



# PHILIPPINE RURAL DEVELOPMENT PROJECT

**Module 1  
Guidelines for the  
Procurement of Infrastructure  
Subprojects under PRDP  
Second Additional Financing  
with EU Grant co-financing**

**Second Edition  
November 2021**

## **TABLE OF CONTENTS**

<b>I.</b>	<b>Introduction .....</b>	<b>4</b>
<b>II.</b>	<b>Methods of Procurement of Works .....</b>	<b>5</b>
	<b>A. International Competitive Bidding (ICB) .....</b>	<b>5</b>
	<b>B. National Competitive Bidding (NCB) .....</b>	<b>5</b>
	<b>B.1. No Objection Letter 1 (NOL1) .....</b>	<b>6</b>
	<b>B.2. Advertisement .....</b>	<b>7</b>
	<b>B.3. Bidding Documents .....</b>	<b>7</b>
	<b>B.4. Pre-bid Conference .....</b>	<b>8</b>
	<b>B.5. Validity of Bids and Bid Security .....</b>	<b>8</b>
	<b>B.6. Pricing .....</b>	<b>9</b>
	<b>B.7. Price Adjustment .....</b>	<b>9</b>
	<b>B.8. Alternative Bid .....</b>	<b>9</b>
	<b>B.9. Conditions of Contract .....</b>	<b>10</b>
	<b>B.10. Performance Security and Retention Money .....</b>	<b>10</b>
	<b>B.11. Liquidated Damages .....</b>	<b>10</b>
	<b>B.12. Force Majeure .....</b>	<b>10</b>
	<b>B.13. Applicable Law and Settlement of Disputes .....</b>	<b>10</b>
	<b>B.14. Time for Preparation of Bids .....</b>	<b>11</b>
	<b>B.15. Bid Opening Procedures .....</b>	<b>11</b>
	<b>B.16. Clarifications or Alterations of Bids .....</b>	<b>12</b>
	<b>B.17. Confidentiality .....</b>	<b>12</b>
	<b>B.18. Examination of Bids .....</b>	<b>12</b>
	<b>B.19. Evaluation and Comparison of Bids .....</b>	<b>12</b>
	<b>B.20. Extension of Validity of Bids .....</b>	<b>13</b>
	<b>B.21. Postqualification of Bidders .....</b>	<b>13</b>
	<b>B.22. Single Largest Completed Contract .....</b>	<b>14</b>
	<b>B.23. Required Experience of Key Personnel for the Project .....</b>	<b>15</b>

B.24. Minimum Required Equipment .....	16
B.25. No Objection Letter 2 (NOL2) .....	17
B.26. Award of Contract .....	17
B.27. Publication of the Award of Contract .....	17
B.28. Rejection of All Bids .....	17
B.29. Debriefing by the Borrower .....	18
B.30. Milestones for National Competitive Bidding (NCB) .....	19
C. Shopping .....	20
C.1. Milestones for Shopping .....	21
D. Direct Contracting .....	22
D.1. Milestones for Direct Contracting .....	23
<b>III. Annexes</b>	
<b>Annex 1 - Philippine Bidding Documents</b>	
(As Harmonized with Development Partners) – NCB for Works .....	24
<b>Annex 2 - Request for Quotation (RFQ) - Shopping for Works .....</b>	<b>128</b>
Attachment 1 - Contract Agreement .....	130
Attachment 2 - Terms and Conditions .....	132
Attachment 3 - Bill of Quantities .....	140
Attachment 4 - Plans and Specifications.....	141
Attachment 5 - Letter of Acceptance .....	142
Attachment 6 - Performance Security (Bank Guarantee) .....	143
Attachment 7 – Advance Payment Security (Bank Guarantee)..	144
<b>Annex 3 – Philippine Rural Development Project (PRDP) Uniform Guidelines for     Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants     (Refer to page 48 of the Cross Reference Guidelines)</b>	

## **I. INTRODUCTION**

This guideline is one in a series of four procurement guidelines that the Department of Agriculture – Philippine Rural Development Project (DA-PRDP) is publishing in support of procurement of infrastructure subprojects. This, along with the three (3) other procurement guidelines in this series (Cross-Reference Guidelines, Guidelines for IREAP and GEF subprojects and Guidelines for Goods, Non Consulting Services & Selection of Consultants) demonstrates the Department’s dedication to improving the procurement performance of the PRDP-funded subprojects as well as unwavering commitment to improving the PRDP procurement process, awareness and stewardships.

It is well recognized that the pursuit of PRDPs objective of achieving sustainable economic growth in their beneficiaries through the reduction of poverty and conservation of a sound environment are necessary and closely related. The PRDP Coordinating Teams at the NPCO and PSO, most likely the RPCOs, are the fundamental front-liners and advocates of raising LGU level of PRDP procurement awareness. Adopting the recommended strategies of the procurement process, they would be able to enhance, supplement and heighten their knowledge about the PRDP procurement guidelines and procedures.

Lastly, this Procurement guidelines will help ensure that the infrastructure subprojects being realized and funded by PRDP will be valued as environmentally sound, climate resilient and compliant with our national policies and has adopted some relevant international best practices on implementing infrastructures subprojects.

## II. METHODS OF PROCUREMENT OF INFRASTRUCTURE SUBPROJECTS

METHODS	THRESHOLD (Cost Contract)
International Competitive Bidding (ICB)	≥US\$ 15,000,000.00
National Competitive Bidding (NCB)	<US\$ 15,000,000.00
Shopping / NCB	≤US\$ 200,000.00
Direct Contracting	Subject to justification as per WB Guidelines par. 3.7

### A. International Competitive Bidding (ICB)

The default mode for works shall be **International Competitive Bidding (ICB)** subject to the following requirements:

- A.1. The Government of the Philippines (GOP) as represented by the Department of Agriculture is required to prepare and submit to the World Bank (herein after referred to as “Bank”) a General Procurement Notice;
- A.2. The Bank will arrange for its publication in UN Development Business on line (UNDB on line) and on the Bank’s external website;
- A.3. Invitation to bid shall be advertised as Specific Procurement Notices in at least one (1) newspaper of national circulation in the Borrower’s country; and
- A.4. The threshold is contracts amounting to US\$15,000,000.00 and above.

Other methods for procurement of works (may be used as specifically indicated in the Procurement Plan). The following methods, other than International Competitive Bidding (ICB) may be used for procurement of works for those contracts specified in the Procurement Plan.

### B. National Competitive Bidding (NCB)

National Competitive Bidding (NCB) is the competitive bidding procedure normally used for public procurement in the country of the Borrower, and may be the most appropriate method of procurement of goods, works, and non-consulting services which, by their nature or scope, are unlikely to attract foreign competition.

National Competitive Bidding (NCB) is subject to the additional provisions set out in

paragraph 3 of Procurement Section of the Loan Agreement as follows:

- Eligibility screening shall not be applied, provided however that bids that do not contain any of the following documents shall not pass the documentary compliance check: (i) evidence of the required financial, technical or production capability; (ii) audited financial statements; (iii) credit line or cash deposit certificate; (iv) bid security; and (v) authority of the bid signatory.
- A ceiling maybe applied to bid prices provided the following conditions are met: (i) bidding documents are obtainable free of charge on a freely accessible website; (ii) the agency has procedures in place to ensure that the EPC is based on Engineer’s Estimate; (iii) the agency has trained cost estimators on estimating prices and analyzing bid variance; and (iv) the agency has established a system to monitor and report bid prices relative to EPC and Engineer’s Estimate;
- Domestic or regional preferences shall not be applied in the evaluation of bids, and other preferences in effect in the Philippines shall not be used except with prior concurrence of the Bank;
- Foreign suppliers and contractors shall be allowed to participate, if interested, without first being required to associate with, or enter into joint venture, with local firms, and foreign bidders shall be allowed to bid, even without registration, licensing, and other government authorizations, leaving these requirements for after award and before signing of contract; and

Alternative procurement methods defined in the implementing rules and regulations such as Limited Source Bidding, Direct Contracting and Shopping as acceptable, and the use of the other alternative methods shall require prior Bank concurrence.

### **B.1. No Objection Letter 1 (NOL1)**

Upon approval of the proposed subproject (Feasibility Study, Detailed Engineering Design, Program of Work, O & M Plan, *geotagged photographs\** and the procurement bidding documents) the “No Objection Letter 1” (NOL1) shall be issued which signal the start of the procurement process.

No changes on the approved procurement bidding documents shall be made without the approval from the concerned PSO or NPCO depending on its threshold.

\*A *geotagged photograph* is a photograph which is associated with a geographical location done by assigning at least a latitude and longitude coordinates to the image, and optionally altitude, distance, accuracy data, place names and a time stamp.

Upon issuance of NOL1, the preparation of Implementation Management Agreement (IMA) shall commence by the proponent LGU through the assistance of the concerned RPCO. The IMA signed by the Head of the Procuring Entity and other signatories of the LGU shall be submitted to the PSO through the RPCO to facilitate the fund obligation and issuance of certificate of availability of funds.

## **B.2. Advertisement**

Timely notification of bidding opportunities is essential in competitive bidding. The related procurement bidding documents, as the case may be, shall not be released to the public earlier than the date of posting in the PhilGEPS. A minimum of thirty (30) calendar day-posting is required, giving sufficient time to prospective bidders to obtain procurement bidding documents, prepare and submit their responses. The FS/DED and the procurement bidding documents are available at RPCO and PSO to ensure that the prospective bidders can have access to the related information to make a competitive bid offer.

Invitations to Bid shall be posted simultaneously in the PhilGEPS, DA-PRDP website, Procuring Entity's website (if any) and at any conspicuous place in the premises of the Procuring Entity. Publication in the newspaper is optional.

## **B.3. Bidding Documents**

The bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for the works to be provided. While the detail and complexity of these documents may vary with the size and nature of the proposed bid package and contract, they generally include: invitation to bid; instructions to bidders and bid data sheet; form or letter of bid; form of contract; conditions of contract, both general and particular; specifications and drawings; relevant technical data (including of geological and environmental nature); list of bill of quantities; delivery time or schedule of completion; and necessary appendices, such as formats for various securities. The basis for bid evaluation and selection of the lowest evaluated bid shall be clearly outlined in the instructions to bidders and/or the specifications. If a fee is charged for the bidding documents, it shall be reasonable and reflect only the cost of their typing, printing or publishing in an electronic format, and delivery to prospective bidders, and shall not be so high as to discourage qualified bidders. The cost of bidding documents shall correspond to the estimated project cost range as indicated in the standard rates set by GPPB for the acquisition of bidding documents. Ten thousand pesos (PhP10,000.00) shall be the maximum amount of fee that procuring entities can set. The bidding documents for works may indicate the estimated total cost of the contract, but shall not indicate detailed

Borrower's cost estimates such as priced bills of quantities.

Borrowers (including the beneficiaries of the bank's loan) shall use the PBD for works as Harmonized with the Development Partners as provided with No Objection of the Bank. Any such changes shall be introduced only through bid data sheets or through special conditions of contract, and not by introducing changes in the standard wording of the Bank's SBDs.

#### **B.4. Pre-bid Conference**

If so specified in the bidding documents, a pre-bid conference shall be held at the venue, meeting link for videoconferencing, webcasting or similar technology and on the date indicated therein, to clarify and address the Bidders' questions on the technical and financial components of this Project. All prospective bidders are given the opportunity to attend the pre-bid conference and raise questions or clarifications regardless whether they purchased the bidding documents or not.

The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission of and receipt of bids, but not earlier than seven (7) calendar days from the posting of the Invitation to Bid/Bidding Documents in the PhilGEPS website.

Bidders are encouraged to attend the pre-bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-attendance of the Bidder will in no way prejudice its bid; however, the Bidder is expected to know the changes and/or amendments to the Bidding Documents as recorded in the minutes of the pre-bid conference and the Supplemental/Bid Bulletin. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference. The minutes shall be made available to prospective bidders not later than five (5) days upon written request.

#### **B.5. Validity of Bids and Bid Security**

Bidders shall be required to submit bids valid for a period specified in the bidding documents which shall be sufficient to enable the Borrower (including the beneficiaries of bank's loan) to complete the comparison and evaluation of bids, and obtain all the necessary approvals within the Borrower's entity and the Bank's no objection to the recommendation of award (if required based on threshold of prior review) so that the contract can be awarded within that period.

As specified in the bidding documents, the Procuring Entity should require bidders to sign the standard Bid Securing Declaration for its bid security, with template

provided in Section IX Bidding Forms, accepting that if they withdraw or modify their bids during the period of validity or they are awarded the contract and they fail to sign the contract or to submit a performance security before the deadline defined in the bidding documents, the bidder will be suspended for the period of time specified in the bidding documents from being eligible to bid for any contract with the entity that invited bids.

In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. A Bidder may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

#### **B.6. Pricing**

Bidders for works shall be required to quote unit prices or lump sum prices for the performance of the works and such prices shall include all duties, taxes, and other levies. Bidders shall be allowed to obtain all inputs (except for unskilled labor) from any eligible source so that they may offer their most competitive bids.

#### **B.7. Price Adjustment**

Bidding documents shall state either that (a) bid prices will be fixed or (b) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labor, equipment, materials, and fuel.

#### **B.8. Alternative Bid**

Alternative Bids shall be rejected. For this purpose, alternative bid is an offer made by a Bidder in addition or as a substitute to its original bid which may be included as part of its original bid or submitted separately therewith for purposes of bidding. A bid with options is considered an alternative bid regardless of whether said bid proposal is contained in a single envelope or submitted in two (2) or more separate bid envelopes.

Bidders shall submit offers that comply with the requirements of the Bidding Documents, including the basic technical design as indicated in the drawings and specifications. Unless there is a value engineering clause in the bidding document, alternative bids shall not be accepted.

#### **B.9. Conditions of Contract**

The contract documents shall clearly define the scope of work to be performed, the rights and obligations of the Procuring Entity and of the Contractor. In addition to the general conditions of contract, any particular conditions for the specific works to be procured and the location of the project shall be included. The conditions of contract shall provide a balanced allocation of risks and liabilities.

#### **B.10. Performance Security and Retention Money**

Contracts for works shall require security in an amount sufficient to protect the Procuring Entity in case of breach of contract by the Contractor. This security shall be provided in an appropriate form and amount, as specified by the Procuring Entity in the bidding documents. The amount of the security may vary, depending on the type of security furnished and on the nature and magnitude of the works or facilities. A portion of this security shall extend sufficiently beyond the date of completion of the works or facilities to cover the defects liability or maintenance period up to final acceptance by the Borrower. Contracts for works may provide for a percentage of each periodic payment to be held as retention money until final acceptance. Contractors may be allowed to replace retention money with an equivalent security in the form of a Bank security or guarantee after provisional acceptance.

#### **B.11. Liquidated Damages**

Provisions for liquidated damages or similar provisions in an appropriate amount shall be included in the conditions of contract when delays in the completion of works, or failure of the works to meet performance requirements would result in extra cost, or loss of revenue, or loss of other benefits to the Procuring Entity.

#### **B.12. Force Majeure**

The conditions of contract shall stipulate that failure on the part of the parties to perform their obligations under the contract will not be considered a default if such failure is the result of an event of force majeure as defined in the conditions of contract.

#### **B.13. Applicable Law and Settlement of Disputes**

If any dispute or difference of any kind whatsoever shall arise between the parties in connection with the implementation of the contract covered by this project, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

If the Contractor believes that a decision taken by the Procuring Entity's Representative was either outside the authority given to the Procuring Entity's Representative by this Contract or that the decision was wrongly taken, the decision shall be referred to the Arbiter indicated in the bidding documents within fourteen (14) days of the notification of the Procuring Entity's Representative's decision.

### **Bid Opening, Evaluation and Award of Contract**

#### **B.14. Time for Preparation of Bids**

The time allowed for the preparation and submission of bids shall be determined with due consideration of the particular circumstances of the project and the magnitude and complexity of the contract. Generally, not less than thirty (30) days from the date of the invitation to bid or the date of availability of bidding documents, whichever is later, shall be allowed for NCB. Bidders shall be permitted to submit bids through any electronic means available to the Procuring Entities<sup>1</sup>, as applicable, by mail or in person. The deadline and place for receipt of bids shall be specified in the invitation to bid.

#### **B.15. Bid Opening Procedures**

The time for the bid opening shall be the same for the deadline for receipt of bids or promptly thereafter, and shall be announced, together with the place for bid opening, and meeting link for videoconferencing, webcasting or similar technology, in the invitation to bid. The Borrower shall open all bids received on the deadline for bid submission at the designated place stipulated in the bidding documents, irrespective of the number of bids received on such deadline. At the bid opening, the Borrower shall neither discuss the merits of any bid nor reject any bid. Bids shall be opened in public; bidders or their representatives shall be allowed to be present in person or face-to-face through videoconferencing, webcasting or similar technology. The name of the bidder and total amount of each bid, and of any alternative bids, if they have been requested or permitted, shall be read aloud and recorded when opened, and a copy of this record shall be promptly sent to the Bank and to all bidders who submitted bids in time. Bids received after the time stipulated, as well as those not opened and read out at bid opening, shall not be considered.

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<sup>1</sup> Provided that the same: a. uses a two-factor security procedure consisting of an archive format compression and password protection to ensure the security, integrity and confidentiality of the bids submitted; b. allows access to a password-protected Bidding Documents on opening date and time. The passwords for accessing the file will be disclosed by the Bidders only during the actual bid opening which may be done in person or face-to-face through videoconferencing, webcasting or similar technology; and c. capable of generating an audit trail of transactions to ensure the security, integrity and authenticity of bid submissions; Likewise, the foregoing provision also requires the highest official managing the Information Technology system of the agency to issue a Certification to be submitted to GPPB Technical Support Office, describing the electronic system or procedure to be used by the PE for the electronic submission and receipt of bids and a statement that the same is compliant with the abovementioned requirements.

**B.16. Clarifications or Alterations of Bids**

Except as otherwise provided in B.29. No Objection Letter 2 (NOL2) and B.30. Award of Contract of this guidelines, bidders shall not be requested or permitted to alter their bids, including through any voluntary increase or decrease in bid prices, after the deadline for receipt of bids. The Borrower shall ask bidders for clarification needed to evaluate their bids but shall not ask or permit bidders to change the substance or price of their bids after the bid opening. Requests for clarification and the bidders' responses shall be made in writing, in hard copy or by an electronic system satisfactory to the Bank.

**B.17. Confidentiality**

After the public opening of bids, information relating to the examination, clarification, and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with this process until the publication of the award of contract.

**B.18. Examination of Bids**

The Borrower shall ascertain whether the bids (a) meet the eligibility requirements specified in the Eligibility of the Cross-Reference Guidelines, (b) have been properly signed, (c) are accompanied by the required securities or required declaration signed as specified in paragraph 2 of B.5. Validity of Bids and Bid Security of this guidelines, (d) are substantially responsive to the bidding documents and (e) are otherwise generally in order. If a bid, including with regard to the required bid security, is not substantially responsive, that is if it contains material deviations from or reservations to the terms, conditions, and specifications in the bidding documents, it shall not be considered further. The bidder shall neither be permitted nor invited by the Borrower to correct or withdraw material deviations or reservations once bids have been opened.

**B.19. Evaluation and Comparison of Bids**

The purpose of bid evaluation is to determine the cost to the Borrower of each bid in a manner that permits a comparison on the basis of their evaluated cost. Subject to paragraph 1 of B.25. Postqualification of Bidders of this guidelines, the bid with the lowest evaluated cost, but not necessarily the lowest submitted price, shall be selected for award.

The bid price read out at the bid opening shall be adjusted to correct any arithmetical errors.

Under works, contractors are responsible for all duties, taxes, and other levies, and

bidders shall take these factors into account in preparing their bids. The evaluation and comparison of bids shall be on this basis. Bid evaluation for works shall be strictly in monetary terms. Any procedure under which bids above or below a predetermined assessment of bid values are automatically disqualified is not acceptable.

The Procuring Entity shall prepare a detailed report on the evaluation and comparison of bids setting forth the specific reasons on which the recommendation is based for the award of contract. The Procuring Entity shall provide as a minimum all information required in the Standard Form of Bid Evaluation Report issued by PRDP in addition to other information the Bank deems relevant. For bids that exceed above the Estimated Project Cost of the subproject, it shall be justified based on the Department of Public Works and Highways Price Index and other current market prices.

#### **B.20. Extension of Validity of Bids**

Borrowers (including the beneficiaries of the bank's loan) shall complete evaluation of bids and the award of contract within the initial period of bid validity so that extensions are not necessary. An extension of bid validity, if justified by exceptional circumstances, shall be requested in writing from all bidders before the expiration date. The extension shall be for the minimum period required to complete the evaluation, obtain the necessary no objections, and award the contract. Whenever an extension of bid validity period is requested, bidders shall not be requested or be permitted to change the quoted (base) price or other conditions of their bid. Bidders shall have the right to refuse to grant such an extension.

#### **B.21. Postqualification of Bidders**

The Procuring Entity shall determine whether the bidder whose bid has been determined to offer the lowest evaluated cost has the capability and resources to effectively carry out the contract as offered in the bid. The criteria to be met shall be set out in the bidding documents, and if the bidder does not meet them, the bid shall be rejected. In such an event, the Procuring Entity shall make a similar determination for the next lowest evaluated bidder.

The Procuring Entity shall determine to its satisfaction whether the bidder that is evaluated to be the Lowest Calculated Bid complies with and is responsive to all the requirements and conditions specified in the ITB Clause 5, 12 and 13 of the bidding documents based from its submitted documentary evidences.

If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the

criteria for post-qualification, it shall declare the said bid as the LCRB, and recommend to the HoPE the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower, subject to the conditions in the award of contract.

**B.22. Single Largest Completed Contract**

Unless otherwise specified in the BDS, the required experience shall vary on the type of infrastructure works as shown on the table below:

Type of Infrastructure Project	Required years of experience	% to EPC
FMR	Within the last 5 years	50%
Bridge	Within the last 10 years	50%
Communal Irrigation System	Within the last 10 years	50%
Buildings	5 years	50%
Potable Water System	Within the last 10 years	50%
Other Infrastructure	5 years	50%

**B.23. Required Experience of Key Personnel for the Project**

Unless otherwise specified in the BDS, the following are the requirements:

Required Key Personnel		Type of Infrastructure		
		FMR	Bridge/Irrigation System/PWS	Buildings and other Infra*
Project Manager**		<p>General Experience:</p> <p>Licensed Civil /Agricultural Engineer</p> <p>Relevant Experience:</p> <p>Minimum of five (5) years relevant work experience as Project Mngr. in Road Construction</p>	<p>For Multi-span Bridge, CIP:</p> <p>Minimum of five (5) years relevant work experience as Project Mngr. in Multi-span Bridge, CIP for Irrigation Construction</p> <p>For Single-span Bridge, Level I &amp; II PWS, CIS and Other Infra:</p> <p>Minimum of five (5) years relevant work experience as Project Mngr. in Single-span Bridge, PWS, CIS and other infra. Construction</p>	<p>For PhP50M and above:</p> <p>Minimum of five (5) years relevant work experience as Project Mngr. in Building and other infra Construction</p> <p>No Project Manager required for less than PhP50M</p>
Required Key Personnel		Type of Infrastructure		
		FMR	Bridge/Irrigation System/PWS	Buildings and other Infra*
Project Engineer	Licensed Engineer	<p>General Experience:</p> <p>Minimum of five (5) years experience as</p>	<p>For Multi-span Bridge, CIP</p> <p>Minimum of 5 years experience of</p>	<p>General Experience:</p> <p>Minimum of five (5) years experience as</p>

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects under PRDP  
Second Additional Financing and EU Grant Co-financing**

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		Licensed Civil/Agricultural Engineer  Relevant Experience:  Minimum of five (5) road construction projects handled as Project Engineer	construction works with at least two (2) bridge/CIP projects supervised.  For Single-span Bridge, Level I PWS, CIS  Minimum of five (5) years experience of construction works with at least two (2) bridge/CIS/PWS/Other infra projects supervised.	Licensed Civil/Agricultural/Mechanical/Electrical Engineer ( <i>as applicable</i> )  Relevant Experience:  Minimum of five (5) years experience in <u>the specific field being procured</u> with at least one (1) project supervised.
Materials Engineer	Licensed Civil Engineer	Duly accredited by DPWH as Materials Engineer I or II following DPWH D.O. 98, S. of 2016	Duly accredited by DPWH as Materials Engineer I or II following DPWH D.O. 98, S. of 2016	Duly accredited by DPWH as Materials Engineer I

\*Other infra includes cold storage, abattoir, rock causeway, solar dryers, nursery watch tower, slope protection among others

\*\*For subprojects costing below PhP50,000,000.00, the Procuring Entity may require a Project Manager

**B.24. Minimum Required Equipment**

This is the list of pledged equipment of the contractor in response to ITB Clause 12. 1 (b) (ii.3) of the PBD which are owned or leased to be supported by proof of ownership for the duration of the project.

Acceptable proof of ownership for owned equipment as a support to the list of contractor's equipment units are Official Receipt, Certificate of Registration or Deed of Sale.

The approved Program of Work of the subproject shall provide the number of required equipment based on the utilization plan out of the construction schedule. However, the minimum required equipment should consider only the major and critical equipment, owned or leased as specified in the Program of Works.

#### **B.25. No Objection Letter 2 (NOL2)**

The Procuring Entity shall submit the recommendation of award of contract, together with the supporting documents in requesting for the issuance of the No Objection Letter 2 (NOL2) from the Bank or NPCO or PSO depending on the threshold of the prior review prior to the issuance of the Notice of Award (NOA).

#### **B.26. Award of Contract**

The Procuring Entity shall award the contract, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined (i) to be substantially responsive to the bidding documents and (ii) to offer the lowest evaluated cost. A bidder shall neither be required nor permitted, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

#### **B.27. Publication of the Award of Contract**

The Procuring Entity shall ensure that the award of contract is posted in the PhilGEPS and in its website, if available.

