.4.1. For the procurement of Goods:

23.4.1.1. The following shall be eligible to participate in the bidding for the supply of goods:

- a) Duly licensed Filipino citizens/sole proprietorships;
- b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
- c) Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
- d) Cooperatives duly organized under the laws of the Philippines; or
- e) Persons/entities forming themselves into a joint venture, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: *Provided, however,* That Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%). For this purpose, Filipino ownership or interest shall be based on the contributions of each of the members of the joint venture as specified in their JVA.<sup>(23.5.1.1a)</sup>

23.4.1.2. Foreign bidders may be eligible to participate under any of the following circumstances in accordance with the guidelines issued by the GPPB:

- a) When provided for under any Treaty or International or Executive Agreement as provided in Section 4 of the Act and this IRR;
- b) When the foreign supplier is a citizen, corporation or association of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations or associations of the Philippines;
- c) When the goods sought to be procured are not available from local suppliers; or
- d) When there is a need to prevent situations that defeat competition or restrain trade.<sup>(23.5.1.2a)</sup>

23.4.1.3. The prospective bidder must have completed, within the period specified in the Invitation to Bid, an SLCC that is similar to the contract to be bid, and whose value, adjusted to current prices using the Philippine Statistics Authority (PSA) consumer price indices, must be at least fifty percent (50%) of the ABC. However, in the case of Expendable Supplies, said SLCC must be at least twenty five percent (25%) of the ABC.

If, at the outset and after conducting market research, the Procuring Entity can already determine that imposing the same will likely result to: (a) failure of bidding, or (b) monopoly that will defeat the purpose of competitive bidding, the Procuring Entity, in lieu of the above, may require the following:

- a) The prospective bidder should have completed at least two (2) similar contracts and the aggregate contract amounts should be equivalent to at least the percentage of the ABC as required above; and
- b) The largest of these similar contracts must be equivalent to at least half of the percentage of the ABC as required above.

For this purpose, the similar contracts mentioned under (a) and (b) above must have been completed within the period specified in the Invitation to Bid. The Procuring Entity may clarify in the Bidding Documents the definition or description of what it considers to be a similar project.<sup>(23.5.1.3a)</sup>

- 23.4.1.4. The computation of a prospective bidder's NFCC must be at least equal to the ABC to be bid, calculated as follows:

NFCC = [(Current assets minus current liabilities) (15)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started, coinciding with the contract to be bid.

The values of the domestic bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements submitted to the BIR.

For purposes of computing the foreign bidders' NFCC, the value of the current assets and current liabilities shall be based on their Audited Financial Statements prepared in accordance with international financial reporting standards.<sup>(23.5.1.4a)</sup>

- 23.4.1.5. If the prospective bidder submits a committed Line of Credit, it must be at least equal to ten percent (10%) of the ABC to be bid: *Provided*, That if the same is issued by a foreign Universal or Commercial Bank, it shall be confirmed or authenticated by a local Universal or Commercial Bank. <sup>(n)</sup>

23.4.2. For the procurement of Infrastructure Projects:

- 23.4.2.1. The following persons/entities shall be allowed to participate in the bidding for Infrastructure Projects:

- a) Duly licensed Filipino citizens/sole proprietorships;
- b) Partnerships duly organized under the laws of the Philippines and of which at least seventy-five percent (75%) of the interest belongs to citizens of the Philippines;
- c) Corporations duly organized under the laws of the Philippines, and of which at least seventy-five percent (75%) of the outstanding capital stock belongs to citizens of the Philippines;
- d) Cooperatives duly organized under the laws of the Philippines; or
- e) Persons/entities forming themselves into a joint venture, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: *Provided, however*, That in accordance with Letter of Instructions No. 630 (LOI

contracts, including awarded contracts yet to be started, coinciding with the contract to be bid.

