



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

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DEPARTMENT ORDER)
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SUBJECT: Guidelines on The Selection and Invitation of Procurement Observers of the Central, Regional, and District Engineering Offices Bids and Awards Committees

Consistent with Section 13 of the 2016 Revised Implementing Rules and Regulations (RIRR) of RA 9184 or the Government Procurement and Reform Act, and pursuant to the principles of transparency, competitiveness, accountability, and public monitoring inherent in government procurement, all officials and employees concerned are hereby enjoined to strictly adhere to the specific guidelines in the selection and invitation of procurement observers hereinafter set forth:

1. The Bids and Awards Committees (BACs) of the Central, Regional and District Engineering Offices shall, in addition to the representative of the Commission on Audit (COA), invite at least two (2) observers who shall not have the right to vote, subject to the following requirements:
 - a. At least one (1) should come from a duly recognized private group in a sector or discipline relevant to the procurement at hand:
 - i. For Infrastructure/Civil Works Projects - national associations of constructors which are duly recognized by the Construction Industry Authority of the Philippines (CIAP), such as, but not limited to the following:
 - Philippine Constructors Association, Inc. (PCA); or
 - National Constructors Association of the Philippines, Inc. (NACAP)
 - ii. For Goods and Services Projects – a specific relevant chamber-member of the Philippine Chamber of Commerce and Industry (PCCI)
 - iii. For Consulting Services Projects – a project related professional organization accredited or duly recognized by the Professional Regulation Commission (PRC) or the Supreme Court (SC), such as, but not limited to:
 1. Philippine Institute of Civil Engineers (PICE);
 2. Philippine Institute of Certified Public Accountants (PICPA);
 - or
 3. Confederation of Filipino Consulting Organizations (COFILCO)
 - b. The other observer shall come from a non-government organization (NGO).

2. The observers shall come from an organization duly registered with the Securities and Exchange Commission (SEC) or the Cooperative Development Authority (CDA), as the case may be, and should meet the following criteria:
 1. Knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid;
 2. Absence of actual or potential conflict of interest with the contract to be bid; and
 3. In addition to the foregoing, the observer:
 - a. Must be a member of a duly accredited and recognized Civil Society Organization of the Department of Public Works and Highways, consistent with Department of Budget and Management (DBM) National Budget Circular (NBC) No. 536 entitled: "Guidelines on Partnership with Civil Society Organizations and other Stakeholders in the Preparation of Agency Budget Proposals";
 - b. Must not have been convicted of any crime involving moral turpitude and violations enumerated under Section 65 of RA 9184 and its 2016 Revised IRR, as evidenced by any of the following: (i.) Police Clearance; or (ii) Certificate of No Pending Case from the Department of Justice (DOJ), issued not more than six (6) months prior to the date of the procurement activity to be attended;
 - c. Must have knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid. Hence, he/she must have previously attended procurement training/s within a period of one (1) year immediately preceding the date of designation as observer/representative, as evidenced by a Certificate/s of training issued by duly recognized/authorized training institution;
 - d. Should be duly authorized by the Head/President of the NGO/CSO and must have been a member of NGO/CSO for at least one (1) year immediately preceding the date of his/her designation; and
 - e. Must, at least five (5) days before the scheduled date of the first procurement activity, submit for every procurement contract to be observed a duly notarized affidavit/sworn undertaking stating therein the absence of actual or potential conflict of interest between the contract to be bid and that of the observer and/or the organization he/she represents, consistent with item 2(2) hereof.

The documentary requirements stated in items 2(3)(b),(c), and (d) must be submitted to the Procurement Service for centrally-procured projects and to the concerned Procurement Unit for projects procured by the various Regional and District Engineering Offices on or before the schedule of the first procurement activity allowing the attendance of observers in specific stages of the procurement process pursuant to Section 13.1 of the 2016 Revised IRR of Ra 9184.

In case of non-submission of the foregoing documents, the BAC may deny the attendance of the CSO/NGO representative as "official"/duly recognized BAC observer for the specific project being

procured. Official/duly recognized BAC Observer/s refer to those CSOs/NGOs that were able to submit and comply with all the requirements set forth under Section 13 of the 2016 Revised IRR of RA 9184 and this Department Order.

Further, in compliance with Section 13.4 of the RIRR, observers shall have the following responsibilities:

1. To prepare the report either jointly or separately indicating their observations made on the procurement activities conducted by the BAC for submission to the concerned HoPE, copy furnished the BAC Chairperson. The report shall assess the extent of the BAC's compliance with the provisions of this IRR and areas of improvement in the BAC's proceedings;
2. To submit their report to the concerned Procuring Entity and furnish a copy to the GPPB and Office of the Ombudsman/Resident Ombudsman. If no report is submitted by the observer within seven (7) calendar days after each procurement activity, then it is presumed that the bidding activity conducted by the BAC followed the correct procedure; and
3. To immediately inhibit and notify in writing the Procuring Entity concerned of any actual or potential interest in the contract to be bid.

Finally, in order to preclude familiarity and fraternization, and to give fair and equal opportunity to observers, the selection of procurement observer/s which shall attend every specific procurement shall be done through random selection (drawing of lots) on a specific date to be announced by the concerned BAC.

This Order shall take effect immediately.


MANUEL M. BONOAN
Secretary

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