#### **B.28. Rejection of All Bids**

Bidding documents usually provide that Procuring Entity may reject all bids. Rejection of all bids is justified when there is lack of effective competition, or all bids are not substantially responsive, or no bidder meets the specified qualification criteria, or the bid price of the lowest evaluated winning bid is substantially higher than the Procuring Entity's updated estimated cost or available budget. Lack of competition shall not be determined solely on the basis of the number of bidders. Even when only one bid is submitted, the bidding process may be considered valid, if the bid was satisfactorily advertised, the qualification criteria were not unduly restrictive, and prices are reasonable in comparison to market values.

If all bids are rejected, the Procuring Entity shall review the causes justifying the rejection of all bids and make appropriate revisions to the bidding documents before re-inviting bids. The revision of qualification criteria may be justified only when they were set too stringently.

If for justified reasons, re-advertisement is not practical or the rejection is due to all of the bids being non-responsive, new bids may be invited from all firms that purchased the initial bidding documents. Exceptionally, when justified, the Bank may agree to re-invite only those firms that submitted bids in the first instance.

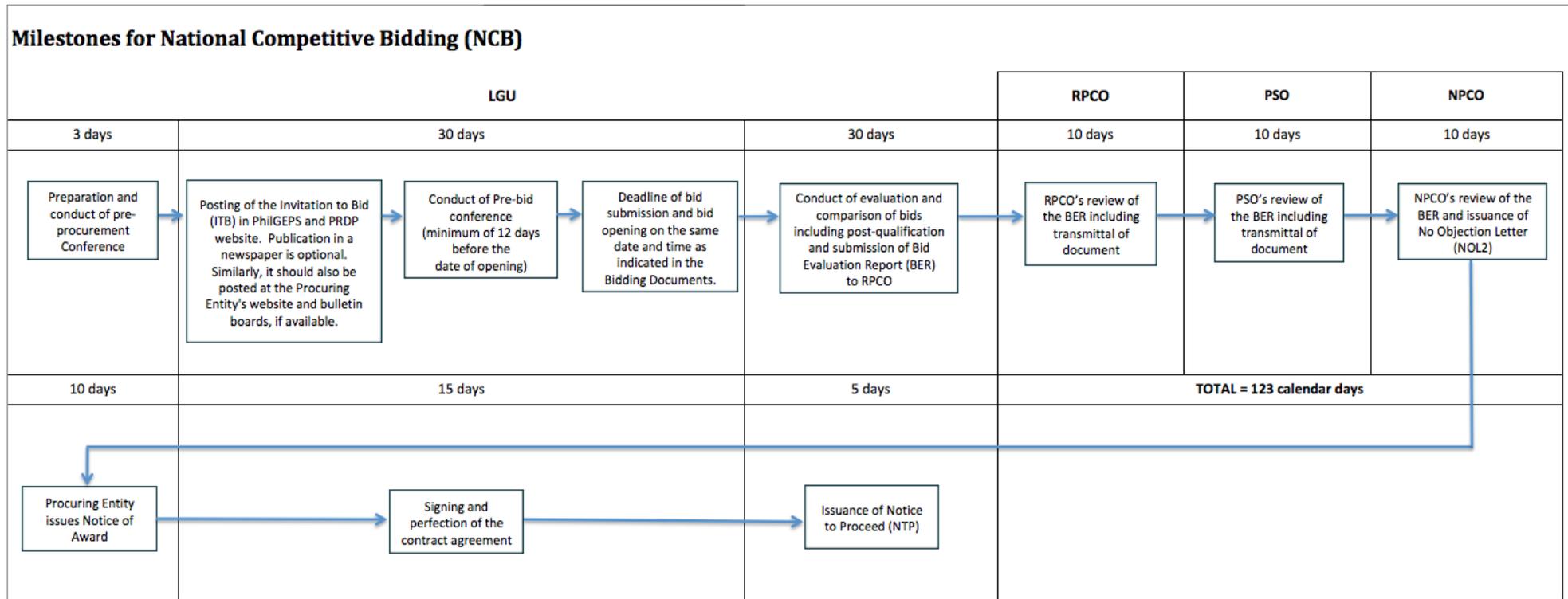
All bids shall not be rejected and new bids invited on the same bidding and contract documents solely for the purpose of obtaining lower prices. If the lowest evaluated responsive bid exceeds the Procuring Entity's updated cost estimates by a substantial margin, the Borrower shall investigate causes for the excessive cost and consider requesting new bids as described in the previous paragraphs. Alternatively, the Procuring Entity may negotiate with the lowest evaluated bidder to try to obtain a satisfactory contract through a reduction in the scope and/or a reallocation of risk and responsibility which can be reflected in a reduction of the contract price. However, substantial reduction in the scope or modification to the contract documents may require rebidding.

The Bank's prior no objection shall be obtained before rejecting all bids, soliciting new bids, or entering into negotiations with the lowest evaluated bidder.

#### **B.29. Debriefing by the Borrower**

In the publication of the award of contract referred to in III.7. Publication of the Award of Contract of Appendix 1 of this guidelines, the Procuring Entity shall specify that any bidder who wishes to ascertain the grounds on which its bid was not selected, should request an explanation from the Procuring Entity. The Procuring Entity shall promptly provide in writing an explanation of why such bid was not selected. If a bidder requests a debriefing meeting, the bidder shall bear all their costs of attending such a debriefing meeting.

**B.30. Procurement timelines (for NCB):**



### **C. Shopping**

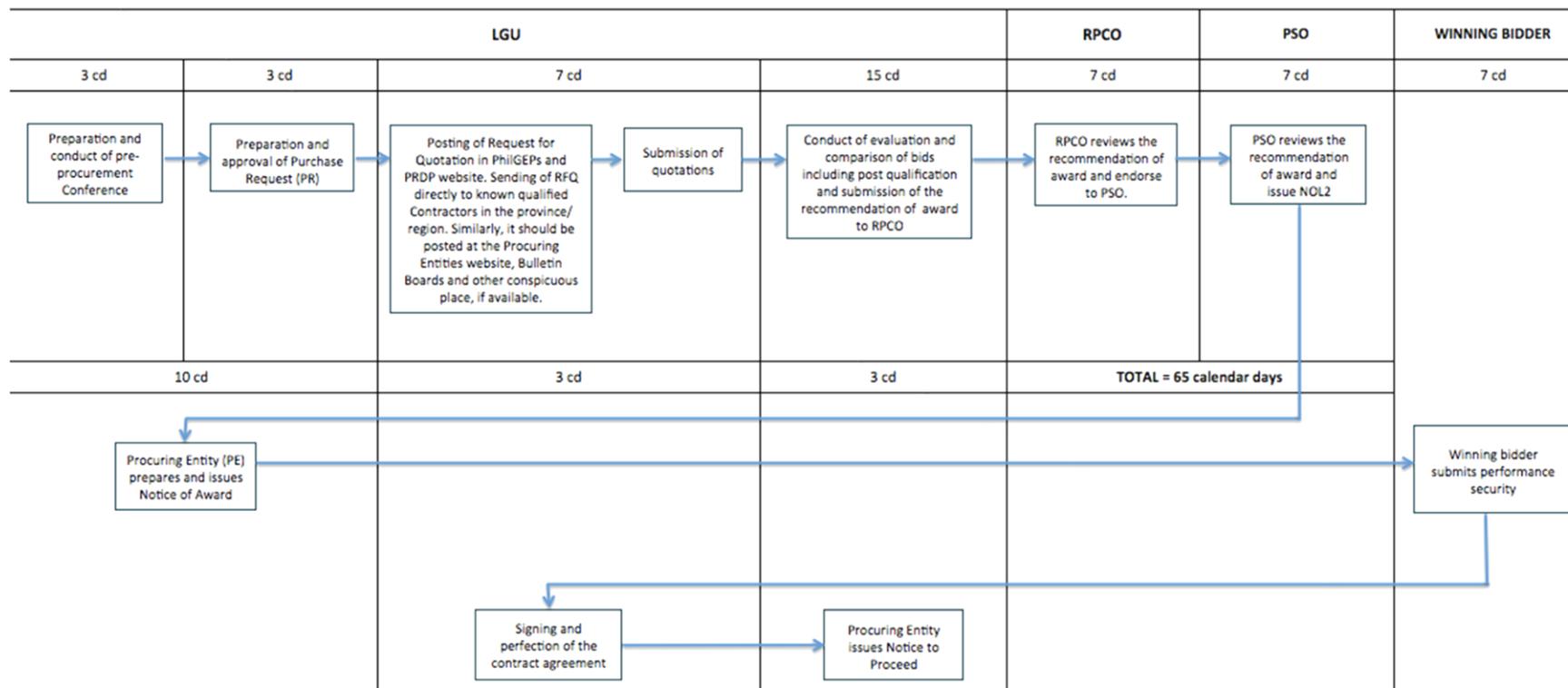
Shopping is a procurement method based on comparing price quotations obtained from several contractors with a minimum of three (3), to assure competitive prices. Shopping is an appropriate method for procuring simple civil works of small value when more competitive methods are not justified on the basis of cost and efficiency. A small value contract should normally not exceed US\$200,000.00 for simple civil works. If the Borrower has been unable to obtain at least three (3) quotations, it shall provide the Bank with reasons and justification why no other competitive method could be considered and obtain a no objection before proceeding on the basis of the only responses already received. Requests for quotations shall indicate the description and quantity of the goods or specifications of works, as well as desired delivery (or completion) time and place. Quotations may be submitted by letter, facsimile, or by electronic means. The evaluation of quotations shall follow the same principles as of open bidding. The terms of the accepted offer shall be incorporated in a brief contract.

The Procuring entity shall use the RFQ format as shown in the Annex 2. The criteria and methodology for selection of the successful bidder are outlined in the RFQ under the terms and conditions. If these are not clear, clarification should be similarly sought from the Borrower.

After the issuance of No Objection Letter 1 (NOL1) by the NPCO or PSO as the case maybe, the following procurement activities should be conducted with the suggested timelines: (Please see process flow on the next page.)

## C.1. Procurement timelines (for Shopping):

### Milestones for Shopping



#### Notes:

1. No financial ceiling rule;
2. Posting of procurement notice and then award in the PhilGEPS and Procuring Entity's website, if available;
3. Submission of Bid Evaluation Report to RPCO;
4. Issuance of NOL2 from PSO; and
5. Performance Security.

### **C. Direct contracting**

Direct Contracting is contracting without competition (single source) and maybe an appropriate method under any of the following circumstances.

An existing contract for works, awarded in accordance with procedures acceptable to the World Bank, may be extended for additional works of a similar nature. The World Bank shall be satisfied in such cases that no advantage could be obtained by further competition and that the prices on the extended contract are reasonable. Provisions for such an extension, if considered likely in advance, shall be included in the original contract.

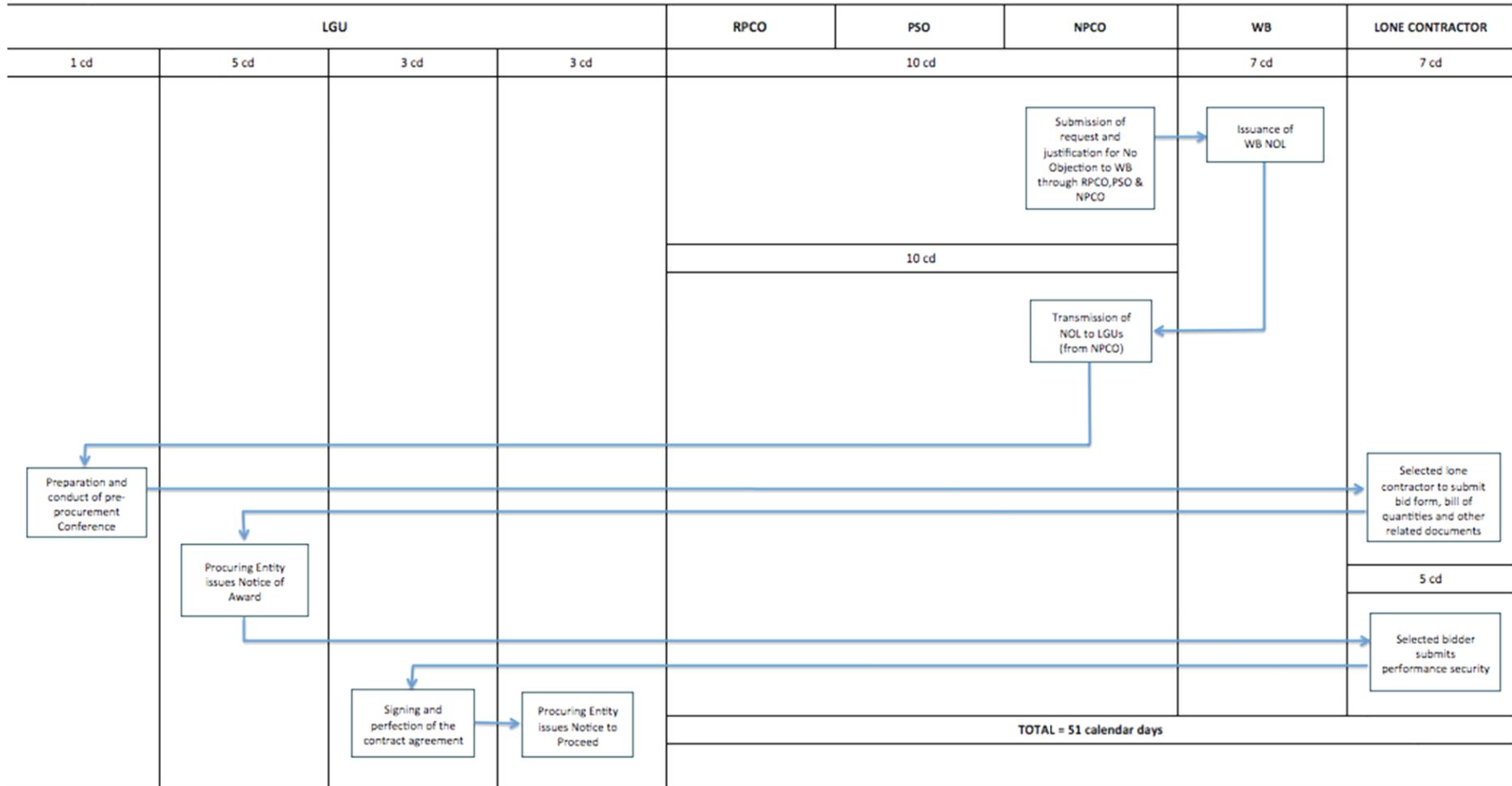
In exceptional cases, such as, but not limited to, in response to natural disasters and emergency situations declared by the government and recognized by the World Bank.

The Borrower shall submit to the World Bank for its review and no objection a sufficiently detailed justification, including the rationale for direct contracting instead of a competitive procurement process and the basis for recommending a particular supplier in all such cases, except for contracts below a threshold defined on the basis of risks and the scope of the project, and set forth in the Procurement Plan.

The following are suggested timelines for Direct Contracting: (Please see process flow on the next page.)

### D.1. Procurement timelines (for Direct Contracting):

#### Milestones for Direct Contracting



# **PHILIPPINE BIDDING DOCUMENTS**

(As Harmonized with Development Partners)

**Improvement of Calantas – Planas – San Jose Farm to Market Road**

**Project ID No. PRDP-IB-R003-PAM-001-000-000-2014-**AF2/EU****  
**(Funding Source?)**

**Province of Pampanga**  
**January 23, 2019**

**5<sup>th</sup> Edition**  
**August 2016**

## BID OPENING CHECKLIST

### Envelope 1

<b>ELIGIBILITY DOCUMENTS</b>	
a. Registration Certification of the Company	
b. List of relevant contracts as specified in ITB Clause 5.4 hereof;	
<p><b><i>Basis of Critical Eligibility and Qualification Criteria:</i></b></p> <ul style="list-style-type: none"> <li>- At least one (1) work of a nature and complexity equivalent to the Works generally within the last five (5) years with at least fifty percent (50%) of the Estimated Project Cost (EPC) in the amount of Thirty-One Million Four Hundred Ninety-Nine Thousand Pesos (PhP31,499,000.00); and</li> <li>- Average 3-year turnover of Total Projects of at least 100% of the EPC in the amount of Sixty-Two Million Nine Hundred Ninety-Eight Thousand Pesos (PhP62,998,000.00).</li> </ul>	
c. Audited financial statements for the past three (3) years	
d. In case of Joint Venture, the JV Agreement, if existing, or a signed Statement from the partner companies that they will enter into a JV in case of award of contract	
<b>TECHNICAL DOCUMENTS</b>	
e. Bid Security, in a form of <b>Bid Securing Declaration</b>	
f. Project requirements, which shall include the following:	
(i) List of Contractor’s personnel [viz a. <b>Project Manager</b> – Licensed Civil/Agricultural Engineer with minimum of five (5) years relevant experience as Project Manager in road construction, b. <b>Project Engineer</b> – Licensed Civil/Agricultural Engineer with at least five (5) years of relevant experience in road construction and has handled five (5) road construction projects as Project Engineer, c. <b>Materials Engineer</b> – Licensed Civil Engineer duly accredited by DPWH as Materials Engineer I or II following the DPWH D.O 98 Series of 2016 (as required under SCC Clause 6.5)], to be assigned to the contract to be bid, with their complete qualification and experience data	
(ii) List of Contractor’s major and critical equipment units, which are owned and are supported by proof of ownership which must meet the minimum requirement for the contract set in the Bid Data Sheet	

Pass (if all the above documents are present)

Fail (if any of the document is absent)

Notwithstanding the BAC’s declaration of non-responsiveness of the first bid envelope, the financial proposals contained in the second bid envelopes of all the bidders shall be read. The first and second envelopes shall not be returned to the bidders.

Foreign bidders may submit the equivalent documents, if any, issued by the country of the foreign bidder.

### Envelope 2

<b>FINANCIAL PROPOSAL</b>	
Bid price in approved Bid form and Bid prices in the Bill of Quantities	

### **BID DATA SHEET**

Clause 20.3 Each Bidder shall submit one (1) original and four (4) copies of the first and second components of its bid. An electronic copy of the bid should also be submitted in PDF file format in a flash drive. Should there be discrepancies, the original copy would prevail.

## BID OPENING CHECKLIST (JOINT VENTURE)

### Envelope 1

<b>ELIGIBILITY DOCUMENTS</b>	
a. Registration Certification of the Company ( <i>each partner</i> )	
b. List of relevant contracts as specified in ITB Clause 5.4 hereof; ( <i>each partner/either one of the partners</i> )	
<p><b>Basis of Critical Eligibility and Qualification Criteria:</b></p> <ul style="list-style-type: none"> <li>- At least one (1) work of a nature and complexity equivalent to the Works generally within the last five (5) years with at least fifty percent (50%) of the EPC in the amount of Thirty-One Million Four Hundred Ninety-Nine Thousand Pesos (PhP31,499,000.00) [each partner/either one of the partners, and 25% of the EPC in the amount of Fifteen Million Seven Hundred Forty-Nine Thousand Five Hundred Pesos (PhP15,749,750.00), for the rest of the partners]; and</li> <li>- Average 3-year turnover of Total Projects of at least 100% of the EPC in the amount of Sixty-Two Million Nine Hundred Ninety-Eight Thousand Pesos (PhP62,998,000.00) as evidenced by the submitted Audited Financial Statements for the past three (3) years [each partner/either one of the partners, and 50% of the EPC in the amount of Thirty-One Million Fifty-One Thousand Five Hundred Pesos (PhP31,051,500.00), for the rest of the partners].</li> </ul>	
c. Audited financial statements for the past three (3) years ( <i>each partner</i> )	
d. In case of Joint Venture, the JV Agreement, if existing, or a signed Statement from the partner companies that they will enter into a JV in case of award of contract	
<b>TECHNICAL DOCUMENTS</b>	
e. Bid Security, in a form of <b>Bid Securing Declaration</b> ( <i>prescribed template in the name of the Joint Venture</i> )	
f. Project requirements, which shall include the following ( <i>pooling of resources or combination among partners</i> ):	
(i) List of Contractor's personnel [viz a. <b>Project Manager</b> – Licensed Civil/Agricultural Engineer with minimum of five (5) years relevant experience as Project Manager in road construction, b. <b>Project Engineer</b> – Licensed Civil/Agricultural Engineer with at least five (5) years of relevant experience in road construction and has handled five (5) road construction projects as Project Engineer, c. <b>Materials Engineer</b> – Licensed Civil Engineer duly accredited by DPWH as Materials Engineer I or II following DPWH D.O. 98, S. of 2016 as Materials Engineer ( <i>as required under SCC Clause 6.5</i> )], to be assigned to the contract to be bid, with their complete qualification and experience data	
(ii) List of Contractor's major and critical equipment units, which are owned and are supported by proof of ownership which must meet the minimum requirement for the contract set in the Bid Data Sheet	

Pass (if all the above documents are present)

Fail (if any of the document is absent)

Notwithstanding the BAC's declaration of non-responsiveness of the first bid envelope, the financial proposals contained in the second bid envelopes of all the bidders shall be read. The first and second envelopes shall not be returned to the bidders.

Foreign bidders may submit the equivalent documents, if any, issued by the country of the foreign bidder.

### Envelope 2

<b>FINANCIAL PROPOSAL</b>	
Bid price in approved Bid form and Bid prices in the Bill of Quantities	

#### **BID DATA SHEET**

Clause 20.3      Each Bidder shall submit one (1) original and four (4) copies of the first and second components of its bid. An electronic copy of the bid should also be submitted in PDF file format in a flash drive. Should there be discrepancies, the original copy would prevail.

## **TABLE OF CONTENTS**

SECTION I. INVITATION TO BID.....	4
SECTION II. INSTRUCTION TO BIDDERS .....	6
SECTION III. BID DATA SHEET .....	33
SECTION IV. GENERAL CONDITIONS OF CONTRACT .....	40
SECTION V. SPECIAL CONDITIONS OF CONTRACT.....	72
SECTION VI. SPECIFICATIONS .....	77
SECTION VII. DRAWINGS.....	188
SECTION VIII. BILL OF QUANTITIES .....	189
SECTION IX. BIDDING FORMS.....	190

## **Section I. Invitation to Bid**

**Republic of the Philippines  
Philippine Rural Development Project  
Invitation to Bid for the**

**Improvement of Calantas – Planas – San Jose  
Farm to Market Road**

**Subproject ID No. PRDP-IB-R003-PAM-001-000-000-2014-AF2/EU (Funding Source?)  
Loan No. 9271-PH**

**January 23, 2019**

1. The Government of the Philippines (GoP) has received a Loan from the World Bank towards the cost of Philippine Rural Development Program and it intends to apply part of the proceeds of this Loan to payments under the contract for the **Improvement of Calantas – Planas – San Jose Farm to Market Road / PRDP-IB-R003-PAM-001-000-000-2014-AF2/EU (Funding Source?)**.
2. The **Provincial Government of Pampanga**, implementing partner of the Department of Agriculture, now invites bids for the **Improvement of Calantas – Planas – San Jose Farm to Market Road**. Completion of the Works is required by **256 calendar days**. Bidders should have completed, within the last five (5) years, a contract similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II. Instructions to Bidders.
3. Bidding will be conducted in accordance with relevant procedures for open competitive bidding as specified in the IRR of RA 9184 (R.A. 9184), with some amendments, as stated in these bidding documents and is open to all bidders from eligible source countries as defined in the applicable procurement guidelines of the World Bank. The contract shall be awarded to the Lowest Calculated Responsive Bidder (LCRB) who was determined as such during post-qualification. The Estimated Project Cost for this project is **Sixty-Two Million Nine Hundred Ninety-Eight Thousand Pesos (PhP62,998,000.00)**.
4. Interested bidders may obtain further information from the Bids and Awards Committee of the **Province of Pampanga** and inspect the Bidding Documents at the address given below and also at the **PRDP Regional Project Coordination Office III (RPCO III)** with address at **DA RFO III, Capitol Compound, Sto. Niño, City of San Fernando Pampanga** and at the **PRDP Project Support Office North Luzon (PSO North Luzon)** with address at **Capitol Compound, Sto. Niño City of San Fernando, Pampanga** from 8:00 a.m. to 5:00 p.m., Mondays to Fridays.
5. A complete set of Bidding Documents may be purchased by interested Bidders starting **January 23, 2019** from the address below, **PRDP RPCO III** or **PRDP PSO North Luzon** and upon payment or depositing/bank transfer to the **Province of Pampanga Trust Fund-LBP 0082-1000-16** a non-refundable fee for the bidding documents in the amount of Ten Thousand Pesos (PhP10,000.00) not later than the submission of their bids. The LGU's Treasurer official receipt, the bank teller's validated deposit slip or printed receipt from online payment serves as the proof of payment.

## **Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

Online payment shall mean payment using the likes of PayMaya, IAccess, Smart Money, GCash, DragonPay, JuanPay, PesoPay, PayEasy, MOLPay, WeePay, 7 Connect, Coins.ph.

Bidding Documents may also be downloaded free of charge from the website of the Philippine Government Electronic Procurement System (PhilGEPS) and the PRDP website ([prdp.da.gov.ph](http://prdp.da.gov.ph)). For Detailed Engineering Design (DED), Drawings and Plans, please follow the link [https://drive.google.com/file/d/1FfsvFA8zTG97YgjrVH\\_RvwOJNPY2pkXo/view?usp=drive\\_web](https://drive.google.com/file/d/1FfsvFA8zTG97YgjrVH_RvwOJNPY2pkXo/view?usp=drive_web).

As part of the transparency measures being instituted by the Department of Agriculture (DA) the bidders can virtually visit the site of the above-described subproject at [prdp.da.gov.ph](http://prdp.da.gov.ph) where geotagged base photographs on 50-meter interval and track are viewable. The DA, however, requires that all potential contractors who will be awarded contract under the project shall have undergone geotagging training provided by the PRDP Project Support Office.

6. The **Provincial Government of Pampanga** will hold a Pre-Bid Conference on **February 13, 2019 at 09:00 a.m.** at the **Ground Floor, BAC Session Hall, Capitol Building, City of San Fernando, Pampanga**, accessible through videoconferencing with meeting link \_\_\_\_\_, which shall be open to all interested parties.
7. Bids must be duly received by the BAC Secretariat at the address below on or before **February 27, 2019 at 09:00 a.m.** *Bids may also be submitted through online at the official (email address xxx, portal facility) of the LGU \_\_\_\_\_.* *The bids shall be true copies of the original and shall likewise be readable. It shall use a two-factor authentication and password which shall only be revealed during bid opening. (please refer to the provisions in B.14 of this Guidelines if PE is eligible),* All bids must be accompanied by a Bid Securing Declaration.