The values of the domestic bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements submitted to the BIR. For purposes of computing the foreign bidders' NFCC, the value of the current assets and current liabilities shall be based on their Audited Financial Statements prepared in accordance with international financial reporting standards.<sup>(23.5.2.6a)</sup>

- 23.5. GOCCs may be eligible to participate in Competitive Bidding only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not attached agencies of the Procuring Entity. The GPPB shall promulgate the necessary guidelines for this provision.<sup>(23.6)</sup>
- 23.6. Notwithstanding the eligibility of a bidder, the Procuring Entity concerned reserves the right to review the qualifications of the bidder at any stage of the procurement process if the Procuring Entity has reasonable grounds to believe that a misrepresentation has been made by the said bidder, or that there has been a change in the bidder's capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility requirements, statements or documents, or any changes in the situation of the bidder which will affect the capability of the bidder to undertake the project so that it fails the eligibility criteria, the Procuring Entity shall consider the said bidder as ineligible and shall disqualify it from obtaining an award or contract, in accordance with Rules XXI, XXII, and XXIII of this IRR.<sup>(23.7a)</sup>

#### **Section 24. Eligibility Requirements and Short Listing for Consulting Services**

- 24.1. For purposes of determining the eligibility and short list of bidders in accordance with Sections 24.4 and 24.5 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:

a) Class "A" Documents

*Legal Documents*

- i) Registration certificate from SEC, DTI for sole proprietorship, or CDA for cooperatives.
- ii) Mayor's/Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas.

In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit: *Provided*, That the renewed permit shall be submitted as a post-qualification requirement in accordance with Section 34.2 of this IRR.

For individual consultants not registered under a sole proprietorship, a BIR Certificate of Registration shall be submitted, in lieu of DTI registration and Mayor's/Business permit.

- iii) Tax clearance per E.O. 398, s. 2005, as finally reviewed and approved by the BIR.

*Technical Documents*

- iv) Statement of the prospective bidder of all its ongoing and completed government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid, within the relevant period as provided in the Bidding Documents. The statement shall include all information required in the PBDs prescribed by the GPPB.
- v) Statement of the consultant specifying its nationality and confirming that those who will actually perform the service are registered professionals authorized by the appropriate regulatory body to practice those professions and allied professions, including their respective curriculum vitae.

*Financial Document*

- vi) The consultant's audited financial statements, showing, among others, the consultant's total and current assets and liabilities, stamped "received" by the BIR or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission.

b) Class "B" Document

Valid joint venture agreement (JVA), in case a joint venture is already in existence. In the absence of a JVA, duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA in the instance that the bid is successful, shall be included in the bid. Failure to enter into a joint venture in the event of a contract award shall be ground for the forfeiture of the bid security. Each partner of the joint venture shall submit the PhilGEPS Certificate of Registration in accordance with Section 8.5.2 of this IRR. The submission of technical and financial documents by any of the joint venture partners constitutes compliance.<sup>(a)</sup>

24.2. In the case of foreign consultants, the eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines.<sup>(a)</sup>

24.3. *Eligibility Criteria*

24.3.1. The following persons/entities shall be allowed to participate in the bidding for Consulting Services:

- a) Duly licensed Filipino citizens/sole proprietorships;
- b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
- c) Corporations duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
- d) Cooperatives duly organized under the laws of the Philippines; or
- e) Persons/entities forming themselves into a joint venture, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: *Provided, however,* That Filipino ownership or interest thereof shall be at least sixty percent (60%). For this purpose, Filipino ownership or interest shall be based on the contributions of each of the members of the joint venture as specified in their JVA.

24.3.2. When the types and fields of consulting services in which the foregoing persons/entities wish to engage involve the practice of professions regulated by law, those who will actually perform the services shall be Filipino citizens and registered professionals authorized by the appropriate regulatory body to practice those professions and allied professions.

24.3.3. In order to manifest trust and confidence in and promote the development of Filipino consultancy, foreign consultants may be hired in the event Filipino consultants do not have the sufficient expertise and capability to render the services required under the project, as determined by the HoPE subject to the submission of the documents in accordance with Section 37.1.4(a)(iv).<sup>(a)</sup>

#### 24.4. *Eligibility Check of Prospective Bidders*

24.4.1. The eligibility envelopes of prospective bidders for procurement of Consulting Services shall be submitted on or before the deadline specified in the Request for Expression of Interest, and shall be opened before the dates of the pre-bid conference and bid opening to determine eligibility of prospective bidders.<sup>(a)</sup>

24.4.2. Subject to the short listing of consultants as provided in this IRR, the determination of eligibility of consultants shall be based on the evaluation of the eligibility documents prescribed above in accordance with the procedures provided in Section 30.1 of this IRR.

24.4.3. To facilitate determination of eligibility, the BAC of a Procuring Entity shall use the contents of the PhilGEPS electronic registry of manufacturers, suppliers, distributors, contractors, and/or consultants, in accordance with Section 8.5.2 of this IRR. However, foreign consultants participating in the procurement by a Philippine Foreign Service Office or Post shall be allowed to submit their eligibility documents under Section 24.1 of this IRR, in lieu of the PhilGEPS Certificate of Registration: *Provided,* That the winning bidder should register with the PhilGEPS in accordance with Section 37.1.4 of this IRR.<sup>(a)</sup>

#### 24.5. *Short Listing of Prospective Bidders*

- 24.5.1. With respect to a particular contract for Consulting Services to be bid, the concerned Procuring Entity shall only consider for short listing those consultants whose contracts, as identified in the eligibility documents submitted for registration, are similar in nature and complexity to the contract to be bid, based on the Request for Expression of Interest.
- 24.5.2. The BAC shall draw up the short list of consultants from those who have been determined as eligible in accordance with the provisions of this IRR. The number of short listed consultants, which shall be determined in the pre-procurement conference, shall consist of three (3) to seven (7) consultants, with five (5) as the preferable number. Should only one (1) or less than the required number apply for eligibility and short listing, pass the eligibility check, and/or pass the minimum score required in the short listing, the BAC shall consider the same. The shortlisted bidders shall then be required to pay the fee for the Bidding Documents, if applicable, subject to the provisions of Section 17.4 of this IRR.<sup>(a)</sup>
- 24.5.3. The BAC shall specify in the Request for Expression of Interest the set of criteria and rating system for short listing of consultants to be used for the particular contract to be bid, which shall consider the following, among others:
- a) Applicable experience of the consultant and members in case of joint ventures, considering both the overall experiences of the firm or, in the case of new firms, the individual experiences of the principal and key staff, including the times when employed by other consultants;
  - b) Qualification of personnel who may be assigned to the job vis-à-vis extent and complexity of the undertaking; and
  - c) Current workload relative to capacity.
- 24.5.4. The BAC shall recommend the short list of consultants to the HoPE for consideration and approval. The entire process of eligibility check and short listing shall not exceed twenty (20) calendar days.
- 24.6. GOCCs may be eligible to participate in Competitive Bidding only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not attached agencies of the Procuring Entity. The GPPB shall promulgate the necessary guidelines for this provision.
- 24.7. Notwithstanding the eligibility of a consultant and/or inclusion in the short list of consultants, the Procuring Entity concerned reserves the right to review his qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said consultant, or that there has been a change in the consultant's capability to undertake the project from the time he submitted his eligibility requirements. Should such review uncover any misrepresentation made in the eligibility requirements, statements or documents, or any changes in the situation of the consultant which will affect the capability of the consultant to undertake the project so that the consultant fails the preset eligibility criteria, the Procuring Entity shall consider the said consultant as ineligible and shall disqualify him from submitting a bid or from obtaining an award or contract, in accordance with Rules XXI, XXII, and XXIII of this IRR.