Bids will be opened on **February 27, 2019 at 09:00 a.m.** at the **Ground Floor, BAC Session Hall, Capitol Building, City of San Fernando, Pampanga**, accessible through videoconferencing with meeting link \_\_\_\_\_, in the presence of the bidders' representatives who choose to attend at the address below. Late bids shall not be accepted.

8. The **Provincial Government of Pampanga** reserves the right to accept or reject any bid, to annul the bidding process, and to reject all bids at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.
9. For further information, please refer to:

**ATTY. ANDRES S. PANGILINAN, JR.**  
Chairman, Bids and Awards Committee  
Executive House, Capitol Building  
City of San Fernando, Pampanga  
Tel. No. (045) 961-3388 Local 208

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*[Signature of the BAC Chairperson or the  
Authorized Representative of the BAC  
Chairperson]*

## Section II. Instruction to Bidders

### TABLE OF CONTENTS

<b>A. GENERAL</b>	<b>7</b>
1. Scope of Bid	7
2. Source of Funds	7
3. Corrupt, Fraudulent, Collusive, Coercive, and Obstructive Practices	7
4. Conflict of Interest	9
5. Eligible Bidders	10
6. Bidder's Responsibilities	11
7. Origin of Goods and Services	14
8. Subcontracts	14
<b>B. CONTENTS OF BIDDING DOCUMENTS</b>	<b>14</b>
9. Pre-Bid Conference	14
10. Clarification and Amendment of Bidding Documents	15
<b>C. PREPARATION OF BIDS</b>	<b>15</b>
11. Language of Bids	15
12. Documents Comprising the Bid: Eligibility and Technical Components	16
13. Documents Comprising the Bid: Financial Component	18
14. Alternative Bids	19
15. Bid Prices	19
16. Bid Currencies	20
17. Bid Validity	20
18. Bid Security	20
19. Format and Signing of Bids	22
20. Sealing and Marking of Bids	23
<b>D. SUBMISSION AND OPENING OF BIDS</b>	<b>24</b>
21. Deadline for Submission of Bids	24
22. Late Bids	24
23. Modification and Withdrawal of Bids	24

24. Opening and Preliminary Examination of Bids	25
<b>E. EVALUATION AND COMPARISON OF BIDS</b>	<b>26</b>
25. Process to be Confidential	26
26. Clarification of Bids	26
27. Detailed Evaluation and Comparison of Bids	27
28. Post Qualification	28
29. Reservation Clause	29
<b>F. AWARD OF CONTRACT</b>	<b>30</b>
30. Contract Award	30
31. Signing of the Contract	31
32. Performance Security	31
33. Notice to Proceed	32
34. Protest Mechanism	32

**A. General**

**1. Scope of Bid**

- 1.1. The Procuring Entity named in the BDS, invites bids for the construction of Works, as described in Section VI. Specifications.
- 1.2. The name, identification, and number of lots specific to this bidding are provided in the BDS. The contracting strategy and basis of evaluation of lots is described in **ITB** Clause 27.
- 1.3. The successful Bidder will be expected to complete the Works by the intended completion date specified in SCC Clause 1.17.

**2. Source of Funds**

The Procuring Entity has a budget or received funds from the Funding Source named in the BDS, and in the amount indicated in the BDS. It intends to apply part of the funds received for the Project, as defined in the BDS, to cover eligible payments under the Contract for the Works.

**3. Corrupt, Fraudulent, Collusive, Coercive, and Obstructive Practices**

- 3.1. Unless otherwise specified in the BDS, the Procuring Entity, as well as bidders and contractors, shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the Funding Source:
  - (a) defines, for purposes of this provision, the terms set forth below as follows:
    - (i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Procuring Entity, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019;
    - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after Bid submission) designed to establish bid prices at artificial, non-

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

competitive levels and to deprive the Procuring Entity of the benefits of free and open competition;

(iii) “collusive practices” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels; and

(iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;

(v) “obstructive practice” is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

(bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.

(b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract; and

(c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded Contract funded by the Funding Source if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing or, or in executing, a Contract funded by the Funding Source.

3.2. Further, the Procuring Entity will seek to impose the maximum civil, administrative, and/or criminal penalties available under the applicable laws on individuals and organizations deemed to be involved in any of the practices mentioned in **ITB** Clause 3.1(a).

- 3.3. Furthermore, the Funding Source and the Procuring Entity reserve the right to inspect and audit records and accounts of a contractor in the bidding for and performance of a contract themselves or through independent auditors as reflected in the **GCC Clause 34**.

**4. Conflict of Interest**

- 4.1. All Bidders found to have conflicting interests shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described in paragraphs (a) through (c) and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (g) below:
- (a) A Bidder has controlling shareholders in common with another Bidder;
  - (b) A Bidder receives or has received any direct or indirect subsidy from any other Bidder;
  - (c) A Bidder has the same legal representative as that of another Bidder for purposes of this Bid;
  - (d) A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder or influence the decisions of the Procuring Entity regarding this bidding process;
  - (e) A Bidder submits more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one bid;
  - (f) A Bidder who participated as a consultant in the preparation of the design or technical specifications of the goods and related services that are the subject of the bid; or
  - (g) A Bidder who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project.
- 4.2. In accordance with Section 47 of the IRR of RA 9184, all Bidding Documents shall be accompanied by a sworn affidavit of the Bidder that it is not related to the Head of the Procuring Entity (HoPE), members of the Bids and Awards Committee (BAC), members of the Technical Working Group (TWG), members of the BAC Secretariat, the head of the Project Management Office (PMO) or the end-user unit, and the project consultants, by consanguinity or

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

affinity up to the third civil degree. On the part of the Bidder, this Clause shall apply to the following persons:

- (a) If the Bidder is an individual or a sole proprietorship, to the Bidder himself;
- (b) If the Bidder is a partnership, to all its officers and members;
- (c) If the Bidder is a corporation, to all its officers, directors, and controlling stockholders;
- (d) If the Bidder is a cooperative, to all its officers, directors, and controlling shareholders or members; and
- (e) If the Bidder is a joint venture (JV), the provisions of items (a), (b), (c) or (d) of this Clause shall correspondingly apply to each of the members of the said JV, as may be appropriate.

Relationship of the nature described above or failure to comply with this Clause will result in the automatic disqualification of a Bidder.

**5. Eligible Bidders**

5.1. Unless otherwise indicated in the **BDS**, the following persons shall be eligible to participate in this Bidding:

- (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.
- (e) Persons/entities forming themselves into a JV, 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, Filipino ownership or interest of the joint venture concerned shall be at least seventy five percent (75%): Provided, further, that joint ventures in which Filipino ownership or interest is less than seventy five percent (75%) may be eligible where the structures to be built require the application of techniques and/or technologies which are not adequately possessed by a person/entity meeting the seventy five percent (75%) Filipino ownership requirement: Provided, finally, that

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

in the latter case, Filipino ownership or interest shall not be less than twenty five percent (25%). 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.

- 5.2. The Procuring Entity may also invite foreign bidders when provided for under any Treaty or International or Executive Agreement as specified in the BDS.
- 5.3. Government owned or controlled corporations (GOCCs) may be eligible to participate 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.
- 5.4. (a) The Bidder must have an experience of having completed a Single Largest Completed Contract (SLCC) that is similar to this Project, equivalent to at least fifty percent (50%) of the ABC adjusted, if necessary, by the Bidder to current prices using the Philippine Statistics Authority (PSA) consumer price index. However, contractors under Small A and Small B categories without similar experience on the contract to be bid may be allowed to bid if the cost of such contract is not more than the Allowable Range of Contract Cost (ARCC) of their registration based on the guidelines as prescribed by the PCAB.  
  
(b) For Foreign-funded Procurement, the Procuring Entity and the foreign government/foreign or international financing institution may agree on another track record requirement, as specified in the BDS.

For this purpose, contracts similar to the Project shall be those described in the BDS.

- 5.5. The Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC), which 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 for this Project.

The values of the domestic bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements (AFS) 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.

**6. Bidder's Responsibilities**

- 6.1. The Bidder or its duly authorized representative shall submit a sworn statement in the form prescribed in **Error! Reference source not found.** as required in **ITB** Clause 12.1(b)(iii).
- 6.2. The Bidder is responsible for the following:
  - (a) Having taken steps to carefully examine all of the Bidding Documents;
  - (b) Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
  - (c) Having made an estimate of the facilities available and needed for the contract to be bid, if any;
  - (d) Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin/s as provided under **ITB** Clause 10.4.
  - (e) Ensuring that 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;
  - (f) Ensuring that 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;
  - (g) Authorizing the HoPE or its duly authorized representative/s to verify all the documents submitted;
  - (h) Ensuring that the signatory is the duly authorized representative of the 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;
  - (i) Complying with the disclosure provision under Section 47 of RA 9184 and its IRR in relation to other provisions of RA 3019;
  - (j) Complying with existing labor laws and standards, in the case of procurement of services. Moreover, bidder undertakes to:
    - (i) Ensure the entitlement of workers to wages, hours of work, safety and health and other prevailing conditions of work as established by national laws, rules and regulations; or

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

collective bargaining agreement; or arbitration award, if and when applicable.

In case there is a finding by the Procuring Entity or the DOLE of underpayment or non-payment of workers' wage and wage-related benefits, bidder agrees that the performance security or portion of the contract amount shall be withheld in favor of the complaining workers pursuant to appropriate provisions of Republic Act No. 9184 without prejudice to the institution of appropriate actions under the Labor Code, as amended, and other social legislations.

- (ii) Comply with occupational safety and health standards and to correct deficiencies, if any.

In case of imminent danger, injury or death of the worker, bidder undertakes to suspend contract implementation pending clearance to proceed from the DOLE Regional Office and to comply with Work Stoppage Order; and

- (iii) Inform the workers of their conditions of work, labor clauses under the contract specifying wages, hours of work and other benefits under prevailing national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable, through posting in two (2) conspicuous places in the establishment's premises; and

- (k) Ensuring that 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;

Failure to observe any of the above responsibilities shall be at the risk of the Bidder concerned.

- 6.3. The Bidder, by the act of submitting its bid, shall be deemed to have inspected the site, determined the general characteristics of the contract works and the conditions for this Project and examine all instructions, forms, terms, and project requirements in the Bidding Documents.
- 6.4. It shall be the sole responsibility of the prospective bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to this Project, including: (a) the location and the nature of the contract, project, or work; (b) climatic conditions; (c) transportation facilities; (c) nature and condition of the terrain, geological conditions at the site communication facilities, requirements, location and availability of construction aggregates and other materials, labor, water, electric power and access roads; and (d) other factors that may affect the cost, duration and execution or implementation of the contract, project, or work.

## ***Module 1: Guidelines for the Procurement of Infrastructure Subprojects***

- 6.5. The Procuring Entity shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder out of the data furnished by the procuring entity. However, the Procuring Entity shall ensure that all information in the Bidding Documents, including supplemental/bid bulletins issued are correct and consistent.
- 6.6. Before submitting their bids, the Bidders are deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect the contract in any way.
- 6.7. The Bidder shall bear all costs associated with the preparation and submission of his bid, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 6.8. The Bidder should note that the Procuring Entity will accept bids only from those that have paid the applicable fee for the Bidding Documents at the office indicated in the Invitation to Bid.

### **7. Origin of Goods and Services**

There is no restriction on the origin of Goods, or Contracting of Works or Services other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

### **8. Subcontracts**

- 8.1. Unless otherwise specified in the BDS, the Bidder may subcontract portions of the Works to an extent as may be approved by the Procuring Entity and stated in the BDS. However, subcontracting of any portion shall not relieve the Bidder from any liability or obligation that may arise from the contract for this Project.
- 8.2. Subcontractors must submit the documentary requirements under **ITB** Clause 12 and comply with the eligibility criteria specified in the BDS. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Works shall be disallowed.
- 8.3. The Bidder may identify the subcontractor to whom a portion of the Works will be subcontracted at any stage of the bidding process or during contract implementation. If the Bidder opts to disclose the name of the subcontractor during bid submission, the Bidder shall include the required documents as part of the technical component of its bid.

**B. Contents of Bidding Documents**

**9. Pre-Bid Conference**

9.1. (a) If so specified in the BDS, a pre-bid conference shall be held at the venue and on the date indicated therein, to clarify and address the Bidders' questions on the technical and financial components of this Project.

(b) The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission of and receipt of bids, but not earlier than seven (7) calendar days from the posting of the Invitation to Bid/Bidding Documents in the PhilGEPS website. 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, as specified in the **BDS**.

9.2. Bidders are encouraged to attend the pre-bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-attendance of the Bidder will in no way prejudice its bid; however, the Bidder is expected to know the changes and/or amendments to the Bidding Documents as recorded in the minutes of the pre-bid conference and the Supplemental/Bid Bulletin. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference. The minutes shall be made available to prospective bidders not later than five (5) days upon written request.

9.3. 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.

**10. Clarification and Amendment of Bidding Documents**

10.1. Prospective bidders may request for clarification(s) on and/or interpretation of any part of the Bidding Documents. Such a request must be in writing and submitted to the Procuring Entity at the address indicated in the BDS at least ten (10) calendar days before the deadline set for the submission and receipt of Bids.

10.2. The BAC shall respond to the said request by issuing a Supplemental/Bid Bulletin, 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.

10.3. Supplemental/Bid Bulletins may also be issued upon the Procuring Entity's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than 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.

- 10.4. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted in the PhilGEPS and the website of the Procuring Entity concerned, if available, and at any conspicuous place in the premises of the Procuring Entity concerned. It shall be the responsibility of all Bidders 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 **ITB** Clause 23.

### **C. Preparation of Bids**

#### **11. Language of Bids**

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. The English translation shall govern, for purposes of interpretation of the bid.

#### **12. Documents Comprising the Bid: Eligibility and Technical Components**

12.1. Unless otherwise indicated in the **BDS**, the first envelope shall contain the following eligibility and technical documents:

- (a) Eligibility Documents –

##### Class "A" Documents

- (i) PhilGEPS Certificate of Registration and Membership in accordance with Section 8.5.2 of the 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 the IRR, provided, that the winning bidder shall register with the PhilGEPS in accordance with Section 37.1.4 of the IRR;
- (ii) Statement of all its ongoing government and private contracts, including contracts awarded but not yet started, if any,

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

whether similar or not similar in nature and complexity to the contract to be bid; and

Statement of the Bidder's SLCC similar to the contract to be bid, in accordance with ITB Clause 5.4.

The two statements required shall indicate for each contract the following:

- (ii.1) name of the contract;
- (ii.2) date of the contract;
- (ii.3) contract duration;
- (ii.4) owner's name and address;
- (ii.5) nature of work;
- (ii.6) contractor's role (whether sole contractor, subcontractor, or partner in a JV) and percentage of participation;
- (ii.7) total contract value at award;
- (ii.8) date of completion or estimated completion time;
- (ii.9) total contract value at completion, if applicable;
- (ii.10) percentages of planned and actual accomplishments, if applicable; and
- (ii.11) value of outstanding works, if applicable.

The statement of the Bidder's SLCC shall be supported by the Notice of Award and/or Notice to Proceed, Project Owner's Certificate of Final Acceptance issued by the Owner other than the Contractor or the Constructors Performance Evaluation System (CPES) Final Rating, which must be at least satisfactory. In case of contracts with the private sector, an equivalent document shall be submitted;

- (iii) Unless otherwise provided in the BDS, a valid special PCAB License in case of joint ventures, and registration for the type and cost of the contract for this Project; and
- (iv) NFCC computation in accordance with ITB Clause 5.5.

Class "B" Documents

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (v) If applicable, Joint Venture Agreement (JVA) in accordance with RA 4566.
- (b) Technical Documents –
  - (i) Bid security in accordance with **ITB** Clause 18. If the Bidder opts to submit the bid security in the form of:
    - (i.1) a bank draft/guarantee or an irrevocable letter of credit issued by a foreign bank, it shall be accompanied by a confirmation from a Universal or Commercial Bank; or
    - (i.2) a surety bond accompanied by a certification coming from the Insurance Commission that the surety or insurance company is authorized to issue such instruments.
  - (ii) Project Requirements, which shall include the following:
    - (ii.1) Organizational chart for the contract to be bid;
    - (ii.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. These personnel must meet the required minimum years of experience set in the **BDS**; and
    - (ii.3) List of contractor’s major equipment units, which are owned, leased, and/or under purchase agreements, supported by proof of ownership, from the equipment lessor/vendor for the duration of the project, as the case may be, which must meet the minimum requirements for the contract set in the **BDS**; and
  - (iii) Sworn statement in accordance with Section 25.3 of the IRR of RA 9184 and using the form prescribed in Section IX Bidding Forms.

**13. Documents Comprising the Bid: Financial Component**

- 13.1. Unless otherwise stated in the **BDS**, the financial component of the bid shall contain the following:
- (a) Financial Bid Form, which includes bid prices and the bill of quantities, in accordance with **ITB** Clauses 15.1 and 15.3; and

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (b) Any other document related to the financial component of the bid as stated in the BDS.
- 13.2. (a) Unless otherwise stated in the BDS, all Bids that exceed the ABC shall not be accepted.
- (b) Unless otherwise indicated in the BDS, for foreign-funded procurement, a ceiling may be applied to bid prices provided the following conditions are met:
- (i) 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.
  - (ii) 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 works or goods to be procured.
  - (iii) 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.
  - (iv) The procuring entity has established a system to monitor and report bid prices relative to ABC and engineer's/procuring entity's estimate.
  - (v) The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of goods and works.

**14. Alternative Bids**

- 14.1. Alternative Bids shall be rejected. For this purpose, alternative bid is an offer made by a Bidder in addition or as a substitute to its original bid which may be included as part of its original bid or submitted separately therewith for purposes of bidding. A bid with options is considered an alternative bid regardless of whether said bid proposal is contained in a single envelope or submitted in two (2) or more separate bid envelopes.
- 14.2. Bidders shall submit offers that comply with the requirements of the Bidding Documents, including the basic technical design as indicated in the drawings and specifications. Unless there is a value engineering clause in the BDS, alternative bids shall not be accepted.
- 14.3. Each Bidder shall submit only one Bid, either individually or as a partner in a JV. A Bidder who submits or participates in more than one bid (other than as

a subcontractor if a subcontractor is permitted to participate in more than one bid) will cause all the proposals with the Bidder's participation to be disqualified. This shall be without prejudice to any applicable criminal, civil and administrative penalties that may be imposed upon the persons and entities concerned.

**15. Bid Prices**

- 15.1. The contract shall be for the whole Works, as described in **ITB** Clause 1.1, based on the priced Bill of Quantities submitted by the Bidder.
- 15.2. The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. 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.
- 15.3. All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, prior to the deadline for submission of bids, shall be included in the rates, prices, and total bid price submitted by the Bidder.
- 15.4. All bid prices for the given scope of work in the contract as awarded shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances as specified in GCC Clause **48**. Upon the recommendation of the Procuring Entity, price escalation may be allowed in extraordinary circumstances as may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon approval by the GPPB. Furthermore, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the GoP, promulgated after the date of bid opening, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

**16. Bid Currencies**

- 16.1. All bid prices shall be quoted in Philippine Pesos unless otherwise provided in the BDS. However, for purposes of bid evaluation, bids denominated in foreign currencies shall be converted to Philippine currency based on the exchange rate prevailing on the day of the Bid Opening.
- 16.2. If so allowed in accordance with **ITB** Clause 16.1, the Procuring Entity for purposes of bid evaluation and comparing the bid prices will convert the amounts in various currencies in which the bid price is expressed to

Philippine Pesos at the exchange rate as published in the *Bangko Sentral ng Pilipinas* (BSP) reference rate bulletin on the day of the bid opening.

- 16.3. Unless otherwise specified in the **BDS**, payment of the contract price shall be made in Philippine Pesos.

**17. Bid Validity**

- 17.1. Bids shall remain valid for the period specified in the **BDS** which shall not exceed one hundred twenty (120) calendar days from the date of the opening of bids.
- 17.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. The bid security described in **ITB** Clause 18 should also be extended corresponding to the extension of the bid validity period at the least. A Bidder may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

**18. Bid Security**

- 18.1. The Bidder shall submit a Bid Securing Declaration or any form of Bid Security in an amount stated in the **BDS**, which shall be not less than the percentage of the ABC in accordance with the following schedule:

Form of Bid Security	Amount of Bid Security (Not less than the Percentage of the ABC)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Two percent (2%)
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
(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; and/or	Five percent (5%)

The Bid Securing Declaration mentioned above is an undertaking which states, among others, that the Bidder shall enter into contract with the procuring entity and furnish the performance security required under **ITB** Clause 32.2, within ten (10) calendar days from receipt of the Notice of Award, and commits to pay the corresponding amount as fine, and be

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

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 provided in the guidelines issued by the GPPB.

- 18.2. The bid security should be valid for the period specified in the BDS. Any bid not accompanied by an acceptable bid security shall be rejected by the Procuring Entity as non-responsive.
- 18.3. No bid securities shall be returned to Bidders after the opening of bids and before contract signing, except to those that failed or declared as post-disqualified, upon submission of a written waiver of their right to file a request for reconsideration and/or protest, or lapse of the reglementary period without having filed a request for reconsideration or protest. Without prejudice on its forfeiture, Bid Securities shall be returned only after the Bidder with the Lowest Calculated Responsive Bid (LCRB) has signed the contract and furnished the Performance Security, but in no case later than the expiration of the Bid Security validity period indicated in ITB Clause 18.2.
- 18.4. Upon signing and execution of the contract, pursuant to **ITB** Clause 31, and the posting of the performance security, pursuant to **ITB** Clause 32, the successful Bidder's Bid Security will be discharged, but in no case later than the Bid Security validity period as indicated in ITB Clause 18.2.
- 18.5. The bid security may be forfeited:
  - (a) if a Bidder:
    - (i) withdraws its bid during the period of bid validity specified in **ITB** Clause 17;
    - (ii) does not accept the correction of errors pursuant to **ITB** Clause 27.3(b);
    - (iii) has a finding against the veracity of the required documents submitted in accordance with ITB Clause 28.2;
    - (iv) submission of eligibility requirements containing false information or falsified documents;
    - (v) submission of bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding;
    - (vi) allowing the use of one's name, or using the name of another for purposes of public bidding;
    - (vii) withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause,

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

after the Bidder had been adjudged as having submitted the LCRB;

- (viii) refusal or failure to post the required performance security within the prescribed time;
  - (ix) refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification;
  - (x) any documented attempt by a Bidder to unduly influence the outcome of the bidding in his favor;
  - (xi) failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
  - (xii) all other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.
- (b) if the successful Bidder:
- (i) fails to sign the contract in accordance with **ITB** Clause 31;
  - (ii) fails to furnish performance security in accordance with **ITB** Clause 32.

**19. Format and Signing of Bids**

10. Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in **Error! Reference source not found.** on or before the deadline specified in the **ITB** Clause 21 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 **ITB** Clause 12.1, and the second shall contain the financial component of the bid. This shall also be observed for each lot in the case of lot procurement.

19.2 Forms as mentioned in **ITB** Clause 10 must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.

19.3 The Bidder shall prepare and submit an original of the first and second envelopes as described in **ITB** Clauses 12 and 13. In addition, the Bidder shall submit copies of the first and second envelopes. In the event of any discrepancy between the original and the copies, the original shall prevail.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 19.4 Each and every page of the Bid Form, including the Bill of Quantities, under Section IX hereof, shall be signed by the duly authorized representative/s of the Bidder. Failure to do so shall be a ground for the rejection of the bid.
- 19.5 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

**20. Sealing and Marking of Bids**

- 20.1. Bidders shall enclose their original eligibility and technical documents described in **ITB** Clause 12, in one sealed envelope marked "ORIGINAL - TECHNICAL COMPONENT," and the original of their financial component in another sealed envelope marked "ORIGINAL - FINANCIAL COMPONENT," sealing them all in an outer envelope marked "ORIGINAL BID."
- 20.2. Each copy of the first and second envelopes shall be similarly sealed duly marking the inner envelopes as "COPY NO. \_\_\_\_ - TECHNICAL COMPONENT" and "COPY NO. \_\_\_\_ – FINANCIAL COMPONENT" and the outer envelope as "COPY NO. \_\_\_\_," respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 20.3. The original and the number of copies of the bid as indicated in the **BDS** shall be typed or written in ink and shall be signed by the Bidder or its duly authorized representative/s.
- 20.4. All envelopes shall:
- (a) contain the name of the contract to be bid in capital letters;
  - (b) bear the name and address of the Bidder in capital letters;
  - (c) be addressed to the Procuring Entity's BAC in accordance with **ITB** Clause 20.1;
  - (d) bear the specific identification of this bidding process indicated in the **ITB** Clause 1.2; and
  - (e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with **ITB** Clause 21.
- 20.5. Bid envelopes that are not properly sealed and marked, as required in the bidding documents, shall not be rejected, but the Bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. The BAC or the Procuring Entity shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked bid, or for its premature opening.

**D. Submission and Opening of Bids**

**21. Deadline for Submission of Bids**

Bids must be received by the Procuring Entity's BAC at the address and on or before the date and time indicated in the BDS.

**22. Late Bids**

Any bid submitted after the deadline for submission and receipt of bids prescribed by the Procuring Entity, pursuant to **ITB** Clause 21, shall be declared "Late" and shall not be accepted by the Procuring Entity. 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.

**23. Modification and Withdrawal of Bids**

23.1. The Bidder may modify its bid after it has been submitted; provided that the modification is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of bids. The Bidder shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed and properly identified in accordance with Clause 20, linked to its original bid marked as "TECHNICAL MODIFICATION" or "FINANCIAL MODIFICATION" 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.

23.2. A Bidder may, through a Letter of Withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason; provided that the Letter of Withdrawal is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of bids. The Letter of Withdrawal must be executed by the authorized representative of the Bidder identified in the Omnibus Sworn Statement, a copy of which should be attached to the letter.

23.3. Bids requested to be withdrawn in accordance with **ITB** Clause 23.1 shall be returned unopened to the Bidders. A Bidder, who has acquired the bidding documents may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of bids. A Bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.

23.4. No bid may be modified after the deadline for submission of bids. No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Financial Bid Form. Withdrawal of a bid during this interval shall result in the forfeiture of the Bidder's bid security, pursuant to **ITB** Clause 18.5, and the

imposition of administrative, civil, and criminal sanctions as prescribed by RA 9184 and its IRR.

**24. Opening and Preliminary Examination of Bids**

- 24.1. The BAC shall open the Bids in public, immediately after the deadline for the submission and receipt of bids in public, as specified in the BDS. 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.
- 24.2. Unless otherwise specified in the BDS, the BAC shall open the first bid envelopes and determine each Bidder's compliance with the documents prescribed in ITB Clause 12, using a non-discretionary "pass/fail" criterion. 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".
- 24.3. Unless otherwise specified in the BDS, 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. In case one or more 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 unless otherwise provided in ITB Clause 13.2, 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.
- 24.4. Letters of Withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Bidder unopened.
- 24.5. All members of the BAC who are present during bid opening shall initial every page of the original copies of all bids received and opened.
- 24.6. In the case of an eligible foreign bidder as described in **ITB** Clause 5, the following Class "A" Documents may be substituted with the appropriate equivalent documents, if any, issued by the country of the foreign bidder concerned, which shall likewise be uploaded and maintained in the PhilGEPS in accordance with Section 8.5.2 of the IRR.:
  - a) Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives;

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- b) Mayor's/Business permit issued by the local government where the principal place of business of the Bidder is located; and
  - c) Audited Financial Statements showing, among others, the prospective Bidder's total and current assets and liabilities stamped "received" by the Bureau of Internal Revenue or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two years from the date of bid submission.
- 24.7. Each partner of a joint venture agreement shall likewise submit the document required in **ITB** Clause 12.1(a)(i). Submission of documents required under **ITB** Clauses 12.1(a)(ii) to 12.1(a)(iv) by any of the joint venture partners constitutes compliance.
- 24.8. The Procuring Entity shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price (per lot, if applicable, and/or including discount, if any), bid security, findings of preliminary examination, and whether there is a withdrawal or modification; and (b) attendance sheet. The BAC members shall sign the abstract of bids as read.
- 24.8. 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.
- 24.9 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.

**E. Evaluation and Comparison of Bids**

**25. Process to be Confidential**

- 25.1. Members of the BAC, including its staff and personnel, as well as its Secretariat and TWG, are prohibited from making or accepting any kind of communication with any Bidder regarding the evaluation of their bids until the issuance of the Notice of Award, unless otherwise allowed in the case of **ITB** Clause 26.
- 25.2. Any effort by a Bidder to influence the Procuring Entity in the Procuring Entity's decision in respect of bid evaluation, bid comparison or contract award will result in the rejection of the Bidder's bid.

**26. Clarification of Bids**

To assist in the evaluation, comparison and post-qualification of the bids, the Procuring Entity may ask in writing any Bidder for a clarification of its bid. All responses to requests for clarification shall be in writing. Any clarification submitted by a Bidder in respect to its bid and that is not in response to a request by the Procuring Entity shall not be considered

**27. Detailed Evaluation and Comparison of Bids**

27.1. The Procuring Entity will undertake the detailed evaluation and comparison of Bids which have passed the opening and preliminary examination of Bids, pursuant to **ITB** Clause 24, in order to determine the Lowest Calculated Bid.

27.2. The Lowest Calculated Bid shall be determined in two steps:

- (a) The detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and
- (b) The ranking of the total bid prices as so calculated from the lowest to highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.

27.3. The Procuring Entity's BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary "pass/fail" criterion. The BAC shall consider the following in the evaluation of bids:

- (a) Completeness of the bid. Unless the **BDS** allows partial bids, bids not addressing or providing all of the required items in the Schedule of Requirements 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 Procuring Entity, 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. Any adjustment shall be calculated in monetary terms to determine the calculated prices.

27.4. Based on the detailed evaluation of bids, those that comply with the above-mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, to identify the Lowest Calculated Bid. Total calculated bid prices, as evaluated and corrected for computational

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

errors, discounts and other modifications, which exceed the ABC shall not be considered, unless otherwise indicated in the BDS.

- 27.5. The Procuring Entity's evaluation of bids shall be based on the bid price quoted in the Bid Form, which includes the Bill of Quantities.
- 27.6. Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all Bidders shall be required to include in their bids 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.
- 27.7. If so indicated pursuant to **ITB** Clause 1.2. Bids are being invited for individual lots or for any combination thereof, provided that all Bids and combinations of Bids shall be received by the same deadline and opened and evaluated simultaneously so as to determine the bid or combination of bids offering the lowest calculated cost to the Procuring Entity. Bid prices quoted shall correspond to all of the requirements specified for each lot. Bid Security as required by **ITB** Clause 18 shall be submitted for each contract (lot) separately. The basis for evaluation of lots is specified in **BDS** Clause 27.3.

**28. Post Qualification**

- 28.1. The BAC shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid complies with and is responsive to all the requirements and conditions specified in **ITB** Clauses 5, 12, and 13.
- 28.2. Within a non-extendible period of five (5) calendar days from receipt by the Bidder of the notice from the BAC that it submitted the Lowest Calculated Bid, the Bidder shall submit its latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS) and other appropriate licenses and permits required by law and stated in the BDS.

Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the Bidder for award. Provided in the event that a finding against the veracity of any of the documents submitted is made, it shall cause the forfeiture of the bid security in accordance with Section 69 of the IRR of RA 9184.

- 28.3. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted pursuant to **ITB** Clauses 12 and 13, as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion, which shall be completed within a period of twelve (12) calendar days.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 28.4. If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the LCRB, and recommend to the HoPE the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower, subject to **ITB** Clause 30.3.
- 28.5. A negative determination shall result in rejection of the Bidder's bid, in which event the Procuring Entity shall proceed to the next Lowest Calculated Bid, with a fresh period to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next Lowest Calculated Bid, and so on until the LCRB is determined for recommendation of contract award.
- 28.6. Within a period not exceeding fifteen (15) calendar days from the determination by the BAC of the LCRB and the recommendation to award the contract, the HoPE or his duly authorized representative shall approve or disapprove the said recommendation.
- 28.7. In the event of disapproval, which shall be based on valid, reasonable, and justifiable grounds as provided for under Section 41 of the IRR of RA 9184, the HoPE shall notify the BAC and the Bidder in writing of such decision and the grounds for it. When applicable, the BAC shall conduct a post-qualification of the Bidder with the next Lowest Calculated Bid. A request for reconsideration may be filed by the Bidder with the HoPE in accordance with Section 37.1.3 of the IRR of RA 9184.

**29. Reservation Clause**

- 29.1. Notwithstanding the eligibility or post-qualification of a Bidder, the Procuring Entity concerned reserves the right to review its qualifications at any stage of the procurement process if it 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 and bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid evaluation criteria, the Procuring Entity shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.
- 29.2. Based on the following grounds, the Procuring Entity reserves the right to reject any and all Bids, declare a Failure of Bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (a) If there is *prima facie* evidence of collusion between appropriate public officers or employees of the Procuring Entity, or between the BAC and any of the Bidders, or if the collusion is between or among the Bidders themselves, or between a Bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
- (b) If the Procuring Entity's BAC is found to have failed in following the prescribed bidding procedures; or
- (c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP as follows:
  - (i) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the HoPE;
  - (ii) If the project is no longer necessary as determined by the HoPE; and
  - (iii) If the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.

29.3. In addition, the Procuring Entity may likewise declare a failure of bidding when:

- (a) No bids are received;
- (b) All prospective Bidders are declared ineligible;
- (c) All bids fail to comply with all the bid requirements, fail post-qualification; or
- (d) The Bidder with the LCRB refuses, without justifiable cause, to accept the award of contract, and no award is made in accordance with Section 40 of the IRR of RA 9184.

**F. Award of Contract**

**30. Contract Award**

- 30.1. Subject to **ITB** Clause 28, the HoPE or its duly authorized representative shall award the contract to the Bidder whose bid has been determined to be the LCRB.
- 30.2. Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award duly received by the Bidder or its representative personally or by registered mail or electronically, receipt of which must be confirmed in

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to the Procuring Entity.

30.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:

- (a) Submission of the following documents within ten (10) calendar days from receipt of the Notice of Award:
  - (i) In the case of procurement by a Philippine Foreign Service Office or Post, the PhilGEPS Registration Number of the winning foreign Bidder; or
  - (ii) Valid PCAB license and registration for the type and cost of the contract to be bid for foreign bidders when the Treaty or International or Executive Agreement expressly allows submission of the PCAB license and registration for the type and cost of the contract to be bid as a pre-condition to the Award;
- (b) Posting of the performance security in accordance with **ITB** Clause 32;
- (c) Signing of the contract as provided in **ITB** Clause 31; and
- (d) Approval by higher authority, if required, as provided in Section 37.3 of the IRR of RA 9184.

**31. Signing of the Contract**

31.1. At the same time as the Procuring Entity notifies the successful Bidder that its bid has been accepted, the Procuring Entity shall send the Contract Form to the Bidder, which Contract has been provided in the Bidding Documents, incorporating therein all agreements between the parties.

31.2. Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security, sign and date the contract and return it to the Procuring Entity.

31.3. The Procuring Entity shall enter into contract with the successful Bidder within the same ten (10) calendar day period provided that all the documentary requirements are complied with.

31.4. The following documents shall form part of the contract:

- (a) Contract Agreement;
- (b) Bidding Documents;
- (c) Winning Bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted (*e.g.*, Bidder's

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity's bid evaluation;

- (d) Performance Security;
- (e) Notice of Award of Contract; and
- (f) Other contract documents that may be required by existing laws and/or specified in the BDS.

**32. Performance Security**

32.1. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than the signing of the contract.

32.2. The Performance Security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount not less than the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Not less than the Percentage of the Total Contract Price)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Ten percent (10%)
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
(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.	Thirty percent (30%)

32.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the Procuring Entity shall have a fresh period to initiate and complete the post qualification of the

***Module 1: Guidelines for the Procurement of Infrastructure Subprojects***

second Lowest Calculated Bid. The procedure shall be repeated until LCRB is identified and selected for recommendation of contract award. However if no Bidder passed post-qualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement, if necessary.

**33. Notice to Proceed**

Within seven (7) calendar days from the date of approval of the Contract by the appropriate government approving authority, the Procuring Entity shall issue the Notice to Proceed (NTP) together with a copy or copies of the approved contract to the successful Bidder. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the successful Bidder.

**34. Protest Mechanism**

Decision of the procuring entity at any stage of the procurement process may be questioned in accordance with Sections 55 of the IRR of RA 9184.

### Section III. Bid Data Sheet

ITB Clause	
1.1	<p>The Procuring Entity is <b>Provincial Government of Pampanga</b>.                      The name of the Contract is <b>Improvement of Calantas – Planas – San Jose Farm-to-Market Road</b>.                      The identification number of the Contract is <b>PRDP-IB-R003-PAM-001-000-000-2014-AF2/EU (Funding Source?)</b>.</p>
2	<p>The Funding Source is World Bank through <b>Loan No. 9271-PH</b> in the amount of <b>US\$280,000,000.00</b>.                      The name of the Project is <b>Philippine Rural Development Project</b>                      Payments by the Foreign Funding Source will be made only at the request of the PROCURING ENTITY and upon approval by the Funding Source in accordance with the terms and conditions of the Loan Agreement between the PROCURING ENTITY and the Funding Source. (hereunder called the "Loan Agreement").                      The Payments will be subject in all respect to the terms and conditions of the Loan Agreement and the applicable law. No party other than the PROCURING ENTITY shall derive any rights from the Loan Agreement or have any claim to the funds.</p>
3.1	<p>The World Bank's Anticorruption Policy requires Borrowers (including beneficiaries of Bank-financed activity), as well as Bidders, Suppliers, Contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers and any personnel thereof, observe the highest standard of ethics during the procurement and execution of Bank-financed contracts. Any action to influence the procurement process or contract execution for undue advantage is improper.</p> <p>In pursuance of this policy, the Bank:                      (a) defines, for the purposes of this provision, the terms set forth below as follows:</p> <ul style="list-style-type: none"> <li>(i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party. Another party refers to a public official acting in relation to the procurement process or contract execution. Public official includes World Bank staff and employees of other organizations taking or reviewing procurement decisions;</li> <li>(ii) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation. The term "party" refers to a public official; the terms "benefit" and "obligations" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution;</li> <li>(iii) "coercive practice" means impairing or harming, or threatening</li> </ul>

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	<p>to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party. The term "party" refers to a participant in the procurement process or contract execution;</p> <p>(iv) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party. The term "parties" refers to participants in the procurement process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or establish bid prices at artificial, noncompetitive levels, or are privy to each other's bid prices or other conditions;</p> <p>(v) "obstructive practice" is</p> <p>(aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or</p> <p>(bb) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph (e) below.</p> <p>(b) will reject a proposal for award if it determines that the Bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract in question</p> <p>(c) will declare mis-procurement and cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the financing engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to Bath to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;</p> <p>(d) will sanction a firm or an individual, at any time, in accordance with the prevailing Bank's sanctions procedures, including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Bank-financed contract; and (ii) to be a nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has either been (i) included by the bidder in its pre qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification</p>
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**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	<p>requirements for the particular bid; or (ii) appointed by the Borrower. A firm or individual may be declared ineligible to be awarded a Bank financed contract upon (i) completion of the Bank's sanctions proceedings as per its sanctions procedures, including, inter alia, cross debarment as agreed with other International Financial Institutions, including Multilateral Development Banks, and through the application of the World Bank Group corporate administrative procurement sanctions procedures for fraud and corruption; and (ii) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. See footnote 14 and paragraph 8 of Appendix 1 of the World Bank Guidelines for Procurement of Goods, Works, and Non-Consulting Services;</p> <p>(e) will require that a clause be included in bidding documents and in contracts financed by a Bank loan or grant, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers to permit Bank to inspect all accounts and records and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by Bank.</p>
5.1	<p>The Financing Agreement provides that procurement shall follow the Bank's Procurement Guidelines and Section 1.8 thereof permits the participation of firm from all countries except for those mentioned in Section 1.10 thereof.</p>
5.2	<p>Foreign bidders may participate in this Project as provided for in the financing agreement which provides that procurement shall follow the Bank's Procurement Guidelines and Section 1.8 thereof permits the participation of firm from all countries except for those mentioned in Section 1.10 thereof</p>
5.4	<p>To be considered eligible and qualified a Bidder must have:</p> <ul style="list-style-type: none"> <li>- A successful experience as prime contractor in the construction of at least one (1) work of a nature and complexity equivalent to the Works generally within the last five (5) years (to comply with this requirement, single works cited should be at least fifty percent (50%) of value of estimated contract cost of Works under bid in the amount of <b>Thirty-One Million Four Hundred Ninety-Nine Thousand Pesos (PhP31,499,000.00)</b> such being verifiable from completion certificates; and</li> <li>- An annual turnover from all works averaged over the last three (3) years equal or greater than one hundred percent (100%) of the estimated value of the contract to be bid as evidenced by the audited financial statements for the last three (3) years stamped "received" by the BIR, in the amount of <b>Sixty-Two Million Nine Hundred Ninety-Eight Thousand Pesos (PhP62,998,000.00)</b>.</li> </ul> <p>In case of Joint Venture, either one of the partners must have:</p> <ul style="list-style-type: none"> <li>- A successful experience as prime contractor in the construction of at least one (1) work of a nature and complexity equivalent to the Works generally within the last five (5) years of 50% of the estimated project cost of Works under bid amounting to <b>Thirty-One Million Four Hundred</b></li> </ul>

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	<p><b>Ninety-Nine Thousand Pesos (PhP31,499,000.00)</b> such being verifiable from completion certificates, and the rest of the partners with 25% of the estimated project cost of Works under bid amounting to <b>Fifteen Million Seven Hundred Forty-Nine Thousand Five Hundred Pesos (PhP15,749,500.00)</b>; and</p> <ul style="list-style-type: none"> <li>- An annual turnover from all total completed projects averaged over the last three (3) years of at least equal to one hundred (100%) of the estimated project cost of Works under bid as evidenced by the audited financial statements for the last three (3) years stamped “received” by the BIR, in the amount of <b>Sixty-Two Million Nine Hundred Ninety-Eight Thousand Pesos (PhP62,998,000.00)</b> and at least equal to 50% of the estimated project cost of Works under bid for the rest of the partners amounting to <b>Thirty-One Million Fifty-One Thousand Five Hundred Pesos (PhP31,051,500.00)</b>.</li> </ul> <p>For this purpose, similar contracts shall refer to Rehabilitation and Construction of Concrete Roads.</p>
8.1	<p>Subcontracting is allowed.</p> <p>There is no restriction on the involvement of general sub-contractors in the areas of manual and semi-skilled labor or construction materials provided that the contractor undertakes not less than fifty percent (50%) of the contracted works with its own resources.</p>
8.2	<p>To be considered eligible and qualified a subcontractor must have a successful experience as contractor in the construction of at least one work of a nature and complexity equivalent to the scope of works to be subcontracted, generally during the last five (5) years.</p>
9.1	<p>The Procuring Entity will hold a pre-bid conference for this Project on <b>February 13, 2019 at 09:00 a.m.</b></p> <p><b>Ground Floor, BAC Session Hall, Capitol Building, City of San Fernando, Pampanga.</b></p>
10.1	<p>The Procuring Entity’s address is: <b>PROVINCIAL GOVERNMENT OF PAMPANGA.</b></p>
10.4	<p>No further instructions.</p>
12.1	<p>During Bid opening, if the first bid envelope lacks any of the following documents, the bid shall be declared non-responsive.</p> <p>The first envelope shall contain the following eligibility and technical documents:</p> <p><b>a. Eligibility Requirements</b></p> <ul style="list-style-type: none"> <li>i. Registration Certification of the Company;</li> <li>ii. List of relevant contracts that comply to experience requirement as specified in ITB Clause 5.4;</li> <li>iii. Audited Financial Statements for the past three (3) years;</li> <li>iv. In case of Joint Venture, the JV Agreement, if existing, or a signed Statement from the partner companies that they will enter into a JV in case of award of contract.</li> </ul> <p><b>b. Technical Documents</b></p> <ul style="list-style-type: none"> <li>v. Project Requirements, to include:</li> </ul>

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	<p>(v.1) List of contractor’s personnel (e.g. Project Manager, Project Engineer and Materials Engineer) to be assigned to the contract to be bid, with their complete qualifications and experience data; and</p> <p>(v.2) List of contractor’s major equipment units which are owned and are supported by proof of ownership which must meet the minimum requirement for the contract set in the BDS 12.1(b)(iii.3)</p> <p>vi. Bid Securing Declaration as required in ITB 18;</p> <p>Foreign bidders may submit the equivalent documents, if any, issued by the country of the foreign bidder.</p> <p>In times of declaration of state of emergency/calamity, to allow submission of the following (until revoke/lifted) the following documents:</p> <ol style="list-style-type: none"> <li>1. Unnotarized Bid Securing Declaration;</li> <li>2. Expired Business or Mayor’s permit with Official Receipt of renewal application, subject to submission of Business or Mayor’s permit after award of contract but before payment;</li> <li>3. Performance Securing Declaration (PSD)</li> </ol> <p>in lieu of a performance security to guarantee the winning bidder’s faithful performance of obligations under the contract, subject to the following:</p> <ol style="list-style-type: none"> <li>a. Similar to the PSD used in Framework Agreement, such declaration shall state, among others, that the winning bidder shall be blacklisted from being qualified to participate in any government procurement activity for one (1) year, in case of first offense or two (2) years, if with prior similar offense, in the event it violates any of the conditions stated in the contract.</li> <li>b. An unnotarized PSD may be accepted, subject to submission of a notarized PSD before payment, unless the same is replaced with a performance security in the prescribed form, as stated below; and</li> <li>c. The end-user may require the winning bidder to replace the submitted PSD with a performance security in any of the prescribed forms under Section 39.2 of the 2016 revised IRR of RA No. 9184 upon lifting of the State of Calamity.</li> </ol>						
12.1(a)(iii)	<p>Foreign bidders may submit their 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 for this Project as a pre-condition for award as provided in the Financing Agreement, and ITB Nos. 12.1(b)(ii.2) and 12.1(b)(iii.3)</p>						
12.1(b)(ii.2)	<p>The minimum work experience requirements for key personnel are the following:</p> <table border="1" data-bbox="411 1794 1390 2024"> <thead> <tr> <th data-bbox="411 1794 647 1868"><u>Key Personnel</u></th> <th data-bbox="647 1794 868 1868"><u>General Experience</u></th> <th data-bbox="868 1794 1390 1868"><u>Relevant Experience</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="411 1868 647 2024">1. Project Manager (PM)</td> <td data-bbox="647 1868 868 2024">Licensed Civil/Agricultural Engineer</td> <td data-bbox="868 1868 1390 2024">With a minimum of five (5) years relevant work experience as Project Manager in road construction</td> </tr> </tbody> </table>	<u>Key Personnel</u>	<u>General Experience</u>	<u>Relevant Experience</u>	1. Project Manager (PM)	Licensed Civil/Agricultural Engineer	With a minimum of five (5) years relevant work experience as Project Manager in road construction
<u>Key Personnel</u>	<u>General Experience</u>	<u>Relevant Experience</u>					
1. Project Manager (PM)	Licensed Civil/Agricultural Engineer	With a minimum of five (5) years relevant work experience as Project Manager in road construction					

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	2. Project Engineer (PE)	Minimum of five (5) years experience as Licensed Civil/ Agricultural Engineer	With a minimum of five (5) road construction projects handled as Project Engineer	
	3. Materials Engineer (ME)	Licensed Civil Engineer	duly accredited by DPWH as Materials Engineer I following DPWH D.O. 98, S. of 2016	
12.1(b)(iii.3)	Minimum Required Equipment			
	Particulars		Owned	Leased
	1. Batching Plant		1	-
	2. Bulldozer (155 hp)		1	1
	3. Backhoe (0.80 cu.m.)		1	1
	4. Payloader (1.50 cu.m.)		1	2
	5. Road Grader (140 hp)		1	1
	6. Road Roller (10 MT)		1	1
	<b>TOTAL</b>		<b>6</b>	<b>6</b>
13.1	No further instruction.			
13.2 (a) & (b)	There is no ceiling for Financial Proposals.			
14.2	No further instruction.			
15.4	No further instruction.			
16.1	The bid prices shall be quoted in Philippine Pesos.			
16.3	No further instruction.			
17.1	Bids will be valid until ninety (90) calendar days from bid opening date.			
18.1	The bid security shall be in the form of a Bid Securing Declaration.			
18.2	The bid security shall be valid until one hundred twenty (120) calendar days from the date set for Bid opening date.			
20.3	<p>Each Bidder shall submit:</p> <ul style="list-style-type: none"> <li>a. One (1) original ;</li> <li>b. Four (4) copies of the first and second components of its bids;</li> <li>c. Electronic copy of the bid should also be submitted in PDF file format in a flash drive. Should there be discrepancies, the original copy would prevail.</li> </ul> <p><i>(Please refer to the provisions in B.14 of this Guidelines if PE is eligible)</i></p> <p><i>If bidder shall submit bids online through the official (email address xxx, portal facility) of the LGU _____, the bidder shall ensure that:</i></p> <ul style="list-style-type: none"> <li><i>a. The bids shall be true copies of the original and shall likewise be readable;</i></li> <li><i>b. It shall use a two-factor authentication and password which shall only be revealed during bid opening;</i></li> <li><i>c. Furnish copy of the bids to observers, COA, PRDP representatives and third party observer identified by the LGU-BAC.</i></li> </ul>			
21	<p>The address for Submission of Bids is at the:</p> <p><b>Ground Floor, BAC Session Hall, Capitol Building, City of San Fernando,</b></p>			

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	<p><b>Pampanga.</b> The deadline for Submission of Bids is <b>February 27, 2019 at 09:00 a.m.</b></p>
24.1	<p>The BAC shall open the bids in public on is <b>February 27, 2019 at 09:00 a.m.</b> at <b>Ground Floor, BAC Session Hall, Capitol Building, City of San Fernando, Pampanga.</b> The time for the bid opening shall be the same as the deadline for receipt of bids or promptly thereafter. Rescheduling the date of the opening of bids shall not be considered except for force majeure, such as natural calamities. In re-scheduling the opening of bids, the BAC shall issue a Notice of Postponement to be posted at the PhilGEPS' and the Procuring Entity's websites.</p>
24.2	<p>During Bid opening, if the first envelope lacks any of the documents listed in World Bank BDS 12.1, the bid shall be declared non-responsive but the documents shall be kept by the Procuring Entity.</p>
24.3	<p>The financial proposals in the second envelope of all the bidders shall be read for record purposes. The first and second envelopes shall not be returned to the bidders.</p>
27.4	<p>No financial ceiling</p>
28.2	<p>None</p>
31.4(f)	<p>The other document required are:</p> <ol style="list-style-type: none"> <li>1) Construction schedule</li> <li>2) S-Curve</li> <li>3) Manpower schedule</li> <li>4) Construction methods</li> <li>5) Equipment Utilization schedule</li> <li>6) Construction Safety and Health program approved by the Department of Labor and Employment; and</li> <li>7) PERT/CPM.</li> </ol>
32.2	<p>No further instruction.</p>

## **Section IV. General Conditions of Contract**

### **TABLE OF CONTENTS**

1.	DEFINITIONS	42
2.	INTERPRETATION	44
3.	GOVERNING LANGUAGE AND LAW	45
4.	COMMUNICATIONS	45
5.	POSSESSION OF SITE	45
6.	THE CONTRACTOR'S OBLIGATIONS	46
7.	PERFORMANCE SECURITY	47
8.	SUBCONTRACTING	48
9.	LIQUIDATED DAMAGES	48
10.	SITE INVESTIGATION REPORTS	48
11.	THE PROCURING ENTITY, LICENSES AND PERMITS	48
12.	CONTRACTOR'S RISK AND WARRANTY SECURITY	49
13.	LIABILITY OF THE CONTRACTOR	51
14.	PROCURING ENTITY'S RISK	51
15.	INSURANCE	51
16.	TERMINATION FOR DEFAULT OF CONTRACTOR	53
17.	TERMINATION FOR DEFAULT OF PROCURING ENTITY	53
18.	TERMINATION FOR OTHER CAUSES	54
19.	PROCEDURES FOR TERMINATION OF CONTRACTS	55
20.	FORCE MAJEURE, RELEASE FROM PERFORMANCE	58
21.	RESOLUTION OF DISPUTES	58
22.	SUSPENSION OF LOAN, CREDIT, GRANT, OR APPROPRIATION	59
23.	PROCURING ENTITY'S REPRESENTATIVE'S DECISIONS	59
24.	APPROVAL OF DRAWINGS AND TEMPORARY WORKS BY THE PROCURING ENTITY'S REPRESENTATIVE	59
25.	ACCELERATION AND DELAYS ORDERED BY THE PROCURING ENTITY'S REPRESENTATIVE	60
26.	EXTENSION OF THE INTENDED COMPLETION DATE	60
27.	RIGHT TO VARY	60
28.	CONTRACTORS RIGHT TO CLAIM	61
29.	DAYWORKS	61
30.	EARLY WARNING	61
31.	PROGRAM OF WORK	61
32.	MANAGEMENT CONFERENCES	62
33.	BILL OF QUANTITIES	62
34.	INSTRUCTIONS, INSPECTIONS AND AUDITS	63

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

35.	IDENTIFYING DEFECTS	63
36.	COST OF REPAIRS	63
37.	CORRECTION OF DEFECTS	63
38.	UNCORRECTED DEFECTS	64
39.	ADVANCE PAYMENT	64
40.	PROGRESS PAYMENTS	64
41.	PAYMENT CERTIFICATES	65
42.	RETENTION	66
43.	VARIATION ORDERS	66
44.	CONTRACT COMPLETION	68
45.	SUSPENSION OF WORK	68
46.	PAYMENT ON TERMINATION	69
47.	EXTENSION OF CONTRACT TIME	69
48.	PRICE ADJUSTMENT	70
49.	COMPLETION	71
50.	TAKING OVER	71
51.	OPERATING AND MAINTENANCE MANUALS	71

## 1. Definitions

For purposes of this Clause, boldface type is used to identify defined terms.