## **Section 25. Submission and Receipt of Bids**

- 25.1. Bidders shall submit their bids through their duly authorized representative using the forms specified in the Bidding Documents in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under Section 23.1 of this IRR for the procurement of Goods and Infrastructure Projects, and the second shall contain the financial component of the bid.
- 25.2. The first envelope shall contain the following technical information/documents, at the least:
- a) For the procurement of Goods:
- i) PhilGEPS Certificate of Registration and membership in accordance with Section 8.5.2 of this IRR, except for foreign bidders participating in the procurement by a Philippine Foreign Service Office or Post, which shall submit their eligibility documents under Section 23.1 of this IRR: *Provided*, That the winning bidder shall register with the PhilGEPS in accordance with Section 37.1.4 of this IRR;
  - ii) Statement of all Ongoing Government and Private Contracts;
  - iii) Statement of SLCC;
  - iv) NFCC Computation or committed Line of Credit;
  - v) JVA or the Duly Notarized Statement in accordance with Section 23.1(b) of this IRR, if applicable;
  - vi) Bid security in the prescribed form, amount and validity period;
  - vii) Technical Specifications, which may include production/delivery schedule, manpower requirements, and/or after-sales service/parts, if applicable;
  - viii) Omnibus Sworn Statement in accordance with Section 25.3 of this IRR; and
  - ix) For foreign bidders claiming eligibility by reason of their country's extension of reciprocal rights to Filipinos, a certification from the relevant government office of their country stating that Filipinos are allowed to participate in their government procurement activities for the same item or product.
- b) For the procurement of Infrastructure Projects:
- i) PhilGEPS Certificate of Registration and membership in accordance with Section 8.5.2 of this IRR, except for foreign bidders participating in the procurement by a Philippine Foreign Service Office or Post, which shall submit their eligibility documents under Section 23.1 of this IRR: *Provided*, That the winning bidder shall register with the PhilGEPS in accordance with Section 37.1.4 of this IRR.
  - ii) PCAB License and Registration;
  - iii) Statement of all Ongoing Government and Private Contracts;

- iv) Statement of SLCC;
- v) NFCC Computation;
- vi) JVA, if applicable;
- vii) Bid security in the prescribed form, amount and validity period;
- viii) Project Requirements, which shall include the following:
  - (1) Organizational chart for the contract to be bid;
  - (2) List of contractor's personnel (*e.g.*, Project Manager, Project Engineers, Materials Engineers, and Foremen), to be assigned to the contract to be bid, with their complete qualification and experience data;
  - (3) List of contractor's major equipment units, which are owned, leased, and/or under purchase agreements, supported by proof of ownership or certification of availability of equipment from the equipment lessor/vendor for the duration of the project, as the case may be; and
- ix) Omnibus Sworn Statement in accordance with Section 25.3 of this IRR;
- c) For the procurement of Consulting Services:
  - i) The bid security in the prescribed form, amount and validity period;
  - ii) Organizational chart for the contract to be bid;
  - iii) List of completed and ongoing projects;
  - iv) Approach, work plan, and schedule: *Provided, however,* That for architectural design, submission of architectural plans and designs shall not be required during the consultant's selection process;
  - v) List of key personnel to be assigned to the contract to be bid, with their complete qualification and experience data; and
  - vi) Omnibus Sworn Statement in accordance with Section 25.3 of this IRR.<sup>(a)</sup>

25.3. The Omnibus Sworn Statement executed by the bidder, or its duly authorized representative, shall contain the following:

- (a) The signatory is the duly authorized representative of the prospective bidder, and granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary's Certificate, whichever is applicable;
- (b) It is not "blacklisted" or barred from bidding by the GoP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or

international financing institution whose blacklisting rules have been recognized by the GPPB;

- (c) Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
- (d) It is authorizing the HoPE or his duly authorized representative/s to verify all the documents submitted;
- (e) It complies with the disclosure provision under Section 47 of the Act and this IRR, in relation to other provisions of R.A. 3019;
- (f) It complies with existing labor laws and standards;
- (g) It complies with the responsibilities of a prospective or eligible bidder provided in the PBDs;
- (h) It did not give or pay, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.<sup>.[25.2(a)(iv), 25.2(b)(iv), 25.2(c)(iv)a]</sup>

25.4. The second envelope shall contain the financial information/documents as specified in the PBDs.

25.5. Bids shall be received by the BAC on the date, time, and place specified in the Invitation to Bid/Request for Expression of Interest. The following periods from the last day of posting of the Invitation to Bid/Request for Expression of Interest up to the submission and receipt of bids shall be observed:

- a) For Goods, a maximum period of forty-five (45) calendar days.
- b) For Infrastructure Projects, the following maximum periods:

ABC (in Philippine currency)	Period
Fifty (50) million and below	50 calendar days
Above fifty (50) million	65 calendar days

- c) For Consulting Services, a maximum period of seventy five (75) calendar days.