- 1.1. The **Arbiter** is the person appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in **GCC** Clause 21.
- 1.2. **Bill of Quantities** refers to a list of the specific items of the Work and their corresponding unit prices, lump sums, and/or provisional sums.
- 1.3. The **Completion Date** is the date of completion of the Works as certified by the Procuring Entity's Representative, in accordance with **GCC** Clause 49.
- 1.4. The **Contract** is the contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works.
- 1.5. The **Contract Effectivity Date** is the date of signing of the Contract. However, the contractor shall commence execution of the Works on the Start Date as defined in GCC Clause 1.28.
- 1.6. The **Contract Price** is the price stated in the Notice of Award and thereafter to be paid by the Procuring Entity to the Contractor for the execution of the Works in accordance with this Contract
- 1.7. **Contract Time Extension** is the allowable period for the Contractor to complete the Works in addition to the original Completion Date stated in this Contract.
- 1.8. The **Contractor** is the juridical entity whose proposal has been accepted by the Procuring Entity and to whom the Contract to execute the Work was awarded.
- 1.9. The **Contractor's Bid** is the signed offer or proposal submitted by the Contractor to the Procuring Entity in response to the Bidding Documents.
- 1.10. **Days** are calendar days; months are calendar months.
- 1.11. **Dayworks** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- 1.12. A **Defect** is any part of the Works not completed in accordance with the Contract.
- 1.13. The **Defects Liability Certificate** is the certificate issued by Procuring Entity's Representative upon correction of defects by the Contractor.
- 1.14. The **Defects Liability Period** is the one year period between contract completion and final acceptance within which the Contractor assumes the

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

responsibility to undertake the repair of any damage to the Works at his own expense.

- 1.15 **Drawings** are graphical presentations of the Works. They include all supplementary details, shop drawings, calculations, and other information provided or approved for the execution of this Contract.
- 1.16 **Equipment** refers to all facilities, supplies, appliances, materials or things required for the execution and completion of the Work provided by the Contractor and which shall not form or are not intended to form part of the Permanent Works.
- 1.17 The **Intended Completion Date** refers to the date specified in the SCC when the Contractor is expected to have completed the Works. The Intended Completion Date may be revised only by the Procuring Entity's Representative by issuing an extension of time or an acceleration order.
- 1.18 **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- 1.19 The **Notice to Proceed** is a written notice issued by the Procuring Entity or the Procuring Entity's Representative to the Contractor requiring the latter to begin the commencement of the work not later than a specified or determinable date.
- 1.20 **Permanent Works** are all permanent structures and all other project features and facilities required to be constructed and completed in accordance with this Contract which shall be delivered to the Procuring Entity and which shall remain at the Site after the removal of all Temporary Works.
- 1.21 **Plant** refers to the machinery, apparatus, and the like intended to form an integral part of the Permanent Works.
- 1.22 The **Procuring Entity** is the party who employs the Contractor to carry out the Works stated in the SCC.
- 1.23 The **Procuring Entity's Representative** refers to the Head of the Procuring Entity or his duly authorized representative, identified in the SCC, who shall be responsible for supervising the execution of the Works and administering this Contract.
- 1.24 The **Site** is the place provided by the Procuring Entity where the Works shall be executed and any other place or places which may be designated in the SCC, or notified to the Contractor by the Procuring Entity's Representative as forming part of the Site.
- 1.25 **Site Investigation Reports** are those that were included in the Bidding Documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.

## ***Module 1: Guidelines for the Procurement of Infrastructure Subprojects***

- 1.26 **Slippage** is a delay in work execution occurring when actual accomplishment falls below the target as measured by the difference between the scheduled and actual accomplishment of the Work by the Contractor as established from the work schedule. This is actually described as a percentage of the whole Works.
- 1.27 **Specifications** means the description of Works to be done and the qualities of materials to be used, the equipment to be installed and the mode of construction.
- 1.28 The **Start Date**, as specified in the SCC, is the date when the Contractor is obliged to commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- 1.29 A **Subcontractor** is any person or organization to whom a part of the Works has been subcontracted by the Contractor, as allowed by the Procuring Entity, but not any assignee of such person.
- 1.30 **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Permanent Works.
- 1.31 **Work(s)** refer to the Permanent Works and Temporary Works to be executed by the Contractor in accordance with this Contract, including (i) the furnishing of all labor, materials, equipment and others incidental, necessary or convenient to the complete execution of the Works; (ii) the passing of any tests before acceptance by the Procuring Entity's Representative; (iii) and the carrying out of all duties and obligations of the Contractor imposed by this Contract as described in the SCC.

## **2. Interpretation**

- 2.1. In interpreting the Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of this Contract unless specifically defined. The Procuring Entity's Representative will provide instructions clarifying queries about the Conditions of Contract.
- 2.2. If sectional completion is specified in the SCC, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3. The documents forming this Contract shall be interpreted in the following order of priority:
- a) Contract Agreement;
  - b) Bid Data Sheet;

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- c) Instructions to Bidders;
- d) Addenda to the Bidding Documents;
- e) Special Conditions of Contract;
- f) General Conditions of Contract;
- g) Specifications;
- h) Bill of Quantities; and
- i) Drawings.

**3. Governing Language and Law**

- 3.1. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and other documents pertaining to this Contract which are exchanged by the parties shall be written in English.
- 3.2. This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.

**4. Communications**

Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is received by the concerned party.

**5. Possession of Site**

- 5.1. On the date specified in the SCC, the Procuring Entity shall grant the Contractor possession of so much of the Site as may be required to enable it to proceed with the execution of the Works. If the Contractor suffers delay or incurs cost from failure on the part of the Procuring Entity to give possession in accordance with the terms of this clause, the Procuring Entity's Representative shall give the Contractor a Contract Time Extension and certify such sum as fair to cover the cost incurred, which sum shall be paid by Procuring Entity.
- 5.2. If possession of a portion is not given by the date stated in the SCC Clause 5.1, the Procuring Entity will be deemed to have delayed the start of the relevant activities. The resulting adjustments in contract time to address such delay shall be in accordance with **GCC** Clause 47.
- 5.3. The Contractor shall bear all costs and charges for special or temporary right-of-way required by it in connection with access to the Site. The Contractor

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

shall also provide at his own cost any additional facilities outside the Site required by it for purposes of the Works.

- 5.4. The Contractor shall allow the Procuring Entity's Representative and any person authorized by the Procuring Entity's Representative access to the Site and to any place where work in connection with this Contract is being carried out or is intended to be carried out.

**6. The Contractor's Obligations**

- 6.1. The Contractor shall carry out the Works properly and in accordance with this Contract. The Contractor shall provide all supervision, labor, Materials, Plant and Contractor's Equipment, which may be required. All Materials and Plant on Site shall be deemed to be the property of the Procuring Entity.
- 6.2. The Contractor shall commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program of Work submitted by the Contractor, as updated with the approval of the Procuring Entity's Representative, and complete them by the Intended Completion Date.
- 6.3. The Contractor shall be responsible for the safety of all activities on the Site.
- 6.4. The Contractor shall carry out all instructions of the Procuring Entity's Representative that comply with the applicable laws where the Site is located.
- 6.5. The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the SCC, to carry out the supervision of the Works. The Procuring Entity will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are equal to or better than those of the personnel listed in the Schedule.
- 6.6. If the Procuring Entity's Representative asks the Contractor to remove a member of the Contractor's staff or work force, for justifiable cause, the Contractor shall ensure that the person leaves the Site within seven (7) days and has no further connection with the Work in this Contract.
- 6.7. During Contract implementation, the Contractor and his subcontractors shall abide at all times by all labor laws, including child labor related enactments, and other relevant rules.
- 6.8. The Contractor shall submit to the Procuring Entity for consent the name and particulars of the person authorized to receive instructions on behalf of the Contractor.
- 6.9. The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given

in the schedule of other contractors particularly when they shall require access to the Site. The Contractor shall also provide facilities and services for them during this period. The Procuring Entity may modify the schedule of other contractors, and shall notify the Contractor of any such modification thereto.

- 6.10. Should anything of historical or other interest or of significant value be unexpectedly discovered on the Site, it shall be the property of the Procuring Entity. The Contractor shall notify the Procuring Entity's Representative of such discoveries and carry out the Procuring Entity's Representative's instructions in dealing with them.

## **7. Performance Security**

- 7.1. Within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the Contractor shall furnish the performance security in any of the forms prescribed in **ITB** Clause 32.2.
- 7.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the Contractor is in default in any of its obligations under the Contract.
- 7.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 7.4. The performance security may be released by the Procuring Entity and returned to the Contractor after the issuance of the Certificate of Final Acceptance subject to the following conditions:
  - (a) There are no pending claims against the Contractor or the surety company filed by the Procuring Entity;
  - (b) The Contractor has no pending claims for labor and materials filed against it; and
  - (c) Other terms specified in the SCC.
- 7.5. The Contractor shall post an additional performance security following the amount and form specified in **ITB** Clause 32.2 to cover any cumulative increase of more than ten percent (10%) over the original value of the contract as a result of amendments to order or change orders, extra work orders and supplemental agreements, as the case may be. The Contractor shall cause the extension of the validity of the performance security to cover approved contract time extensions.

## **Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 7.6. In case of a reduction in the contract value or for partially completed Works under the contract which are usable and accepted by the Procuring Entity the use of which, in the judgment of the implementing agency or the Procuring Entity, will not affect the structural integrity of the entire project, the Procuring Entity shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.
- 7.7. Unless otherwise indicated in the SCC, the Contractor, by entering into the Contract with the Procuring Entity, acknowledges the right of the Procuring Entity to institute action pursuant to Act 3688 against any subcontractor be they an individual, firm, partnership, corporation, or association supplying the Contractor with labor, materials and/or equipment for the performance of this Contract.

### **8. Subcontracting**

- 8.1. Unless otherwise indicated in the SCC, the Contractor cannot subcontract Works more than the percentage specified in **BDS** Clause 8.1.
- 8.2. Subcontracting of any portion of the Works does not relieve the Contractor of any liability or obligation under this Contract. The Contractor will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Contractor's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 8.3. If subcontracting is allowed. The contractor may identify its subcontractor during contract implementation stage. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract. In either case, subcontractors must submit the documentary requirements under ITB Clause 12 and comply with the eligibility criteria specified in the **BDS**. In the event that any subcontractor is found by any Procuring Entity to be ineligible, the subcontracting of such portion of the Works shall be disallowed.

### **9. Liquidated Damages**

- 9.1. The Contractor shall pay liquidated damages to the Procuring Entity for each day that the Completion Date is later than the Intended Completion Date. The applicable liquidated damages is at least one-tenth (1/10) of a percent of the cost of the unperformed portion for every day of delay. The total amount of liquidated damages shall not exceed ten percent (10%) of the amount of the contract. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of this Contract, the

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

Procuring Entity may rescind or terminate this Contract, without prejudice to other courses of action and remedies available under the circumstances.

- 9.2. If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer of the Procuring Entity shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.

**10. Site Investigation Reports**

The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports referred to in the SCC supplemented by any information obtained by the Contractor.

**11. The Procuring Entity, Licenses and Permits**

The Procuring Entity shall, if requested by the Contractor, assist him in applying for permits, licenses or approvals, which are required for the Works.

**12. Contractor's Risk and Warranty Security**

12.1. The Contractor shall assume full responsibility for the Works from the time project construction commenced up to final acceptance by the Procuring Entity and shall be held responsible for any damage or destruction of the Works except those occasioned by *force majeure*. The Contractor shall be fully responsible for the safety, protection, security, and convenience of his personnel, third parties, and the public at large, as well as the Works, Equipment, installation, and the like to be affected by his construction work.

12.2. The defects liability period for infrastructure projects shall be one year from contract completion up to final acceptance by the Procuring Entity. During this period, the Contractor shall undertake the repair works, at his own expense, of any damage to the Works on account of the use of materials of inferior quality within ninety (90) days from the time the HoPE has issued an order to undertake repair. In case of failure or refusal to comply with this mandate, the Procuring Entity shall undertake such repair works and shall be entitled to full reimbursement of expenses incurred therein upon demand.

12.3. Unless otherwise indicated in the SCC, in case the Contractor fails to comply with the preceding paragraph, the Procuring Entity shall forfeit its performance security, subject its property(ies) to attachment or garnishment proceedings, and perpetually disqualify it from participating in any public bidding. All payables of the GoP in his favor shall be offset to recover the costs.

12.4. After final acceptance of the Works by the Procuring Entity, the Contractor shall be held responsible for "Structural Defects," *i.e.*, major faults/flaws/deficiencies in one or more key structural elements of the

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

project which may lead to structural failure of the completed elements or structure, or “Structural Failures,” *i.e.*, where one or more key structural elements in an infrastructure facility fails or collapses, thereby rendering the facility or part thereof incapable of withstanding the design loads, and/or endangering the safety of the users or the general public:

- (a) Contractor – Where Structural Defects/Failures arise due to faults attributable to improper construction, use of inferior quality/substandard materials, and any violation of the contract plans and specifications, the contractor shall be held liable;
  - (b) Consultants – Where Structural Defects/Failures arise due to faulty and/or inadequate design and specifications as well as construction supervision, then the consultant who prepared the design or undertook construction supervision for the project shall be held liable;
  - (c) Procuring Entity’s Representatives/Project Manager/Construction Managers and Supervisors – The project owner’s representative(s), project manager, construction manager, and supervisor(s) shall be held liable in cases where the Structural Defects/Failures are due to his/their willful intervention in altering the designs and other specifications; negligence or omission in not approving or acting on proposed changes to noted defects or deficiencies in the design and/or specifications; and the use of substandard construction materials in the project;
  - (d) Third Parties - Third Parties shall be held liable in cases where Structural Defects/Failures are caused by work undertaken by them such as leaking pipes, diggings or excavations, underground cables and electrical wires, underground tunnel, mining shaft and the like, in which case the applicable warranty to such structure should be levied to third parties for their construction or restoration works.
  - (e) Users - In cases where Structural Defects/Failures are due to abuse/misuse by the end user of the constructed facility and/or non-compliance by a user with the technical design limits and/or intended purpose of the same, then the user concerned shall be held liable.
- 12.5. The warranty against Structural Defects/Failures, except those occasioned on force majeure, shall cover the period specified in the SCC reckoned from the date of issuance of the Certificate of Final Acceptance by the Procuring Entity.
- 12.6. The Contractor shall be required to put up a warranty security in the form of cash, bank guarantee, letter of credit, GSIS or surety bond callable on demand, in accordance with the following schedule:

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

Form of Warranty	Amount of Warranty Security Not less than the Percentage (%) of Total Contract Price
(a) Cash or letter of credit issued by Universal or Commercial bank: provided, however, that the letter of credit shall be confirmed or authenticated by a Universal or Commercial bank, if issued by a foreign bank	Five Percent (5%)
(b) Bank guarantee confirmed by Universal or Commercial bank: provided, however, that the letter of credit shall be confirmed or authenticated by a Universal or Commercial bank, if issued by a foreign bank	Ten Percent (10%)
(c) Surety bond callable upon demand issued by GSIS or any surety or insurance company duly certified by the Insurance Commission	Thirty Percent (30%)

12.7. The warranty security shall be stated in Philippine Pesos and shall remain effective for one year from the date of issuance of the Certificate of Final Acceptance by the Procuring Entity, and returned only after the lapse of said one year period.

12.8. In case of structural defects/failure occurring during the applicable warranty period provided in **GCC** Clause 12.5, the Procuring Entity shall undertake the necessary restoration or reconstruction works and shall be entitled to full reimbursement by the parties found to be liable for expenses incurred therein upon demand, without prejudice to the filing of appropriate administrative, civil, and/or criminal charges against the responsible persons as well as the forfeiture of the warranty security posted in favor of the Procuring Entity.

**13. Liability of the Contractor**

Subject to additional provisions, if any, set forth in the SCC, the Contractor's liability under this Contract shall be as provided by the laws of the Republic of the Philippines.

**14. Procuring Entity's Risk**

14.1. From the Start Date until the Certificate of Final Acceptance has been issued, the following are risks of the Procuring Entity:

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:
  - (i) any type of use or occupation of the Site authorized by the Procuring Entity after the official acceptance of the works; or
  - (ii) negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or contracted to him except the Contractor.
- (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

**15. Insurance**

15.1. The Contractor shall, under his name and at his own expense, obtain and maintain, for the duration of this Contract, the following insurance coverage:

- (a) Contractor's All Risk Insurance;
- (b) Transportation to the project Site of Equipment, Machinery, and Supplies owned by the Contractor;
- (c) Personal injury or death of Contractor's employees; and
- (d) Comprehensive insurance for third party liability to Contractor's direct or indirect act or omission causing damage to third persons.

15.2. The Contractor shall provide evidence to the Procuring Entity's Representative that the insurances required under this Contract have been effected and shall, within a reasonable time, provide copies of the insurance policies to the Procuring Entity's Representative. Such evidence and such policies shall be provided to the Procuring Entity's through the Procuring Entity's Representative.

15.3. The Contractor shall notify the insurers of changes in the nature, extent, or program for the execution of the Works and ensure the adequacy of the insurances at all times in accordance with the terms of this Contract and shall produce to the Procuring Entity's Representative the insurance policies in force including the receipts for payment of the current premiums.

The above insurance policies shall be obtained from any reputable insurance company approved by the Procuring Entity's Representative.

15.4. If the Contractor fails to obtain and keep in force the insurances referred to herein or any other insurance which he may be required to obtain under the

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

terms of this Contract, the Procuring Entity may obtain and keep in force any such insurances and pay such premiums as may be necessary for the purpose. From time to time, the Procuring Entity may deduct the amount it shall pay for said premiums including twenty five percent (25%) therein from any monies due, or which may become due, to the Contractor, without prejudice to the Procuring Entity exercising its right to impose other sanctions against the Contractor pursuant to the provisions of this Contract.

- 15.5. In the event the Contractor fails to observe the above safeguards, the Procuring Entity may, at the Contractor's expense, take whatever measure is deemed necessary for its protection and that of the Contractor's personnel and third parties, and/or order the interruption of dangerous Works. In addition, the Procuring Entity may refuse to make the payments under **GCC Clause 40** until the Contractor complies with this Clause.
- 15.6. The Contractor shall immediately replace the insurance policy obtained as required in this Contract, without need of the Procuring Entity's demand, with a new policy issued by a new insurance company acceptable to the Procuring Entity for any of the following grounds:
  - (a) The issuer of the insurance policy to be replaced has:
    - (i) become bankrupt;
    - (ii) been placed under receivership or under a management committee;
    - (iii) been sued for suspension of payment; or
    - (iv) been suspended by the Insurance Commission and its license to engage in business or its authority to issue insurance policies cancelled; or
    - (v) Where reasonable grounds exist that the insurer may not be able, fully and promptly, to fulfill its obligation under the insurance policy.

**16. Termination for Default of Contractor**

- 16.1. The Procuring Entity shall terminate this Contract for default when any of the following conditions attend its implementation:
  - (i) Due to the Contractor's fault and while the project is on-going, it has incurred negative slippage of fifteen percent (15%) or more in accordance with Presidential Decree 1870, regardless of whether or not previous warnings and notices have been issued for the Contractor to improve his performance;

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (ii) Due to its own fault and after this Contract time has expired, the Contractor incurs delay in the completion of the Work after this Contract has expired; or
- (iii) The Contractor:
  - (i) abandons the contract Works, refuses or fails to comply with a valid instruction of the Procuring Entity or fails to proceed expeditiously and without delay despite a written notice by the Procuring Entity;
  - (ii) does not actually have on the project Site the minimum essential equipment listed on the bid necessary to prosecute the Works in accordance with the approved Program of Work and equipment deployment schedule as required for the project;
  - (iii) does not execute the Works in accordance with this Contract or persistently or flagrantly neglects to carry out its obligations under this Contract;
  - (iv) neglects or refuses to remove materials or to perform a new Work that has been rejected as defective or unsuitable; or
  - (v) sub-lets any part of this Contract without approval by the Procuring Entity.

16.2. All materials on the Site, Plant, Works, including Equipment purchased and funded under the Contract shall be deemed to be the property of the Procuring Entity if this Contract is rescinded because of the Contractor's default.

**17. Termination for Default of Procuring Entity**

The Contractor may terminate this Contract with the Procuring Entity if the works are completely stopped for a continuous period of at least sixty (60) calendar days through no fault of its own, due to any of the following reasons:

- (a) Failure of the Procuring Entity to deliver, within a reasonable time, supplies, materials, right-of-way, or other items it is obligated to furnish under the terms of this Contract; or
- (b) The prosecution of the Work is disrupted by the adverse peace and order situation, as certified by the Armed Forces of the Philippines Provincial Commander and approved by the Secretary of National Defense.

**18. Termination for Other Causes**

- 18.1. The Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. The HoPE may terminate this Contract for the convenience of the Procuring Entity if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and National Government policies.
- 18.2. The Procuring Entity or the Contractor may terminate this Contract if the other party causes a fundamental breach of this Contract.
- 18.3. Fundamental breaches of Contract shall include, but shall not be limited to, the following:
- (a) The Contractor stops work for twenty eight (28) days when no stoppage of work is shown on the current Program of Work and the stoppage has not been authorized by the Procuring Entity's Representative;
  - (b) The Procuring Entity's Representative instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within twenty eight (28) days;
  - (c) The Procuring Entity shall terminate this Contract if the Contractor is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Contractor, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Contractor. In the case of the Contractor's insolvency, any Contractor's Equipment which the Procuring Entity instructs in the notice is to be used until the completion of the Works;
  - (d) A payment certified by the Procuring Entity's Representative is not paid by the Procuring Entity to the Contractor within eighty four (84) days from the date of the Procuring Entity's Representative's certificate;
  - (e) The Procuring Entity's Representative gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Procuring Entity's Representative;
  - (f) The Contractor does not maintain a Security, which is required;
  - (g) The Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the **GCC** Clause 9; and

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (h) In case it is determined prima facie by the Procuring Entity that the Contractor has engaged, before or during the implementation of the contract, in unlawful deeds and behaviors relative to contract acquisition and implementation, such as, but not limited to, the following:
  - (i) corrupt, fraudulent, collusive, coercive, and obstructive practices as defined in **ITB** Clause 3.1(a), unless otherwise specified in the SCC;
  - (ii) drawing up or using forged documents;
  - (iii) using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
  - (iv) any other act analogous to the foregoing.

18.4. The Funding Source or the Procuring Entity, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with corrupt, fraudulent, or coercive practices.

18.5. When persons from either party to this Contract gives notice of a fundamental breach to the Procuring Entity's Representative in order to terminate the existing contract for a cause other than those listed under **GCC** Clause 18.3, the Procuring Entity's Representative shall decide whether the breach is fundamental or not.

18.6. If this Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

**19. Procedures for Termination of Contracts**

19.1. The following provisions shall govern the procedures for the termination of this Contract:

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Procuring Entity shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Procuring Entity, the HoPE shall terminate this Contract only by a written notice to the Contractor conveying the termination of this Contract. The notice shall state:

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (i) that this Contract is being terminated for any of the ground(s) afore-mentioned, and a statement of the acts that constitute the ground(s) constituting the same;
- (ii) the extent of termination, whether in whole or in part;
- (iii) an instruction to the Contractor to show cause as to why this Contract should not be terminated; and
- (iv) special instructions of the Procuring Entity, if any.

The Notice to Terminate shall be accompanied by a copy of the Verified Report;

- (c) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Contractor shall submit to the HoPE a verified position paper stating why the contract should not be terminated. If the Contractor fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the HoPE shall issue an order terminating the contract;
  - (d) The Procuring Entity may, at anytime before receipt of the Contractor's verified position paper described in item (c) above withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Contractor's receipt of the notice;
  - (e) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the HoPE shall decide whether or not to terminate this Contract. It shall serve a written notice to the Contractor of its decision and, unless otherwise provided in the said notice, this Contract is deemed terminated from receipt of the Contractor of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate; and
  - (f) The HoPE may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the HoPE.
- 19.2. Pursuant to Section 69(f) of RA 9184 and without prejudice to the imposition of additional administrative sanctions as the internal rules of the agency may provide and/or further criminal prosecution as provided by applicable laws, the procuring entity shall impose on contractors after the termination of the contract the penalty of suspension for one (1) year for the first offense, suspension for two (2) years for the second offense from participating in the public bidding process, for violations committed during the contract implementation stage, which include but not limited to the following:

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (a) Failure of the contractor, due solely to his fault or negligence, to mobilize and start work or performance within the specified period in the Notice to Proceed (“NTP”);
- (b) Failure by the contractor to fully and faithfully comply with its contractual obligations without valid cause, or failure by the contractor to comply with any written lawful instruction of the procuring entity or its representative(s) pursuant to the implementation of the contract. For the procurement of infrastructure projects or consultancy contracts, lawful instructions include but are not limited to the following:
  - (i) Employment of competent technical personnel, competent engineers and/or work supervisors;
  - (ii) Provision of warning signs and barricades in accordance with approved plans and specifications and contract provisions;
  - (iii) Stockpiling in proper places of all materials and removal from the project site of waste and excess materials, including broken pavement and excavated debris in accordance with approved plans and specifications and contract provisions;
  - (iv) Deployment of committed equipment, facilities, support staff and manpower; and
  - (v) Renewal of the effectivity dates of the performance security after its expiration during the course of contract implementation.
- (c) Assignment and subcontracting of the contract or any part thereof or substitution of key personnel named in the proposal without prior written approval by the procuring entity.
- (d) Poor performance by the contractor or unsatisfactory quality and/or progress of work arising from his fault or negligence as reflected in the Constructor's Performance Evaluation System (“CPES”) rating sheet. In the absence of the CPES rating sheet, the existing performance monitoring system of the procuring entity shall be applied. Any of the following acts by the Contractor shall be construed as poor performance:
  - (i) Negative slippage of 15% and above within the critical path of the project due entirely to the fault or negligence of the contractor; and
  - (ii) Quality of materials and workmanship not complying with the approved specifications arising from the contractor's fault or negligence.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (e) Willful or deliberate abandonment or non-performance of the project or contract by the contractor resulting to substantial breach thereof without lawful and/or just cause.

In addition to the penalty of suspension, the performance security posted by the contractor shall also be forfeited.

**20. Force Majeure, Release From Performance**

- 20.1. For purposes of this Contract the terms “*force majeure*” and “fortuitous event” may be used interchangeably. In this regard, a fortuitous event or *force majeure* shall be interpreted to mean an event which the Contractor could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Contractor.
- 20.2. If this Contract is discontinued by an outbreak of war or by any other event entirely outside the control of either the Procuring Entity or the Contractor, the Procuring Entity’s Representative shall certify that this Contract has been discontinued. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all works carried out before receiving it and for any Work carried out afterwards to which a commitment was made.
- 20.3. If the event continues for a period of eighty four (84) days, either party may then give notice of termination, which shall take effect twenty eight (28) days after the giving of the notice.
- 20.4. After termination, the Contractor shall be entitled to payment of the unpaid balance of the value of the Works executed and of the materials and Plant reasonably delivered to the Site, adjusted by the following:
  - (a) any sum to which the Contractor is entitled under **GCC** Clause 28;
  - (b) the cost of his suspension and demobilization;
  - (c) any sum to which the Procuring Entity is entitled.
- 20.5. The net balance due shall be paid or repaid within a reasonable time period from the time of the notice of termination.

**21. Resolution of Disputes**

- 21.1. If any dispute or difference of any kind whatsoever shall arise between the parties in connection with the implementation of the contract covered by the Act and this IRR, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 21.2. If the Contractor believes that a decision taken by the Procuring Entity's Representative was either outside the authority given to the Procuring Entity's Representative by this Contract or that the decision was wrongly taken, the decision shall be referred to the Arbiter indicated in the SCC within fourteen (14) days of the notification of the Procuring Entity's Representative's decision.
- 21.3. Any and all disputes arising from the implementation of this Contract covered by the R.A. 9184 and its IRR shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law" and Republic Act 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004": *Provided, however, That, disputes that are within the competence of the Construction Industry Arbitration Commission to resolve shall be referred thereto. The process of arbitration shall be incorporated as a provision in this Contract that will be executed pursuant to the provisions of the Act and its IRR: Provided, further, That, by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution.*

**22. Suspension of Loan, Credit, Grant, or Appropriation**

In the event that the Funding Source suspends the Loan, Credit, Grant, or Appropriation to the Procuring Entity, from which part of the payments to the Contractor are being made:

- (a) The Procuring Entity is obligated to notify the Contractor of such suspension within seven (7) days of having received the suspension notice.
- (b) If the Contractor has not received sums due it for work already done within forty five (45) days from the time the Contractor's claim for payment has been certified by the Procuring Entity's Representative, the Contractor may immediately issue a suspension of work notice in accordance with **GCC** Clause 45.2.

**23. Procuring Entity's Representative's Decisions**

- 23.1. Except where otherwise specifically stated, the Procuring Entity's Representative will decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity.
- 23.2. The Procuring Entity's Representative may delegate any of his duties and responsibilities to other people, except to the Arbiter, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

**24. Approval of Drawings and Temporary Works by the Procuring Entity's Representative**

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 24.1. All Drawings prepared by the Contractor for the execution of the Temporary Works, are subject to prior approval by the Procuring Entity's Representative before its use.
  - 24.2. The Contractor shall be responsible for design of Temporary Works.
  - 24.3. The Procuring Entity's Representative's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
  - 24.4. The Contractor shall obtain approval of third parties to the design of the Temporary Works, when required by the Procuring Entity.
25. **Acceleration and Delays Ordered by the Procuring Entity's Representative**
- 25.1. When the Procuring Entity wants the Contractor to finish before the Intended Completion Date, the Procuring Entity's Representative will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Procuring Entity and the Contractor.
  - 25.2. If the Contractor's Financial Proposals for an acceleration are accepted by the Procuring Entity, they are incorporated in the Contract Price and treated as a Variation.
26. **Extension of the Intended Completion Date**
- 26.1. The Procuring Entity's Representative shall extend the Intended Completion Date if a Variation is issued which makes it impossible for the Intended Completion Date to be achieved by the Contractor without taking steps to accelerate the remaining work, which would cause the Contractor to incur additional costs. No payment shall be made for any event which may warrant the extension of the Intended Completion Date.
  - 26.2. The Procuring Entity's Representative shall decide whether and by how much to extend the Intended Completion Date within twenty one (21) days of the Contractor asking the Procuring Entity's Representative for a decision thereto after fully submitting all supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.
27. **Right to Vary**
- 27.1. The Procuring Entity's Representative with the prior approval of the Procuring Entity may instruct Variations, up to a maximum cumulative amount of ten percent (10%) of the original contract cost.
  - 27.2. Variations shall be valued as follows:

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- (a) At a lump sum price agreed between the parties;
- (b) where appropriate, at rates in this Contract;
- (c) in the absence of appropriate rates, the rates in this Contract shall be used as the basis for valuation; or failing which
- (d) at appropriate new rates, equal to or lower than current industry rates and to be agreed upon by both parties and approved by the HoPE.

**28. Contractor's Right to Claim**

If the Contractor incurs cost as a result of any of the events under **GCC** Clause 13, the Contractor shall be entitled to the amount of such cost. If as a result of any of the said events, it is necessary to change the Works, this shall be dealt with as a Variation.

**29. Dayworks**

- 29.1. Subject to **GCC** Clause 43 on Variation Order, and if applicable as indicated in the SCC, the Dayworks rates in the Contractor's bid shall be used for small additional amounts of work only when the Procuring Entity's Representative has given written instructions in advance for additional work to be paid for in that way.
- 29.2. All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Procuring Entity's Representative. Each completed form shall be verified and signed by the Procuring Entity's Representative within two days of the work being done.
- 29.3. The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

**30. Early Warning**

- 30.1. The Contractor shall warn the Procuring Entity's Representative at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Procuring Entity's Representative may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 30.2. The Contractor shall cooperate with the Procuring Entity's Representative in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and

in carrying out any resulting instruction of the Procuring Entity's Representative.

**31. Program of Work**

- 31.1. Within the time stated in the SCC, the Contractor shall submit to the Procuring Entity's Representative for approval a Program of Work showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 31.2. An update of the Program of Work shall show the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 31.3. The Contractor shall submit to the Procuring Entity's Representative for approval an updated Program of Work at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program of Work within this period, the Procuring Entity's Representative may withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program of Work has been submitted.
- 31.4. The Procuring Entity's Representative's approval of the Program of Work shall not alter the Contractor's obligations. The Contractor may revise the Program of Work and submit it to the Procuring Entity's Representative again at any time. A revised Program of Work shall show the effect of any approved Variations.
- 31.5. When the Program of Work is updated, the Contractor shall provide the Procuring Entity's Representative with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.
- 31.6. All Variations shall be included in updated Program of Work produced by the Contractor.

**32. Management Conferences**

- 32.1. Either the Procuring Entity's Representative or the Contractor may require the other to attend a Management Conference. The Management Conference shall review the plans for remaining work and deal with matters raised in accordance with the early warning procedure.
- 32.2. The Procuring Entity's Representative shall record the business of Management Conferences and provide copies of the record to those attending the Conference and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Procuring Entity's Representative either at the Management Conference or after the

Management Conference and stated in writing to all who attended the Conference.

**33. Bill of Quantities**

- 33.1. The Bill of Quantities shall contain items of work for the construction, installation, testing, and commissioning of work to be done by the Contractor.
- 33.2. The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.
- 33.3. If the final quantity of any work done differs from the quantity in the Bill of Quantities for the particular item and is not more than twenty five percent (25%) of the original quantity, provided the aggregate changes for all items do not exceed ten percent (10%) of the Contract price, the Procuring Entity's Representative shall make the necessary adjustments to allow for the changes subject to applicable laws, rules, and regulations.
- 33.4. If requested by the Procuring Entity's Representative, the Contractor shall provide the Procuring Entity's Representative with a detailed cost breakdown of any rate in the Bill of Quantities.

**34. Instructions, Inspections and Audits**

- 34.1. The Procuring Entity's personnel shall at all reasonable times during construction of the Work be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of the construction.
- 34.2. If the Procuring Entity's Representative instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no defect, the test shall be a Compensation Event.
- 34.3. The Contractor shall permit the Funding Source named in the SCC to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.

**35. Identifying Defects**

The Procuring Entity's Representative shall check the Contractor's work and notify the Contractor of any defects that are found. Such checking shall not affect the Contractor's responsibilities. The Procuring Entity's Representative may instruct the Contractor to search uncover defects and test any work that the Procuring Entity's Representative considers below standards and defective.

**36. Cost of Repairs**

Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Liability Periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

**37. Correction of Defects**

37.1. The Procuring Entity's Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which is One (1) year from project completion up to final acceptance by the Procuring Entity's Representative.

37.2. Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified in the Procuring Entity's Representative's notice.

37.3. The Contractor shall correct the defects which he notices himself before the end of the Defects Liability Period.

37.4. The Procuring Entity shall certify that all defects have been corrected. If the Procuring Entity considers that correction of a defect is not essential, he can request the Contractor to submit a quotation for the corresponding reduction in the Contract Price. If the Procuring Entity accepts the quotation, the corresponding change in the SCC is a Variation.

**38. Uncorrected Defects**

38.1. The Procuring Entity shall give the Contractor at least fourteen (14) days notice of his intention to use a third party to correct a Defect. If the Contractor does not correct the Defect himself within the period, the Procuring Entity may have the Defect corrected by the third party. The cost of the correction will be deducted from the Contract Price.

38.2. The use of a third party to correct defects that are uncorrected by the Contractor will in no way relieve the Contractor of its liabilities and warranties under the Contract.

**39. Advance Payment**

39.1. The Procuring Entity shall, upon a written request of the contractor which shall be submitted as a contract document, make an advance payment to the contractor in an amount not exceeding fifteen percent (15%) of the total contract price, to be made in lump sum or, at the most two, installments according to a schedule specified in the SCC.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 39.2. The advance payment shall be made only upon the submission to and acceptance by the Procuring Entity of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee or a surety bond callable upon demand, issued by a surety or insurance company duly licensed by the Insurance Commission and confirmed by the Procuring Entity.
- 39.3. The advance payment shall be repaid by the Contractor by an amount equal to the percentage of the total contract price used for the advance payment.
- 39.4. The contractor may reduce his standby letter of credit or guarantee instrument by the amounts refunded by the Monthly Certificates in the advance payment.
- 39.5. The Procuring Entity will provide an Advance Payment on the Contract Price as stipulated in the Conditions of Contract, subject to the maximum amount stated in SCC Clause 1).

**40. Progress Payments**

- 40.1. The Contractor may submit a request for payment for Work accomplished. Such request for payment shall be verified and certified by the Procuring Entity's Representative/Project Engineer. Except as otherwise stipulated in the SCC, materials and equipment delivered on the site but not completely put in place shall not be included for payment.
- 40.2. The Procuring Entity shall deduct the following from the certified gross amounts to be paid to the contractor as progress payment:
  - (a) Cumulative value of the work previously certified and paid for.
  - (b) Portion of the advance payment to be recouped for the month.
  - (c) Retention money in accordance with the condition of contract.
  - (d) Amount to cover third party liabilities.
  - (e) Amount to cover uncorrected discovered defects in the works.
- 40.3. Payments shall be adjusted by deducting there from the amounts for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Procuring Entity's Representative within twenty eight (28) days from the date each certificate was issued. No payment of interest for delayed payments and adjustments shall be made by the Procuring Entity.
- 40.4. The first progress payment may be paid by the Procuring Entity to the Contractor provided that at least twenty percent (20%) of the work has been accomplished as certified by the Procuring Entity's Representative.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 40.5. Items of the Works for which a price of “0” (zero) has been entered will not be paid for by the Procuring Entity and shall be deemed covered by other rates and prices in the Contract.

**41. Payment Certificates**

- 41.1. The Contractor shall submit to the Procuring Entity’s Representative monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 41.2. The Procuring Entity’s Representative shall check the Contractor’s monthly statement and certify the amount to be paid to the Contractor.
- 41.3. The value of Work executed shall:
- (a) be determined by the Procuring Entity’s Representative;
  - (b) comprise the value of the quantities of the items in the Bill of Quantities completed; and
  - (c) include the valuations of approved variations.
- 41.4. The Procuring Entity’s Representative may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

**42. Retention**

- 42.1. The Procuring Entity shall retain from each payment due to the Contractor an amount equal to a percentage thereof using the rate as specified in GCC Sub-Clause 42.2.
- 42.2. Progress payments are subject to retention of ten percent (10%), referred to as the “retention money.” Such retention shall be based on the total amount due to the Contractor prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of Works, as determined by the Procuring Entity, are completed. If, after fifty percent (50%) completion, the Work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall again be imposed using the rate specified therefor.
- 42.3. The total “retention money” shall be due for release upon final acceptance of the Works. The Contractor may, however, request the substitution of the retention money for each progress billing with irrevocable standby letters of credit from a commercial bank, bank guarantees or surety bonds callable on demand, of amounts equivalent to the retention money substituted for and acceptable to the Procuring Entity, provided that the project is on schedule and is satisfactorily undertaken. Otherwise, the ten (10%) percent retention shall be made. Said irrevocable standby letters of credit, bank guarantees

and/or surety bonds, to be posted in favor of the Government shall be valid for a duration to be determined by the concerned implementing office/agency or Procuring Entity and will answer for the purpose for which the ten (10%) percent retention is intended, *i.e.*, to cover uncorrected discovered defects and third party liabilities.

- 42.4. On completion of the whole Works, the Contractor may substitute retention money with an “on demand” Bank guarantee in a form acceptable to the Procuring Entity.

#### **43. Variation Orders**

- 43.1. Variation Orders may be issued by the Procuring Entity to cover any increase/decrease in quantities, including the introduction of new work items that are not included in the original contract or reclassification of work items that are either due to change of plans, design or alignment to suit actual field conditions resulting in disparity between the preconstruction plans used for purposes of bidding and the “as staked plans” or construction drawings prepared after a joint survey by the Contractor and the Procuring Entity after award of the contract, provided that the cumulative amount of the Variation Order does not exceed ten percent (10%) of the original project cost. The addition/deletion of Works should be within the general scope of the project as bid and awarded. The scope of works shall not be reduced so as to accommodate a positive Variation Order. A Variation Order may either be in the form of a Change Order or Extra Work Order.
- 43.2. A Change Order may be issued by the Procuring Entity to cover any increase/decrease in quantities of original Work items in the contract.
- 43.3. An Extra Work Order may be issued by the Procuring Entity to cover the introduction of new work necessary for the completion, improvement or protection of the project which were not included as items of Work in the original contract, such as, where there are subsurface or latent physical conditions at the site differing materially from those indicated in the contract, or where there are duly unknown physical conditions at the site of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the Work or character provided for in the contract.
- 43.4. Any cumulative Variation Order beyond ten percent (10%) shall be subject of another contract to be bid out if the works are separable from the original contract. In exceptional cases where it is urgently necessary to complete the original scope of work, the HoPE may authorize a positive Variation Order go beyond ten percent (10%) but not more than twenty percent (20%) of the original contract price, subject to the guidelines to be determined by the GPPB: *Provided, however*, That appropriate sanctions shall be imposed on the designer, consultant or official responsible for the original detailed

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

engineering design which failed to consider the Variation Order beyond ten percent (10%).

43.5. In claiming for any Variation Order, the Contractor shall, within seven (7) calendar days after such work has been commenced or after the circumstances leading to such condition(s) leading to the extra cost, and within twenty-eight (28) calendar days deliver a written communication giving full and detailed particulars of any extra cost in order that it may be investigated at that time. Failure to provide either of such notices in the time stipulated shall constitute a waiver by the contractor for any claim. The preparation and submission of Variation Orders are as follows:

- (a) If the Procuring Entity's representative/Project Engineer believes that a Change Order or Extra Work Order should be issued, he shall prepare the proposed Order accompanied with the notices submitted by the Contractor, the plans therefore, his computations as to the quantities of the additional works involved per item indicating the specific stations where such works are needed, the date of his inspections and investigations thereon, and the log book thereof, and a detailed estimate of the unit cost of such items of work, together with his justifications for the need of such Change Order or Extra Work Order, and shall submit the same to the HoPE for approval.
- (b) The HoPE or his duly authorized representative, upon receipt of the proposed Change Order or Extra Work Order shall immediately instruct the appropriate technical staff or office of the Procuring Entity to conduct an on-the-spot investigation to verify the need for the Work to be prosecuted and to review the proposed plan, and prices of the work involved.
- (c) The technical staff or appropriate office of the Procuring Entity shall submit a report of their findings and recommendations, together with the supporting documents, to the Head of Procuring Entity or his duly authorized representative for consideration.
- (d) The HoPE or his duly authorized representative, acting upon the recommendation of the technical staff or appropriate office, shall approve the Change Order or Extra Work Order after being satisfied that the same is justified, necessary, and in order.
- (e) The timeframe for the processing of Variation Orders from the preparation up to the approval by the Procuring Entity concerned shall not exceed thirty (30) calendar days.

**44. Contract Completion**

Once the project reaches an accomplishment of ninety five (95%) of the total contract amount, the Procuring Entity may create an inspectorate team to make preliminary inspection and submit a punch-list to the Contractor in preparation for

the final turnover of the project. Said punch-list will contain, among others, the remaining Works, Work deficiencies for necessary corrections, and the specific duration/time to fully complete the project considering the approved remaining contract time. This, however, shall not preclude the claim of the Procuring Entity for liquidated damages.

**45. Suspension of Work**

45.1. The Procuring Entity shall have the authority to suspend the work wholly or partly by written order for such period as may be deemed necessary, due to *force majeure* or any fortuitous events or for failure on the part of the Contractor to correct bad conditions which are unsafe for workers or for the general public, to carry out valid orders given by the Procuring Entity or to perform any provisions of the contract, or due to adjustment of plans to suit field conditions as found necessary during construction. The Contractor shall immediately comply with such order to suspend the work wholly or partly.

45.2. The Contractor or its duly authorized representative shall have the right to suspend work operation on any or all projects/activities along the critical path of activities after fifteen (15) calendar days from date of receipt of written notice from the Contractor to the district engineer/regional director/consultant or equivalent official, as the case may be, due to the following:

- (a) There exist right-of-way problems which prohibit the Contractor from performing work in accordance with the approved construction schedule.
- (b) Requisite construction plans which must be owner-furnished are not issued to the contractor precluding any work called for by such plans.
- (c) Peace and order conditions make it extremely dangerous, if not possible, to work. However, this condition must be certified in writing by the Philippine National Police (PNP) station which has responsibility over the affected area and confirmed by the Department of Interior and Local Government (DILG) Regional Director.
- (d) There is failure on the part of the Procuring Entity to deliver government-furnished materials and equipment as stipulated in the contract.
- (e) Delay in the payment of Contractor's claim for progress billing beyond forty-five (45) calendar days from the time the Contractor's claim has been certified to by the procuring entity's authorized representative that the documents are complete unless there are justifiable reasons thereof which shall be communicated in writing to the Contractor.

- 45.3. In case of total suspension, or suspension of activities along the critical path, which is not due to any fault of the Contractor, the elapsed time between the effectivity of the order suspending operation and the order to resume work shall be allowed the Contractor by adjusting the contract time accordingly.

**46. Payment on Termination**

- 46.1. If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Procuring Entity's Representative shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.
- 46.2. If the Contract is terminated for the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, the Procuring Entity's Representative shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.
- 46.3. The net balance due shall be paid or repaid within twenty eight (28) days from the notice of termination.
- 46.4. If the Contractor has terminated the Contract under **GCC** Clauses 17 or 18, the Procuring Entity shall promptly return the Performance Security to the Contractor.

**47. Extension of Contract Time**

- 47.1. Should the amount of additional work of any kind or other special circumstances of any kind whatsoever occur such as to fairly entitle the contractor to an extension of contract time, the Procuring Entity shall determine the amount of such extension; provided that the Procuring Entity is not bound to take into account any claim for an extension of time unless the Contractor has, prior to the expiration of the contract time and within thirty (30) calendar days after such work has been commenced or after the circumstances leading to such claim have arisen, delivered to the Procuring Entity notices in order that it could have investigated them at that time. Failure to provide such notice shall constitute a waiver by the Contractor of any claim. Upon receipt of full and detailed particulars, the Procuring Entity shall examine the facts and extent of the delay and shall extend the contract time completing the contract work when, in the Procuring Entity's opinion, the findings of facts justify an extension.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 47.2. No extension of contract time shall be granted the Contractor due to (a) ordinary unfavorable weather conditions and (b) inexcusable failure or negligence of Contractor to provide the required equipment, supplies or materials.
- 47.3. Extension of contract time may be granted only when the affected activities fall within the critical path of the PERT/CPM network.
- 47.4. No extension of contract time shall be granted when the reason given to support the request for extension was already considered in the determination of the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract perfection.
- 47.5. Extension of contract time shall be granted for rainy/unworkable days considered unfavorable for the prosecution of the works at the site, based on the actual conditions obtained at the site, in excess of the number of rainy/unworkable days pre-determined by the Procuring Entity in relation to the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract perfection, and/or for equivalent period of delay due to major calamities such as exceptionally destructive typhoons, floods and earthquakes, and epidemics, and for causes such as non-delivery on time of materials, working drawings, or written information to be furnished by the Procuring Entity, non-acquisition of permit to enter private properties or non-execution of deed of sale or donation within the right-of-way resulting in complete paralyzation of construction activities, and other meritorious causes as determined by the Procuring Entity's Representative and approved by the HoPE. Shortage of construction materials, general labor strikes, and peace and order problems that disrupt construction operations through no fault of the Contractor may be considered as additional grounds for extension of contract time provided they are publicly felt and certified by appropriate government agencies such as DTI, DOLE, DILG, and DND, among others. The written consent of bondsmen must be attached to any request of the Contractor for extension of contract time and submitted to the Procuring Entity for consideration and the validity of the Performance Security shall be correspondingly extended.

**48. Price Adjustment**

Except for extraordinary circumstances as determined by NEDA and approved by the GPPB, no price escalation shall be allowed. Nevertheless, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the GoP, promulgated after the date of bid opening, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

**49. Completion**

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

The Contractor shall request the Procuring Entity's Representative to issue a certificate of Completion of the Works, and the Procuring Entity's Representative will do so upon deciding that the work is completed.

**50. Taking Over**

The Procuring Entity shall take over the Site and the Works within seven (7) days from the date the Procuring Entity's Representative issues a certificate of Completion.

**51. Operating and Maintenance Manuals**

51.1. If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the SCC.

If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC, or they do not receive the Procuring Entity's Representative's approval, the Procuring Entity's Representative shall withhold the amount stated in the SCC from payments due to the Contractor.