25.6. Bids, including the eligibility requirements under Section 23.1 of this IRR, submitted after the deadline shall not be accepted by the BAC. The BAC shall record in the minutes of bid submission and opening, the bidder's name, its representative and the time the late bid was submitted.<sup>.(a)</sup>

25.7. To ensure transparency and accurate representation of the bid submission, the BAC Secretariat shall notify in writing all bidders whose bids it has received through its PhilGEPS-registered physical address or official e-mail address. The notice shall be issued within seven (7) calendar days from the date of the bid opening.<sup>.(n)</sup>

25.8. The original copy of the bid form shall be typed or written in ink and shall be signed by the bidder or its duly authorized representative.<sup>.(n)</sup>

- 25.9. Unsealed or unmarked bid envelopes shall be rejected. However, bid envelopes that are not properly sealed and marked, as required in the Bidding Documents, shall be accepted, provided that the bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. The BAC shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked bid, or for its premature opening.<sup>(n)</sup>

**Section 26. Modification and Withdrawal of Bids**

- 26.1. A bidder may modify its bid, provided that this is done before the deadline for the submission and receipt of bids. Where a bidder modifies its bid, it shall not be allowed to retrieve its original bid, but shall only be allowed to send another bid equally sealed, properly identified, linked to its original bid and marked as a “modification,” thereof, and stamped “received” by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the bidder unopened.
- 26.2. A bidder may, through a letter, withdraw its bid before the deadline for the receipt of bids. Withdrawal of bids after the applicable deadline shall be subject to appropriate sanctions as prescribed in this IRR. A bidder may also express its intention not to participate in the bidding through a letter which should reach and be stamped received by the BAC before the deadline for the receipt of bids. A bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.

**Section 27. Bid Security**

- 27.1. All bids shall be accompanied by a bid security, payable to the Procuring Entity concerned as a guarantee that the successful bidder shall, within ten (10) calendar days from receipt of the notice of award, enter into contract with the Procuring Entity and furnish the performance security required in Section 39 of this IRR, except when Section 37.1 of this IRR allows a longer period. Failure to enclose the required bid security in the form and amount prescribed herein shall automatically disqualify the bid concerned.
- 27.2. The bidder shall submit a Bid Securing Declaration, or any form of Bid Security, in an amount not less than the required percentage of the ABC in accordance with the following schedule:<sup>(a)</sup>

Form of Bid Security	Amount of Bid Security (Not less than the required percentage of the ABC)
a) Cash or cashier’s/manager’s check issued by a Universal or Commercial Bank.  For biddings conducted by LGUs, the cashier’s/manager’s check may be issued by other banks certified by the BSP as authorized to issue such financial instrument. <sup>(a)</sup>	Two percent (2%)
b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: <i>Provided, however,</i> That it shall be confirmed or authenticated	

<p>by a Universal or Commercial Bank, if issued by a foreign bank.</p> <p>For biddings conducted by LGUs, bank draft/guarantee, or irrevocable letter of credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument. <sup>(a)</sup></p>	
<p>c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.</p>	<p>Five percent (5%)</p>