## **Section V. Special Conditions of Contract**

GCC Clause	
1.17	The <b>Intended Completion Date</b> is <b>256 calendar days</b> from start date. Inclusive of <b>37 calendar days</b> allotted for unworkable conditions.
1.22	The <b>Procuring Entity</b> is <b>Provincial Government of Pampanga</b> .
1.23	The <b>Procuring Entity's Representative</b> is:  <b>Hon. Lilia G. Pineda</b> <b>Provincial Governor of Pampanga.</b>
1.24	The <b>Site</b> is located at <b>Brgy. Calantas and San Jose, Floridablanca and Brgy. Planas, Porac, Pampanga</b> and is defined in drawings No. 3 & 4.  <i>List here locations of other Sites, if any.</i>
1.28	The <b>Start Date</b> is ten (10) calendar days upon receipt of the Notice to Proceed (NTP).
1.31	The <b>Works</b> consist of Mobilization/Demobilization, Project Billboard, Field Office & Laboratory Building for the Engineer (Rental), Construction Safety & Health, Clearing and Grubbing, Individual Removal of Trees, Small b (301-500mm dia), Individual Removal of Trees, large a (501-750mm dia), Individual Removal of Trees, large b (751-900mm dia), Removal of Concrete Drainage Structures, Removal of Existing Concrete Pavement, Roadway Excavation (Surplus Common), Structure Excavation (Common Soil), Pipe Culvert and drain Excavation, Embankment from Roadway Excavation, Sub-Grade Preparation (Common Material), Aggregate Subbase Course, PCC Pavement (Plain)-Conventional Method, 200mm Thk, Reinforcing Steel Bar Grade 40 (Minor Structures), Structural Concrete Class A (Minor Structures), Pipe Culverts, 910-mm (36"Ø), Drainage Steel Grating w/ Frame (1200mm x 2000mm Trench Grating), Grouted Riprap (Class A), Stone Masonry (Class A), Concrete Curb and Gutter, Type A (Cast in Place), Regulatory Sign (60 cm Octagon), Informative Sign (18" X 48"), ReflectORIZED Thermoplastic Marking (White), ReflectORIZED Thermoplastic Marking (Yellow) and Chevron Signs (450mm x 600mm).
2.2	Sectional completion is <b>(allowed/not allowed)</b> .
5.1	The <b>Procuring Entity</b> shall give possession of all parts of the Site to the Contractor upon issuance of NTP.
6.5	The Contractor shall employ the following Key Personnel: as per BDS 12.1(b)(ii.2)  <i>Project Manager – Licensed Civil/Agricultural Engineer with a minimum of five (5) years of experience as Project Manager in road construction project.</i>

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	<p><i>Project Engineer – With a minimum of five (5) years experience as Licensed Civil/ Agricultural Engineer and has handled minimum of five (5) road construction projects as Project Engineer and shall be assigned full time to the project.</i></p> <p><i>Materials Engineer – Licensed Civil Engineer duly accredited by DPWH as Materials Engineer I following DPWH D.O. 98, S. of 2016</i></p>
7.4(c)	No further instruction.
7.7	No further instruction.
8.1	No further instruction.
10	None.
12.3	No further instruction.
12.5	Five (5) years.
13	“No additional provision” or if the contractor is a joint venture, “All partners to the joint venture shall be jointly and severally liable to the Procuring Entity”.
18.3(h)(i)	<p>The World Bank’s Anticorruption Policy requires Borrowers (including beneficiaries of Bank-financed activity), as well as Bidders, Suppliers, Contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers and any personnel thereof, observe the highest standard of ethics during the procurement and execution of Bank-financed contracts. Any action to influence the procurement process or contract execution for undue advantage is improper.</p> <p>In pursuance of this policy, the Bank:</p> <p>(a) defines, for the purposes of this provision, the terms set forth below as follows:</p> <p>(i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party. Another party refers to a public official acting in relation to the procurement process or contract execution. Public official includes World Bank staff and employees of other organizations taking or reviewing procurement decisions;</p> <p>(ii) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation. The term "party" refers to a public official; the terms "benefit" and "obligations" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution;</p> <p>(iii) "coercive practice" means impairing or harming, or</p>

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	<p>threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party. The term "party" refers to a participant in the procurement process or contract execution;</p> <p>(iv) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party. The term "parties" refers to participants in the procurement process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or establish bid prices at artificial, noncompetitive levels, or are privy to each other's bid prices or other conditions;</p> <p>(v) "obstructive practice" is</p> <p>(aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or</p> <p>(bb) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph (e) below.</p> <p>(b) will reject a proposal for award if it determines that the Bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract in question</p> <p>(c) will declare misprocurement and cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the financing engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to Bath to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;</p> <p>(d) will sanction a firm or an individual, at any time, in accordance with the prevailing Bank's sanctions procedures, including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Bank-financed contract; and (ii) to be a nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has either been (i)</p>
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**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	<p>included by the bidder in its pre qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower. A firm or individual may be declared ineligible to be awarded a Bank financed contract upon (i) completion of the Bank's sanctions proceedings as per its sanctions procedures, including, inter alia, cross debarment as agreed with other International Financial Institutions, including Multilateral Development Banks, and through the application of the World Bank Group corporate administrative procurement sanctions procedures for fraud and corruption; and (ii) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. See footnote 14 and paragraph 8 of Appendix 1 of the World Bank Guidelines for Procurement of Goods, Works, and Non-Consulting Services;</p> <p>(e) will require that a clause be included in bidding documents and in contracts financed by a Bank loan or grant, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers to permit Bank to inspect all accounts and records and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by Bank.</p>
21.2	<p>The Arbiter is:</p> <p>Construction Industry Arbitration Commission, Manila</p>
29.1	<p>No dayworks are applicable to the contract.</p>
31.1	<p>The Contractor shall submit the Program of Work to the Procuring Entity's Representative within five (5) calendar days of delivery of the Notice of Award.</p>
31.3	<p>The period between Program of Work updates is 30 days.</p> <p>The amount to be withheld for late submission of an updated Program of Work is 1% of the progress billing.</p>
34.1(a)	<p>Upon instruction by the Procurement Entity, the contractor will arrange and shall shoulder cost for the materials and field testing.</p> <p>The materials and field test shall be conducted by DPWH or its accredited testing laboratories.</p> <p>For field density test (FDT), it shall be carried out through the following options:</p> <ol style="list-style-type: none"> <li>1. By DPWH or its accredited testing laboratories as default;</li> <li>2. By independent accredited Materials Engineer located within the</li> </ol>

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

	<p>province;</p> <ol style="list-style-type: none"> <li>3. By an accredited Materials Engineer of the Provincial Government;</li> <li>4. By colleges and universities with testing laboratories;</li> </ol> <p>The conditions to effect the other options (2, 3 &amp; 4) mentioned above are described below. Whoever conducts the test must prepare and attest to the veracity of the test report. The contracting parties are the signatory witnesses in the conduct of the FDTs. The FDTs shall be closely witnessed by the contractor, and PPMIU and Regional Project Coordination Office (RPCO) or Project Support Office (PSO).</p> <p>Options 2, 3 and 4 maybe availed of by the contracting parties in the conduct of FDTs if DPWH facilities will not be available on a timely basis.</p> <ol style="list-style-type: none"> <li>1. The options to be adopted by the contracting parties must be communicated properly to the DPWH regional office where the LGU is covered. The response of the DPWH would trigger the application of the three options. The concurrence of the Project will be based on the evidence of impending or actual delays in the conduct of FDTs through Option 1;</li> <li>2. The engagement of accredited Materials Engineers for Options 2 and 3 will follow the limits of authority for ME 1 and ME 2 by the Bureau of Research and Standards (BRS) of the Department of Public Works and Highways. The nomination of which will come from the LGU and to be concurred by the Regional Project Coordination Office. However, the test apparatuses to be utilized by the accredited Materials Engineer may either come from the LGU or the contractor. The test apparatuses shall be re-calibrated and tested in the presence of the RPCO or PSO engineers prior to actual use;</li> </ol> <p>The selection of colleges and universities to conduct the FDT must be supported with proof that indeed the laboratory technicians have conducted the same test within the last three years. Records of FDT reports taken from similar projects filed by the laboratory administrator will suffice as proof of capacity to engage the said college or university.</p>
34.4	The Funding Source is the World Bank.
39.1	The amount of the advance payment is 15% of the Contract Price and to be recouped every progress billing.
40.1	No further instruction.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

40.4	Progress payment shall be made monthly as per work accomplished.
41.5	The Contractor is obliged to submit to the Procuring Entity's Representatives the geotagged photos taken before, during and after construction of each item of work especially the embedded items, at the time that the claim for payment is made and the Statement of Work Accomplished (SWA) is executed.
51.1	The date by which "as built" drawings are required is 15-30 of days from Completion Date as defined under GCC 1.1.3.
51.2	The amount to be withheld for failing to produce "as built" drawings and/or operating and maintenance manuals by the date required is 1% of the final contract amount.

## **Section VI. Specifications**

### **TABLE OF CONTENTS**

ITEM 100 – CLEARING AND GRUBBING	78
ITEM 101 – REMOVAL OF STRUCTURES AND OBSTRUCTIONS	80
ITEM 102 – EXCAVATION	82
ITEM 103 – STRUCTURE EXCAVATION	87
ITEM 104 – EMBANKMENT	93
ITEM 105 – SUBGRADE PREPARATION	99
ITEM 200 – AGGREGATE SUBBASE COURSE	101
ITEM 311 – PORTLAND CEMENT CONCRETE PAVEMENT	104
ITEM 401 – RAILINGS	127
ITEM 401 – REINFORCING STEEL ( GRADE 40)	130
ITEM 405 – STRUCTURAL CONCRETE	133
ITEM 407 – CONCRETE STRUCTURES	142
ITEM 500 – PIPE CULVERTS AND STORM DRAINS	157
ITEM 504 – CLEANING AND RECONDITIONING EXISTING DRAINAGE STRUCTURES	162
ITEM 505 – RIPRAP AND GROUTED RIPRAP	163
ITEM 506 – STONE MASONRY	166
ITEM 508 – HAND LAID ROCK EMBANKMENT	169
ITEM 509 – SHEET PILES	170
ITEM 605 – ROAD SIGNS	171
ITEM 612 – REFLECTIVE THERMOPLASTIC STRIPPING MATERIALS (SOLID FORM)	174
ITEM 620 – DPWH STANDARD SPECIFICATIONS FOR CHEVRONS SIGNS	179
ITEM 622– COCONET BIO ENGINEERING SOLUTIONS	181
SPL1 – PROJECT BILLBOARD	185
SPL 2 – MOBILIZATION AND DEMOBILIZATIONS	186
HANDTOOLS	186

## Section VII. Drawings

CONTENTS	SHEET No.
Cover Page .....	01/41
Table of Contents.....	02/41
Location Plan .....	03/41
Vicinity Map .....	04/41
Road Layout Plan.....	05/41
Straight Line Diagram.....	06/41-08/41
Summary of Quantities, Schedule of Concreting, Schedule of Warning Sign ....	09/41
Parcellary Plan (Sta 0+000 to Sta 6+210) .....	10/41
Plan and Profile (Sta 0+000 to Sta 1+650) .....	11/41-12/41
Cross Section Plan (Sta 0+000 to Sta 1+648.75) .....	13/41-17/41
Plan and Profile (Sta 1+650 to Sta 6+210) .....	18/41-23/41
Cross Section Plan (Sta 1+660 to Sta 6+210) .....	24/41-35/41
Structural Details .....	36/41-38/41
Road Signages.....	39/41
General Notes .....	40/41
Geotag Screenshot.....	41/41

## Section VIII. Bill of Quantities

### Improvement of Calantas – Planas – San Jose Farm to Market Road Province of Pampanga

Item No.	Scope of Work	Unit	Quantity	Unit Price	TOTAL
<b>I</b>	<b>SPECIAL ITEMS</b>				
SPL I	Mobilization/Demobilization	lot	1.00		
SPL II	Project Billboard	ea	2.00		
SPL III	Field Office & Laboratory Building for the Engineer (Rental)	lot	1.00		
SPL IV	Construction Safety & Health	lot	1.00		
<b>II</b>	<b>EARTHWORKS</b>				
100(1)	Clearing and Grubbing	sq.m.	29,225.00		
100(2)b	Individual Removal of Trees, Small b (301-500mm dia)	ea	141.00		
100(3)a	Individual Removal of Trees, large a (501-750mm dia)	ea	19.00		
100(3)b	Individual Removal of Trees, large b (751-900mm dia)	ea	1.00		
101(2)	Removal of Concrete Drainage Structures	cu.m.	49.00		
101(3)a.1	Removal of Existing Concrete Pavement	sq.m.	977.50		
102(2) a	Roadway Excavation (Surplus Common)	cu.m.	21,319.75		
103(1)a	Structure Excavation (Common Soil)	cu.m.	955.00		
103(6)	Pipe Culvert and drain Excavation	cu.m.	106.00		
104(1)b	Embankment from Roadway Excavation	cu.m.	3,511.60		
105(1)	Sub-Grade Preparation (Common Material)	sq.m.	47,121.56		
<b>III</b>	<b>SUBBASE COURSE</b>				
200	Aggregate Subbase Course	cu.m.	12,988.99		
<b>IV</b>	<b>CONCRETE PAVEMENT</b>				
311(1)a.2	PCC Pavement (Plain)-Conventional Method, 200mm Thk	sq.m.	30,793.50		

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

<b>V</b>	<b>REINFORCING STEEL / STRUCTURAL CONCRETE</b>				
404	Reinforcing Steel Bar Grade 40 (Minor Structures)	kgs.	3,058.04		
405	Structural Concrete Class A (Minor Structures)	cu.m.	31.16		
<b>VI</b>	<b>DRAINAGE &amp; SLOPE PROTECTION STRUCTURE</b>				
500(1)c	Pipe Culverts, 910-mm (36"Ø)	l.m.	18.00		
503(b)	Drainage Steel Grating w/ Frame (1200mm x 2000mm Trench Grating)	sets	2.00		
505(5)	Grouted Riprap (Class A)	cu.m.	1,606.60		
506	Stone Masonry (Class A)	cu.m.	629.43		
<b>VII</b>	<b>MISCELLANEOUS STRUCTURE</b>				
600 (3)	Concrete Curb and Gutter, Type A (Cast in Place)	l.m.	458.25		
605(2)c	Regulatory Sign(60 cm Octagon)	ea	3.00		
605(3)d	Informative Sign (18" X 48")	ea	2.00		
612(1)	ReflectORIZED Thermoplastic Marking (White)	sq.m.	1,461.25		
612(2)	ReflectORIZED Thermoplastic Marking (Yellow)	sq.m.	87.00		
620(a)	Chevron Signs (450mm x 600mm)	ea	30.00		
	<b>TOTAL BID PRICE</b>				

## ***Section IX. Bidding Forms***

### **TABLE OF CONTENTS**

Bid Form	192
Form of Contract Agreement	194
Bid-Securing Declaration	196
Performance Securing Declaration	198
Qualification Information	200
Form of Performance Security (Bank Guarantee)	202
Bank Guarantee for Advance Payment	204
Notice of Award	206

## Bid Form

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Date: \_\_\_\_\_

IB<sup>2</sup> N<sup>o</sup>: \_\_\_\_\_

To: *[name and address of PROCURING ENTITY]*

Address: *[insert address]*

We, the undersigned, declare that:

(a) We have examined and have no reservation to the Bidding Documents, including Addenda, for the Contract *[insert name of contract]*;

(b) We offer to execute the Works for this Contract in accordance with the Bid and Bid Data Sheet, General and Special Conditions of Contract accompanying this Bid;

The total price of our Bid, excluding any discounts offered below is: *[insert information]*;

The discounts offered and the methodology for their application are: *[insert information]*;

(c) Our Bid shall be valid for a period of *[insert number]* days from the date fixed for the Bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

(d) If our Bid is accepted, we commit to obtain a Performance Security in the amount of *[insert percentage amount]* percent of the Contract Price for the due performance of the Contract;

(e) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from the following eligible countries: *[insert information]*;

(f) We are not participating, as Bidders, in more than one Bid in this bidding process, other than alternative offers in accordance with the Bidding Documents;

(g) Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the Contract, has not been declared ineligible by the Funding Source;

(h) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed; and

(i) We understand that you are not bound to accept the Lowest Calculated Bid or any other Bid that you may receive.

**(j) We likewise certify/confirm that the undersigned, is the duly authorized representative of the bidder, and granted full power and authority to do, execute and**

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<sup>2</sup> If ADB, JICA and WB funded projects, use IFB.

*Module 1: Guidelines for the Procurement of Infrastructure Subprojects*

perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for the [Name of Project] of the [Name of the Procuring Entity].

- (k) We acknowledge that failure to sign each and every page of this Bid Form, including the Bill of Quantities, shall be a ground for the rejection of our bid.

Name: \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Signed: \_\_\_\_\_

Duly authorized to sign the Bid for and on behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

## Form of Contract Agreement

---

THIS AGREEMENT, made this *[insert date]* day of *[insert month]*, *[insert year]* between *[name and address of PROCURING ENTITY]* (hereinafter called the “Entity”) and *[name and address of Contractor]* (hereinafter called the “Contractor”).

WHEREAS, the Entity is desirous that the Contractor execute *[name and identification number of contract]* (hereinafter called “the Works”) and the Entity has accepted the Bid for *[insert the amount in specified currency in numbers and words]* by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be attached, deemed to form, and be read and construed as integral part of this Agreement, to wit:
  - (a) General and Special Conditions of Contract;
  - (b) Drawings/Plans;
  - (c) Specifications;
  - (d) Invitation to Bid;
  - (e) Instructions to Bidders;
  - (f) Bid Data Sheet;
  - (g) Addenda and/or Supplemental/Bid Bulletins, if any;
  - (h) Bid form, including all the documents/statements contained in the Bidder’s bidding envelopes, as annexes, and all other documents submitted (e.g., Bidder’s response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity’s bid evaluation;
  - (i) Eligibility requirements, documents and/or statements;
  - (j) Performance Security;
  - (k) Notice of Award of Contract and the Bidder’s conforme thereto;
  - (l) Other contract documents that may be required by existing laws and/or the Entity.
3. In consideration of the payments to be made by the Entity to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Entity to

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

execute and complete the Works and remedy any defects therein in conformity with the provisions of this Contract in all respects.

4. The Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein, the Contract Price or such other sum as may become payable under the provisions of this Contract at the times and in the manner prescribed by this Contract.

IN WITNESS whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Entity)

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Contractor).

Binding Signature of Procuring Entity

\_\_\_\_\_  
Binding Signature of Contractor

\_\_\_\_\_  
*[Addendum showing the corrections, if any, made during the Bid evaluation should be attached with this agreement]*

### **Bid-Securing Declaration**

**(REPUBLIC OF THE PHILIPPINES)**

**CITY OF \_\_\_\_\_ ) S.S.**

**x-----x**

**Invitation to Bid** *[Insert reference number]*

To: *[Insert name and address of the Procuring Entity]*

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Bid Security, which may be in the form of a Bid-Securing Declaration.
2. I/We accept that: (a) I/we will be automatically disqualified from bidding for any contract with any procuring entity for a period of two (2) years upon receipt of your Blacklisting Order; and, (b) I/we will pay the applicable fine provided under Section 6 of the Guidelines on the Use of Bid Securing Declaration, within fifteen (15) days from receipt of written demand by the procuring entity for the commission of acts resulting to the enforcement of the bid securing declaration under Sections 23.1(b), 34.2, 40.1 and 69.1, except 69.1 (f), of the IRR of RA 9184; without prejudice to other legal action the government may undertake.
3. I/We understand that this Bid-Securing Declaration shall cease to be valid on the following circumstances:
  - a. Upon expiration of the bid security validity period, as indicated in ITB Clause 18.2 of the bidding documents;
  - b. I am/we are declared ineligible or post-disqualified upon receipt of your notice to such effect, and (i) I/we failed to timely file a request for reconsideration or (ii) I/we filed a waiver to avail of said right;
  - c. I am/we are declared as the bidder with the Lowest Calculated Responsive Bid, and I/we have furnished the performance security and signed the Contract.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

**IN WITNESS WHEREOF**, I/We have hereunto set my/our hand/s this \_\_\_\_ day of [month] [year] at [place of execution].

**[Insert NAME OF BIDDER'S AUTHORIZED REPRESENTATIVE]**

**[Insert signatory's legal capacity]**

Affiant

**SUBSCRIBED AND SWORN** to before me this \_\_ day of [month] [year] at [place of execution], Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her [insert type of government identification card used], with his/her photograph and signature appearing thereon, with no. \_\_\_\_\_.

Witness my hand and seal this \_\_\_\_ day of [month] [year].

**NAME OF NOTARY PUBLIC**

**Serial No. of Commission** \_\_\_\_\_

**Notary Public for** \_\_\_\_\_ **until** \_\_\_\_\_

**Roll of Attorneys No.** \_\_\_\_\_

**PTR No.** \_\_, [date issued], [place issued]

**IBP No.** \_\_, [date issued], [place issued]

**Doc. No.** \_\_\_\_

**Page No.** \_\_\_\_

**Book No.** \_\_\_\_

**Series of** \_\_\_\_.

## Performance Securing Declaration

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(REPUBLIC OF THE PHILIPPINES)

(CITY OF \_\_\_\_\_) S.S.

X-----X

**Invitation to Bid** [*Insert reference number indicated in the Bidding Documents*]

To: [*Insert name and address of the Procuring Entity*]

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, to guarantee the faithful performance by the supplier/distributor/manufacturer/contractor/consultant of its obligations under the Contract, I/We shall submit a Performance Securing Declaration within a maximum period of ten (10) calendar days from the receipt of the Notice of Award prior to the signing of the Contract.
2. I/We accept that: I/We will be automatically disqualified from bidding for any procurement contract with any procuring entity for a period of one (1) year if incase it is my first offense, or two (2) years if I have a prior similar offense upon receipt of your Blacklisting Order if I/We have violated my/our obligations under the Contract.
3. I/We understand that this Performance Securing Declaration shall cease to be valid upon:
  - a. Issuance by the Procuring Entity of the Certificate of Final Acceptance, subject to the following conditions:
    - 1) Procuring Entity has no claims filed against the contract awardee;
    - 2) It has no claims for labor and materials filed against the contractor; and
    - 3) Other terms of the contract; or
  - b. Replacement by the winning bidder of the submitted PSD with a performance security in any of the prescribed forms under Section 39.2 of the 2016 IRR of RA No. 9184 as required by the end-user.

**IN WITNESS WHEREOF**, I/We have hereunto set my/our hand/s this \_\_\_\_ day of [*month*], [*year*] at [*place of execution*].

**(NAME OF BIDDER'S AUTHORIZED REPRESENTATIVE)**

Signatory's Legal Capacity

Affiant

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

**SUBSCRIBED AND SWORN** to before me this \_\_\_ day of *[month]*, *[year]* at *[place of execution]*, Philippines.

Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC).

Affiant/s exhibited to me his/her *[insert type of government identification card used]*, with no. \_\_\_\_\_, issued on *[date of issue]*, at *[place of issue]*.

Witness my hand and seal this \_\_\_ day of *[month]*, *[year]*.

**NAME OF NOTARY PUBLIC**

Serial No. of Commission \_\_\_\_\_

Notary Public for \_\_\_\_\_ until \_\_\_\_\_

Roll of Attorneys No. \_\_\_\_\_

PTR No. \_\_\_\_\_, *[date issued]*, *[place issued]*

IBP No. \_\_\_\_\_, *[date issued]*, *[place issued]*

Doc. No. \_\_\_\_\_

Page No. \_\_\_\_\_

Book No. \_\_\_\_\_

Series of \_\_\_\_\_

## Qualification Information

**NOTES:**

The information to be filled in by Bidders in the following pages will be used for purposes of qualification as provided for in GCC Clause 7. This information will not be incorporated in the Contract. Attach additional pages as necessary.

**1. Individual Bidders or Individual Members of Joint Ventures**

1.1 Constitution or legal status of Bidder: *[attach copy]*

Place of registration: *[insert]*

Principal place of business: *[insert]*

Power of attorney of signatory of Bid: *[attach]*

1.2\* Total annual volume of construction work performed in the past five years as listed in the Eligibility Data Sheet, reflected using the currency specified for the Bid.

Annual turnover data (construction only)	
Year	Turnover in <u>(specified currency)</u>
1.	
2.	
3.	

1.3 Work performed as prime contractor on works of a similar nature and volume over the last five years. Proof of completion, e.g. Certificate of Completion signed by the Employer or Owner, shall be submitted. Also list details of work under way or committed, including expected completion date.

Project Name and Country	Name of Employer and contact person	Type of work performed and year of completion	Total Value of Contract (in specified currency)
1.			
2.			

1.4 Major items of contractor’s Equipment proposed for carrying out the Works. List all information requested below.

Item of equipment	Description, make, and age (years)	Owned, leased (from whom?), or to be purchased (from whom?)
1. <i>[Employer to specify]</i>		
2.		
3.		

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

1.5\* Qualifications and experience of Contract Manager proposed for administration and execution of the Contract. Attach bio-data.

Name (primary candidate and alternate)	Years of experience in similar works	Years of experience as Contract Manager
1.		
2.		

1.6\* Financial statements for the last three (3) years. Attach audited financial statements.

1.7 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attaché copies of support documents.

Source of financing	Amount in (specified currency)
1.	
2.	
3.	

1.8 Name, address, and telephone and facsimile numbers of banks that may provide references if contacted by the Entity.

1.9 Proposed Program of Work (work method and schedule). Attach descriptions, drawings and charts, as necessary, to comply with the requirements of the Bidding Documents.

1.10\* Proposed subcontracts and firms involved. Refer to **GCC Clause 8**.

Section of the Works	Value of subcontract	Subcontractor (Name and address)	Experience in similar work

**2. Joint Ventures\***

2.1 The information listed in 1.1 - 1.9 above shall be provided for each partner of the joint venture.

2.2 Attach the power of attorney of the signatory(ies) of the Bid authorizing signature of the Bid on behalf of the joint venture.

2.3 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

- (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;

***Module 1: Guidelines for the Procurement of Infrastructure Subprojects***

- (b) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
- (c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

**(With Bank's Letter Head)**

**Form of Performance Security (Bank Guarantee)**

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To : [Name of PROCURING ENTITY]  
[Address of PROCURING ENTITY]

WHEREAS, [name and address of contractor] (hereinafter called the "Contractor") has undertaken, in pursuance of Contract No. [insert number] dated [insert date] to execute [name of Contract and brief description of Works] (hereinafter called the "Contract");

AND WHEREAS, it has been stipulated by you in the said Contract that the contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS, we have agreed to give the contractor such a Bank Guarantee;

NOW THEREFORE, we hereby affirm that we are the Guarantor and responsible to you, on behalf of the contractor, up to a total of [insert amount of Guarantee in numbers and in words]<sup>3</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of [amount of Guarantee] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of demand of the said debt from the contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between you and the contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

---

<sup>3</sup> An amount is to be inserted by the Guarantor, representing the percentage of the Contract Price specified in the Contract, and denominated in the specified currency.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

This Guarantee shall be valid until a date twenty-eight (28) days from the date of issue of the Certificate of Final Acceptance.

Signature and seal of the Guarantor \_\_\_\_\_

Name of Bank \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

**(With Bank's Letter Head)**

**Bank Guarantee for Advance Payment**

---

To: [name and address of PROCURING ENTITY]  
[name of Contract]

Gentlemen:

In accordance with the provisions of the **GCC** Clause 32 of the above-mentioned Contract, [name and address of contractor] (hereinafter called "the contractor") shall deposit with [name of PROCURING ENTITY] a Bank Guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of [amount of Guarantee] [amount in words]<sup>4</sup>

We, the [Bank or Financial Institution], as instructed by the contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to [name of PROCURING ENTITY] on his first demand without whatsoever right of objection on our part and without his first claim to the contractor, in the amount not exceeding [amount of Guarantee] [amount in words]<sup>5</sup>

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed there under or of any of the Contract documents which may be made between [name of PROCURING ENTITY] and the contractor, shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until [name of PROCURING ENTITY] receives full repayment of the same amount from the contractor.

Yours truly,

Signature and seal: \_\_\_\_\_  
Name of Bank/Financial Institution: \_\_\_\_\_  
Address: \_\_\_\_\_  
Date: \_\_\_\_\_

---

<sup>4</sup> An amount is to be inserted by the Bank or Financial Institution representing the amount of the Advance Payment, and denominated in the specified currency of the Advance Payment as specified in the Contract.

<sup>5</sup> An amount is to be inserted by the Bank or Financial Institution representing the amount of the Advance Payment, and denominated in the specified currency of the Advance Payment as specified in the Contract.

## Notice of Award

---

*[Letterhead of the Entity]*

Date: *[insert date]*

To: *[Name and address of Contractor]*

This is to notify you that your Bid dated *[insert date]* for execution of the *[insert name of Contract and identification number as given in the ITB]* for the Contract Price of *[insert amount in specified currency]* , as corrected and or modified<sup>6</sup> if applicable, in accordance with the Instructions to Bidders is hereby accepted by our *[Agency]*.

You are hereby instructed to come to our office located at *[insert address]* to sign the formal agreement on *[date]* at *[time]*.

Authorized Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

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<sup>6</sup> Delete “corrected and” or “corrected and modified” if not applicable.





Republic of the Philippines  
Department of Agriculture  
**PHILIPPINE RURAL DEVELOPMENT PROJECT**  
National Project Coordination Office  
4<sup>th</sup> Floor, DA Building, Elliptical Road, Diliman  
Quezon City 1100, Philippines

## REQUEST FOR QUOTATION (RFQ)

SHOPPING for WORKS

*Name of the subproject for bidding*

Subproject Reference No. \_\_\_\_ - \_\_\_\_

(Date) \_\_\_\_\_

(Name/Company & Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Gentlemen:

The Government of the Philippines (GOP) has received a Loan from the World Bank towards the cost of Philippine Rural Development Project and intends to apply part of the proceeds of the Loan to payments under the Contract for \_\_ *(Name of the subproject)*\_\_.

Please quote your lowest price, inclusive of taxes for the above-cited subproject, based on the attached Specifications/Drawings and Bill of Quantities (BOQ) and submit your quotation duly signed by you or your authorized representative not later than \_\_ *(time/date)*\_\_ at \_\_ *(venue)*\_\_. The opening of quotations will be conducted immediately after the closing date and time, \_\_ *(time/date)*\_\_.

\_\_\_\_\_  
Signature of BAC Chairman

## QUOTATION FORM

\_\_\_\_\_  
(Date)

Sir,

In connection with the above request, I/We submit our quotation indicated in the attached signed Bill of Quantities/Price Schedule based on the required Specifications/Drawings. Total quotation is \_\_\_\_\_(amount in words)\_\_\_\_\_ (PhP\_\_\_\_\_).

We agree to abide by this Bid for the bid validity of \_\_\_\_\_ (\_\_\_) calendar days and it shall remain binding upon us and maybe accepted at any time before the expiration of that period.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature/Name of Authorized Personnel/Position/Tel No./email add/Date)

Enclosures:

1. Specifications/Drawings;
2. Bill of Quantities/Price Schedule; and
3. Contract form

## CONTRACT AGREEMENT

THIS CONTRACT AGREEMENT, made this *[insert date]* day of *[insert month]*, *[insert year]* between *[name and address of PROCURING ENTITY]* \_\_\_\_\_ (hereinafter called the “Entity”) and *[name and address of Contractor]* (hereinafter called the “Contractor”).

WHEREAS, the Entity is desirous that the Contractor execute the \_\_\_\_\_ (hereinafter called “the Works”) and the Entity has accepted the Quotation for *[insert the amount in numbers and words]* by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

NOW THIS CONTRACT AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Contract Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Terms and Conditions hereinafter referred to.
2. The following documents shall be attached, deemed to form, and be read and construed as part of this Contract Agreement, to wit:
  - (a) Request for Quotation (RFQ) including the detailed computation of costs per item of work as per Bill of Quantities;
  - (b) Terms and Conditions;
  - (c) Bill of Quantities (BOQ);
  - (d) Plans & Specifications;
  - (e) Addenda and/or Supplemental, if any;
  - (f) Eligibility, Technical and Financial Documents;
  - (g) Letter of Acceptance/Notice of Award;
  - (h) Performance Security; and
  - (i) Construction Safety and Health Program approved by the Department of Labor and Employment (DOLE).
3. In consideration of the payments to be made by the Entity to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Entity to execute and complete the Works and remedy any defects therein in conformity with the provisions of this Contract Agreement in all respects.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

4. The Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein, the Contract Price or such other sum as may become payable under the provisions of this Contract Agreement at the times and in the manner prescribed by this Contract Agreement.

IN WITNESS whereof the parties thereto have caused this Contract Agreement to be executed the day and year first before written.

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Entity)

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Contractor)

Binding Signature of Procuring Entity \_\_\_\_\_

Binding Signature of Contractor \_\_\_\_\_

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[Republic of the Philippines]

City of \_\_\_\_\_

BEFORE ME, this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ personally appeared the following:

Name	Competent Evidence of Identity	Date/Place of Issue
_____	_____	_____
_____	_____	_____

Known to me and to me known to be the same persons who executed the foregoing CONTRACT AGREEMENT consisting of \_\_\_\_\_ (\_\_\_\_) pages including this page, and who acknowledged to me that the same is their free and voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at the place and on the day first written above.

**NOTARY PUBLIC**

Doc. No. \_\_\_\_\_

Page No. \_\_\_\_\_

Book No. \_\_\_\_\_

Series of \_\_\_\_\_

## TERMS AND CONDITIONS

SHOPPING FOR THE

*Name of the Subproject*

RFQ No.: \_\_\_\_\_

PR Reference No.: \_\_\_\_\_

### I. SUBJECT MATTER OF THE SHOPPING

The subject matter of the Shopping is for the award of

\_\_\_\_\_.

### II. ESTIMATED PROJECT COST (EPC)

The Estimated Project Cost (EPC) for the \_\_\_\_\_ is \_\_\_\_\_ (amount in words) \_\_\_\_\_ (PhP \_\_\_\_\_).

### III. ELIGIBILITY DOCUMENTS

The prospective bidders shall be required to provide copy of their valid license from Philippine Contractors Accredited Board (PCAB).

### IV. FINANCIAL DOCUMENTS

Official Request for Quotation form including its supporting detailed computation of costs for each item of work as per Bill of Quantities.

### V. QUOTATION

- 1) Quotation shall be submitted using the attached Quotation Form and must be duly supported by the Bidder's detailed computation of costs for each item of work as enumerated in the Bill of Quantities.
- 2) Quotation shall be inclusive of taxes such as but not limited to VAT, income tax, local tax and other levies.
- 3) Quotation shall be valid for \_\_\_\_\_ (\_\_\_\_) days from the opening of Quotations.

### VI. DETAILED COMPUTATION OF COSTS

## ***Module 1: Guidelines for the Procurement of Infrastructure Subprojects***

- 1) The supporting Detailed Computation of Costs shall contain the labor, materials, equipment, OCM, profit and tax for the construction, installation, testing, and commissioning of works to be done by the Contractor.
- 2) The attached Bill of Quantities shall be used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

### **VII. AWARD OF CONTRACT**

The BAC shall recommend to the Head of the Procuring Entity the award of contract to the Bidders with the Lowest Calculated Responsive Quotation (LCRB) or the Single Calculated Responsive Quotation (SCRQ).

### **VIII. PERFORMANCE SECURITY**

- 1) The Performance Security shall be in an amount equal to a percentage of the total Contract price in accordance with the following schedule:
  - a. Cash or certified (cashier's/manager's) check issued by a Universal or Commercial Bank in the amount of ten percent (10%) of the Contract price; and
  - b. Bank draft/guarantee or irrevocable letter of credit issued by a Universal of Commercial Bank in the amount of ten percent (10%) of the Contract price.
  - 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 in the amount of thirty percent (30%) of the Contract Price.
- 2) The Performance Security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the Contractor is in default in any of its obligations under the Contract.
- 3) The Performance Security shall remain valid twenty-eight (28) calendar days from the issuance by the Procuring Entity of the Certificate of Final Acceptance subject to the following conditions:
  - a. There are no pending claims against the Contractor or the surety company filed by the Procuring Entity; and
  - b. The Contractor has no pending claims for labor and materials filed against it.

### **IX. CONTRACT SIGNING**

## **Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

The Procuring Entity shall enter into Contract with the successful Bidders upon posting of the required Performance Security. The following documents shall form part of the Contract:

- a) Contract Agreement;
- b) Quotation Form including the detailed cost computation of items of work as per Bill of Quantities;
- c) Terms and Conditions;
- d) Bill of Quantities (BOQ);
- e) Plans & Specifications;
- f) Addenda and/or Supplemental, if any;
- g) Eligibility, Technical and Financial Documents;
- h) Letter of Acceptance / Notice of Award (NOA); and
- i) Performance Security

### **X. NOTICE TO PROCEED (NTP)**

The Procuring Entity shall issue the Notice to Proceed (NTP) to the successful Bidders upon approval of the Contract by the Head of the Procuring Entity. The Contract's effectivity date shall commence within ten (10) calendar days after the receipt of the Notice to Proceed by the Contractor.

### **XI. PROGRAM OF WORK**

The Contractor shall submit to the Procuring Entity's Representative for approval a Program of Work showing the general methods, arrangements, order and timing for all activities in the Works and updates which shall show the actual progress achieved on each activity including any changes to the sequence of the activities.

### **XII. CONTRACTOR'S OBLIGATION**

- 1) The Contractor shall carry out the works properly and in accordance with the Contract. The Contractor shall provide all supervision, labor, materials, plant and equipment required for the project. All materials on site shall be deemed to the property of the Procuring Entity.
- 2) The Contractor shall commence execution of the works immediately upon the receipt of Notice to Proceed and shall carry out the works in accordance with the Contract. The Contractor shall complete the project per approved Contract time of \_\_\_\_\_ (\_\_\_) days. No Contract time extension shall be allowed for unjustifiable reasons or at Contractor's fault that causes delay. Any delay will be penalized applying the provisions of RA 9184 and to be supported by a written report of the Procuring Entity's Representative and Letter Request of the Contractor and reasons for the purpose of work extension certified by the concerned Component/Unit Head and approved by the Head of the Procuring Entity.

## ***Module 1: Guidelines for the Procurement of Infrastructure Subprojects***

- 3) The Contractor shall assign an Engineer/Foreman to carry out the supervision of the works and shall provide list of laborers/workers to the Procuring Entity's Representative for proper identification and monitoring. The Contractor shall notify the Procuring Entity's Representative of any replacement of key personnel and workers.
- 4) The Contractor shall be responsible for the safety of all activities on the Site.
- 5) The Contractor shall carry out all instructions of the Procuring Entity's Representative that comply with the applicable laws where the Site is located.

### **XIII. LIQUIDATED DAMAGES**

The Contractor shall pay liquidated damages to the Procuring Entity at the rate per day of delay. The applicable liquidated damages is at least one tenth (1/10) of one percent of the cost of the unperformed portion for every day of delay. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of this contract the Procuring Entity shall rescind this Contract, without prejudice to the other courses of action and remedies open to it.

### **XIV. ADVANCE PAYMENT**

- 1) The Procuring Entity shall, upon a written request of the contractor which shall be submitted as a contract document, make an advance payment to the contractor in an amount not exceeding fifteen percent (15%) of the total contract price and to be recouped every progress billing.
- 2) The advance payment shall be made only upon the submission to and acceptance by the Procuring Entity of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee or a surety bond callable upon demand, issued by a surety or insurance company duly licensed by the Insurance Commission and confirmed by the Procuring Entity.
- 3) The advance payment shall be repaid by the Contractor by an amount equal to the percentage of the total contract price used for the advance payment.
- 4) The contractor may reduce his standby letter of credit or guarantee instrument by the amounts refunded by the Monthly Certificates in the advance payment.

### **XV. PROGRESS PAYMENTS**

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 1) The Contractor may submit a request for payment for work accomplished. Such request for payment shall be verified and certified by the Procuring Entity's Representative. Materials and equipment delivered on the site but not completely and properly installed shall not be included for payment.
- 2) The first progress payment may be paid by the Procuring Entity to the Contractor provided that at least twenty percent (20%) of the work has been accomplished as certified by the Procuring Entity's Representative.

**XV. CONTRACTOR'S RISK AND WARRANTY SECURITY**

- 1) The Contractor shall assume full responsibility for the Works from the time project construction commenced up to final acceptance by the Procuring Entity and shall be held responsible for any damage or destruction of the Works except those occasioned by *force majeure*. The Contractor shall be fully responsible for the safety, protection, security, and convenience of his personnel, third parties, and the public at large, as well as the Works, Equipment, installation, and the like to be affected by his construction work.
- 2) The defects liability period for infrastructure projects shall be one year from contract completion up to final acceptance by the Procuring Entity. During this period, the Contractor shall undertake the repair works, at his own expense, of any damage to the Works on account of the use of materials of inferior quality within ninety (90) days from the time the HoPE has issued an order to undertake repair. In case of failure or refusal to comply with this mandate, the Procuring Entity shall undertake such repair works and shall be entitled to full reimbursement of expenses incurred therein upon demand.
- 3) In case the Contractor fails to comply with the preceding paragraph, the Procuring Entity shall forfeit its performance security, subject its property(ies) to attachment or garnishment proceedings, and perpetually disqualify it from participating in any public bidding. All payables of the GoP in his favor shall be offset to recover the costs.
- 4) The Warranty Security shall be stated in Philippine Pesos and shall remain effective for one year from the date of issuance of the Certificate of Final Acceptance by the Procuring Entity, and returned only after the lapse of said one-year period.
- 5) The Contractor shall, under his name and at his own expense, obtain and maintain, for the duration of this Contract, the following insurance coverage:
  - a. Contractor's All Risk Insurance;
  - b. Transportation to the project Site of Equipment, Machinery, and Supplies owned by the Contractor;
  - c. Personal injury or death of Contractor's employees; and

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- d. Comprehensive insurance for third party liability to Contractor's direct or indirect act or omission causing damage to third persons.

**XV. RETENTION MONEY**

- 1) Progress payments are subject to retention of ten percent (10%), referred to as the "retention money." Such retention shall be based on the total amount due to the Contractor prior to any deduction and shall be retained from every progress payment until the whole value of Works, as determined by the Procuring Entity's Representative, are completed.
- 2) If, after fifty percent (50%) completion, the Work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall again be imposed using the rate specified therefore.
- 3) The total "retention money" shall be due for release upon final acceptance of the Works. The Contractor may, however, request the substitution of the retention money for each progress billing with irrevocable standby letters of credit from a commercial bank, bank guarantees or surety bonds callable on demand, of amounts equivalent to the retention money substituted for and acceptable to the Procuring Entity, provided that the project is on schedule and is satisfactorily undertaken. Otherwise, the ten percent (10%) retention shall be made.

Said irrevocable standby letters of credit, bank guarantees and/or surety bonds, to be posted in favor of the Procuring Entity shall be valid for a period of forty-five (45) days from the completion of the project and will answer for the purpose of which the ten percent (10%) retention is intended *i.e.* to cover uncorrected discovered defects and third party liabilities.

**XVI. SPECIAL PROVISIONS**

*LIABILITY OF THE CONTRACTOR*

The Contractor shall submit list of employees/workers with information of address, age and designation. They should be provided with Company/Contractor's Identification Card (ID).

- 1) The Contractor or its duly authorized representative shall enforce and be responsible for the following policy for its personnel/workers within site premises;
  - a. No drinking of liquor
  - b. No gambling.
  - c. No carrying of firearms/deadly weapons/explosives.
  - d. No loitering/littering
  - e. Curfew hours from 9:00 pm to 4:00 am. (in the case of overtime works)

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- f. Wearing of IDs
- 2) The Contractor shall be held liable and responsible for the misdemeanor/misbehavior of its workers. Similarly, the Contractor shall also be liable and responsible to losses/damages incurred on the properties caused by its workers, after proper investigation by the Procuring Entity and/or the local PNP.
  - 3) The Contractor shall replace all materials found not in accordance to the Plans & Specifications within five (5) calendar days. The Procuring Entity's Representative must record in the logbook delivery of materials not in accordance with specifications.
  - 4) The Contractor must sign a written agreement conforming that it may tap/use electricity and water of the office based on the established average consumption of the provincial office/office concerned. As such, the Contractor shall shoulder all expenses incurred in the implementation of the project such as water and electricity bills in excess of average monthly consumption of the provincial office/office concerned to be determined by the Procuring Entity's Representative and the payment of the established excess monthly average consumption shall be paid separately by the Contractor.
  - 5) The Contractor shall allow the inspection of its delivery truck/vehicles including laborers' baggage prior to entry/exit.

***OBLIGATIONS OF THE PROCURING ENTITY***

- 1) The Procuring Entity shall assign a Representative who shall inspect all material deliveries as to the set specifications and intended for the Project in the presence of the Contractor or his authorized representative. The Procuring Entity's Representative may invite a COA representative during the conduct of inspection.
- 2) The Procuring Entity's Representative shall issue a Notice of Rejection to the Contractor on materials rejected and Notice of Acceptance on materials delivered as replacement. The Notice of Inspection shall indicate the following.
  - a. Item
  - b. Description/Specification
  - c. Quantity
  - d. Unit
  - e. Reason/Cause of rejection
- 3) The Procuring Entity's Representative shall determine the equipment/utilities that will consume electricity and water.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

- 4) The Contractor shall be paid on the basis of percentage of work completed upon request and submission of the work accomplishment report resulting from the evaluation and assessment of the Procuring Entity's Representative duly certified by the Procuring Entity's representative and approved by the Head of the Procuring Entity.

**XVII. FINAL PAYMENT**

Final payment of the Contract price shall be made upon submission of the following complete supporting documents:

- a. Affidavit stating full payment of all obligations due for labor, equipment rentals, taxes;
- b. Certificate of Completion to be prepared and signed by the Procuring entity's Representative duly certified by the Procuring Entity's concerned Component/Unit Head and approved by the Head of the Procuring Entity;
- c. Notice of Award (Photocopy);
- d. Notice to Proceed (Photocopy);
- e. Contract Agreement (Photocopy);
- f. Progress Accomplishment Report.

**XVIII. DURATION AND EFFECTIVITY OF THE CONTRACT**

The Contract shall be completed within \_\_\_\_\_ (\_\_\_) calendar days effective on the 10<sup>th</sup> day after the receipt of the Notice to Proceed.

**XIX. RESERVATION CLAUSE**

The Procuring Entity reserves the right to accept or reject any or all other Quotations, to waive any formalities or defects found therein and to annul the Procurement (Shopping) process and reject all Quotations at any time prior to award of Contract, without thereby incurring any liability to the affected Bidders/sand to accept only such Quotations most advantageous to the government.

BIDS AND AWARDS COMMITTEE (BAC)

\_\_\_\_\_  
Chairperson

*RFQ for Works-Attachment 3  
SAMPLE ONLY*

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

**BILL OF QUANTITIES**

No.	Description	Qty.	Unit	Unit Cost	Total
1	DEMOLITION/REMOVAL (windows, doors, walls, faulty electrical, tiles)	1.00	lot		
2	TILEWORKS	524.39	sq. m.		
3	MASONRY WORKS	14.07	sq. m.		
4	CONCRETE WORKS (PANTRY)	0.29	cu. m.		
5	CEMENT PLASTERING	23.64	sq. m.		
6	DOORS	1.00	lot		
7	WINDOWS	1.00	lot		
8	DRY WALL	75.66	sq. m.		
9	BUILT-IN CABINETS	91.30	ln. m.		
10	GLASS WALL/PARTITION (Fixed Analok Glass in Bronze Aluminum Frame)	9.92	sq. m.		
11	PARTITION WALL/CUBICLE (1.20m High Wall in Plastic Frame with Synthetic Fabric Finish with 0.30m High Glass in Aluminum Frame)	81.30	sq. m.		
12	SANITARY WORKS	1.00	lot		
13	PAINTING WORKS	2,217.35	sq. m.		
14	ELECTRICAL WORKS	1.00	lot		
15	ELEVATED WATER TANK [3.2 cu.m Stainless Steel Water Tank with 1 Hp Electric Water Pump (booster)]	1.00	lot		
16	PARKING AREA	56.00	sq. m.		
17	FORMS AND SCAFFOLDINGS	1.00	lot		
18	PANAFLEX SIGN (1m x 3m Panaflex Signage with Lightings)	1.00	unit		
<b>TOTAL QUOTATION AMOUNT</b>					

Total Quotation Amount in Words:

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**PLANS AND SPECIFICATIONS**

(SEE ATTACHED PLANS & SPECIFICATIONS – Sheets 1 to 10)

## LETTER OF ACCEPTANCE/NOTICE OF AWARD

Date: *[insert date]*

To: *[Name and address of Contractor]*

This is to notify you that your Quotation dated *[insert date]* for the execution of the *[insert name of Contract and reference numbers]* with a Contract Price of *[insert amount of quotation]*, is hereby accepted by our Agency.

You are hereby instructed to come to our office located at \_\_\_\_\_ to sign the formal agreement on *[date]* at *[time]*.

Authorized Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Conforme:

Signature of Authorized Representative:

\_\_\_\_\_

Name of Authorized Representative: \_\_\_\_\_

Designation: \_\_\_\_\_

Date: \_\_\_\_\_

(With Bank's Letter Head)

**PERFORMANCE SECURITY (BANK GUARANTEE)**

To: \_\_\_\_\_

WHEREAS, *[name and address of contractor]* (hereinafter called the "Contractor") has undertaken, in pursuance of Contract No. *[insert number]* dated *[insert date]* to execute the \_\_\_\_\_ (hereinafter called the "Contract");

AND WHEREAS, it has been stipulated by you in the said Contract Agreement that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract Agreement;

AND WHEREAS, we have agreed to give the Contractor such a Bank Guarantee;

NOW THEREFORE, we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of *[insert amount of Guarantee in numbers and in words]* such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of *[amount of Guarantee]* as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of demand of the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract Agreement or of the Works to be performed there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall be valid until a date twenty-eight (28) days from the date of issue of the Certificate of Final Acceptance.

Signature and seal of the Guarantor \_\_\_\_\_

Name of Bank \_\_\_\_\_

Address \_\_\_\_\_

Date: \_\_\_\_\_

(With Bank's Letter Head)

**BANK GUARANTEE (FOR ADVANCE PAYMENT)**

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To: PROCURING ENTITY  
[name of Contract]

Gentlemen:

We, the [Bank or Financial Institution], as instructed by the Contractor, agree unconditionally and irrevocably to Guarantee as primary obligator and not as Surety merely, the payment to \_\_\_\_\_ on his first demand without whatsoever right of objection on our part and without his first claim to the contractor, in the amount not exceeding [amount of Guarantee in number] [amount in words].

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed there under or of any of the Contract documents which may be made between \_\_\_\_\_ and the Contractor, shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until \_\_\_\_\_ receives full repayment of the same amount from the Contractor.

Yours truly,

Signature and seal: \_\_\_\_\_

Name of Bank/Financial Institution: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

## Module 1: Guidelines for the Procurement of Infrastructure Subprojects



ELI WEISS  
Senior Agriculture Economist and PRDP Task Team Leader  
Agriculture and Food Global Practice

December 13, 2021

Engr. Ariel T. Cayanan  
Undersecretary for Operations and PRDP National Project Director  
Department of Agriculture  
Elliptical Road, Diliman  
Quezon City

Dear Undersecretary Cayanan:

*PHILIPPINES: Philippine Rural Development Project (PRDP)  
Request for No Objection on the Revised PRDP Module 1:  
Guidelines for the Procurement of Infrastructures Subprojects Under  
PRDP Second Additional Financing with EU Grant Co-financing (Loan No. 9271-PH)  
Second Edition*

We acknowledge your letter dated December 1, 2021 (received on December 3) submitting the revised Module 1: Guidelines for the Procurement of Infrastructure Subprojects under PRDP Second Additional Financing with EU Grant co-financing (Second Edition). We reviewed the manual and have no objection to its finalization and issuance subject to the incorporation of few minor comments below:

### B.14 Time for Preparation of Bids

1. Please add “as applicable” after “...through any electronic means available to the Procuring Entities”. We agreed to this provision only as interim measure due to the various government quarantine restrictions. For a permanent application, you may request for a review and provide the specific procedures for e-procurement.

### B.23 Required Experience of Key Personnel

2. For the Project Manager, we would suggest a general qualification of being a licensed Civil or Agriculture Engineer.

### Section III. Bid Data Sheet

3. Equipment. We do not see the relevance of additional certificate of availability of equipment when it is already required to propose a list of equipment for carrying out the work. Another self-serving statement would not carry much weight.

**Module 1: Guidelines for the Procurement of Infrastructure Subprojects**

Section IX. Bidding Forms

4. Performance Securing Declaration Template. We do not recall discussing and agreeing to this proposal. Kindly take this out of the manual and bidding documents.

Annex 3

5. Blacklisting Guidelines. We were not able to review Annex 3 (Blacklisting Guidelines), as it was pointed to the Cross Reference (CR) Guidelines. Looking forward to reviewing this part once the updated CR Guidelines is submitted.

Our Procurement Team will be in touch with NPCO Procurement Unit to assist in the finalization of the manual.

Sincerely,



Eli Weiss