- 27.3. The bid security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity.
- 27.4. Without prejudice to the provisions of the Act and this IRR on the forfeiture of bid securities, bid securities shall be returned only after the bidder with the Lowest Calculated Responsive Bid (LCRB) or Highest Rated Responsive Bid (HRRB), as the case may be, has signed the contract and furnished the performance security, except to those declared by the BAC as failed or post-disqualified in accordance with this IRR, upon submission of a written waiver of their right to file a request for reconsideration and/or protest.
- 27.5. A Bid Securing Declaration is an undertaking which states, among others, that the bidder shall enter into contract with the Procuring Entity and furnish the required performance security within ten (10) calendar days, as indicated in the Bidding Documents, from receipt of the Notice of Award, and commits to pay the corresponding amount as fine and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as required in the guidelines issued by the GPPB.<sup>(a)</sup>
- 27.6. In no case shall the bid security be returned later than the expiration of the bid validity period indicated in the Bidding Documents, unless it has been extended in accordance with Section 28.2 of this IRR.<sup>(a)</sup>

### **Section 28. Bid Validity**

- 28.1. Bids and bid securities shall be valid for a reasonable period as determined by the HoPE concerned, which shall be indicated in the Bidding Documents, but in no case shall the period exceed one hundred twenty (120) calendar days from the date of the opening of bids.
- 28.2. Should it become necessary to extend the validity of the bids and bid securities beyond one hundred twenty (120) calendar days, the Procuring Entity concerned shall request in writing all those who submitted bids for such extension before the expiration date therefor. Bidders, however, shall have the right to refuse to grant such extension without forfeiting their bid security.

### **Section 29. Bid Opening**

The BAC shall open the bids immediately after the deadline for the submission and receipt of bids. The time, date, and place of the opening of bids shall be specified in the Bidding Documents.

In case the bids cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the bids submitted and reschedule the opening of bids on the next working day or at the soonest possible time through the issuance of a Notice of Postponement to be posted in the PhilGEPS website and the website of the Procuring Entity concerned.

The bidders or their duly authorized representatives may attend the opening of bids. The BAC shall ensure the integrity, security, and confidentiality of all submitted bids. The abstract of bids as read and the minutes of the bid opening shall be made available to the public upon written request and payment of a specified fee to recover cost of materials.<sup>(a)</sup>

## **RULE IX – BID EVALUATION**

### **Section 30. Preliminary Examination of Bids**

- 30.1. The BAC shall open the first bid envelopes in public to determine each bidder's compliance with the documents required to be submitted for eligibility and for the technical requirements, as prescribed in this IRR. For this purpose, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a non-discretionary "pass/fail" criterion, as stated in the Instructions to Bidders. If a bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as "failed." Otherwise, the BAC shall rate the said first bid envelope as "passed."<sup>(a)</sup>
- 30.2. Immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible bidder whose first bid envelope was rated "passed." The second envelope of each complying bidder shall be opened within the same day, except as provided under Section 33 of this IRR. In case any of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC, the BAC shall rate the bid concerned as "failed." Only bids that are determined to contain all the bid requirements for both components shall be rated "passed" and shall immediately be considered for evaluation and comparison.<sup>(a)</sup>
- 30.3. For the procurement of Goods where, due to the nature of the requirements of the project, the required technical specifications/requirements of the contract cannot be precisely defined in advance of bidding, or where the problem of technically unequal bids is likely to occur, a two (2)-stage bidding procedure may be employed. In these cases, the Procuring Entity concerned shall prepare the Bidding Documents, including the technical specification in the form of performance criteria only. Under this procedure, prospective bidders shall be requested at the first stage to submit their respective eligibility requirements if needed, and initial technical proposals only (no price tenders). The concerned BAC shall then evaluate the technical merits of the proposals received from eligible bidders vis-à-vis the required performance standards. A meeting/discussion shall then be held by the BAC with those eligible bidders whose technical tenders meet the minimum required standards stipulated in the Bidding Documents for purposes of drawing up the final revised technical specifications/requirements of the contract. Once the final revised technical

specifications are completed and duly approved by the concerned BAC, copies of the same shall be issued to all the bidders identified in the first stage who shall then be required to submit their revised technical tenders, including their price proposals in two (2) separate sealed envelopes in accordance with this IRR, at a specified deadline, after which time no more bids shall be received. The concerned BAC shall then proceed in accordance with the procedure prescribed in this IRR.

30.4. For the procurement of Consulting Services, the detailed implementation of the procedure specified in this Section shall be as provided in Section 33 of this IRR.

### **Section 31. Ceiling for Bid Prices**

31.1. The ABC shall be the upper limit or ceiling for acceptable bid prices. If a bid price, as evaluated and calculated in accordance with this IRR, is higher than the ABC, the bidder submitting the same shall be automatically disqualified. There shall be no lower limit or floor on the amount of the award.

31.2. For Foreign-funded Procurement, the ABC shall be applied as the ceiling: *Provided*, That the following conditions are met:

- a) Bidding Documents are obtainable free of charge on a freely accessible website. If payment of Bidding Documents is required by the Procuring Entity, payment could be made upon the submission of bids.
- b) The Procuring Entity has procedures in place to ensure that the ABC is based on recent estimates made by the engineer or the responsible unit of the Procuring Entity and that the estimates are based on adequate detailed engineering (in the case of Infrastructure Projects) and reflect the quality, supervision and risk and inflationary factors, as well as prevailing market prices, associated with the types of Goods or Infrastructure Projects to be procured.
- c) The Procuring Entity has trained cost estimators on estimating prices and analyzing bid variances. In the case of Infrastructure Projects, the Procuring Entity must also have trained quantity surveyors.
- d) The Procuring Entity has established a system to monitor and report bid prices relative to ABC and engineer's/Procuring Entity's estimate.
- e) The Procuring Entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of Goods and Infrastructure Projects.

However, the GoP and the foreign government/foreign or international financing institution may agree to waive the foregoing conditions.<sup>(a)</sup>

### **Section 32. Bid Evaluation for the Procurement of Goods and Infrastructure Projects**

32.1. Members of the BAC, its staff and personnel, Secretariat and TWG, as well as Observers, are prohibited from making or accepting any communication with any bidder regarding the evaluation of their bids until the issuance of the Notice of Award. However, the BAC, through its Secretariat, may ask in writing the bidder for a clarification of its bid. All responses to requests for clarification shall be in writing.<sup>(a)</sup>

- 32.2. For the procurement of Goods and Infrastructure Projects, the BAC shall evaluate the financial component of the bids to determine the Lowest Calculated Bid using the following steps:
- 32.2.1. The BAC shall immediately conduct a detailed evaluation of all bids using non-discretionary criteria in considering the following:
- a) Completeness of the bid. Unless the Instructions to Bidders specifically allow partial bids, bids not addressing or providing all of the required items in the Bidding Documents including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a zero (0) or a dash (-) for the said item would mean that it is being offered for free to the Government, except those required by law or regulations to be provided for; and
  - b) Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications if expressly allowed in the Bidding Documents. Any adjustment shall be calculated in monetary terms to determine the calculated prices.<sup>(a)</sup>
- 32.2.2. The BAC shall evaluate all bids on an equal footing to ensure fair and competitive bid comparison. For this purpose, all bidders shall be required to include the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.
- 32.2.3. In case of discrepancies between: (a) bid prices in figures and in words, the latter shall prevail; (b) total price per item and unit price for the item as extended or multiplied by the quantity of that item, the latter shall prevail; (c) stated total price and the actual sum of prices of component items, the latter shall prevail; (d) unit cost in the detailed estimate and unit cost in the bill of quantities, the latter shall prevail.
- 32.2.4. Bids shall then be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, and other bid modifications, to identify the Lowest Calculated Bid. Total calculated bid prices, as evaluated and corrected for computational errors, and other bid modifications, which exceed the ABC shall be disqualified.
- 32.3. After all bids have been received, opened, examined, evaluated, and ranked, the BAC shall prepare the corresponding Abstract of Bids. All members of the BAC shall sign the Abstract of Bids and attach thereto all the bids with their corresponding bid securities and the minutes or proceedings of the bidding. The Abstract of Bids shall contain the following:
- a) Name of the contract and its location, if applicable;
  - b) Time, date and place of bid opening; and