



Republic of the Philippines  
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS  
**MISAMIS OCCIDENTAL**  
**2<sup>nd</sup> DISTRICT ENGINEERING OFFICE**  
REGIONAL OFFICE X  
Tangub City

**DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS**

**PROCURING ENTITY: DPWH-Misamis Occidental 2<sup>nd</sup> DEO, Sta. Maria, Tangub City**

**BIDDING DOCUMENTS**

**FOR**

**CONTRACT ID No.: 24GKJ0017**

**CONTRACT NAME: Procurement of Materials for Patching of Potholes along  
Primary & Secondary Roads, Ozamiz-Pagadian Road, Ozamiz-  
Oroquieta Road, Labuyo-Tangub-Silanga Road, Tangub-Polao  
Road, Bagacay Cadre Road, Ozamiz By-Pass Road, Misamis  
Occidental 2nd**

**CONTRACT LOCATION: Ozamiz-Pagadian Road, Ozamiz-Oroquieta Road, Labuyo-  
Tangub-Silanga Road, Tangub-Polao Road, Bagacay  
Cadre Road, Ozamiz By-Pass Road, Misamis Occidental  
2nd**

Date of Opening of Bids: **December 17, 2024**

Start Date for Issuance  
of Bidding Documents: **November 27, 2024**

## **TABLE OF CONTENTS**

SECTION I.	INVITATION TO BID
SECTION II.	INSTRUCTIONS TO BIDDERS
SECTION III.	BID DATA SHEET
SECTION IV.	GENERAL CONDITIONS OF CONTRACT
SECTION V.	SPECIAL CONDITIONS OF CONTRACT
SECTION VI.	SCHEDULE OF REQUIREMENTS
SECTION VII.	TECHNICAL SPECIFICATIONS
SECTION VIII.	BILL OF QUANTITIES
SECTION IX.	BIDDING FORMS

## Section I



Republic of the Philippines  
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS  
**MISAMIS OCCIDENTAL**  
**2<sup>nd</sup> DISTRICT ENGINEERING OFFICE**  
REGIONAL OFFICE X  
Tangub City

### **INVITATION TO BID FOR THE PROCUREMENT OF MATERIALS FOR PATCHING OF POTHoles ALONG PRIMARY & SECONDARY ROADS, OZAMIZ-PAGADIAN ROAD, OZAMIZ-OROQUIETA ROAD, LABUYO-TANGUB-SILANGA ROAD, TANGUB-POLAO ROAD, BAGACAY CADRE ROAD, OZAMIZ BY-PASS ROAD**

November 26, 2024

The Department of Public Works & Highways (DPWH) Misamis Occidental 2<sup>nd</sup> District Engineering Office, Sta. Maria, Tangub City, through the **MOOE 2024**, intends to apply the sum of **Two Million Three Hundred Ninety-Eight Thousand Six Hundred Twenty Pesos (P 2,398,620.00)** being the Approved Budget for the Contract (ABC) to payments under the contract for **24GKJ0017: Procurement of Materials for Patching of Potholes along Primary & Secondary Roads, Ozamiz-Pagadian Road, Ozamiz-Oroquieta Road, Labuyo-Tangub-Silanga Road, Tangub-Polao Road, Bagacay Cadre Road, Ozamiz By-Pass Road, Misamis Occidental 2nd**. Bids received in excess of the ABC shall be automatically rejected at bid opening.

The Department of Public Works & Highways (DPWH) Misamis Occidental 2<sup>nd</sup> District Engineering Office, Tangub City now invites bids for **Procurement of Materials for Patching of Potholes along Primary & Secondary Roads**. Delivery of the Goods is required **30 CD**. Bidders should have completed, within *10 Calendar Days* from the date of submission and receipt of bids, 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.

Bidding will be conducted through open competitive bidding procedures using a non-discretionary "pass/fail" criterion as specified in the Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184, otherwise known as the "Government Procurement Reform Act".

Bidding is restricted to Filipino citizens/sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines, and to citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to Filipino citizens, pursuant to RA 5183.

Interested bidders may obtain further information from the Department of Public Works & Highways (DPWH) Misamis Occidental 2<sup>nd</sup> District Engineering Office, Tangub City and inspect the Bidding Documents at the address given below during 8:00 a.m. to 5:00 p.m.

A complete set of Bidding Documents may be acquired by interested Bidders on **November 27 – December 17, 2024** from the address below in the amount of **Php 5,000.00**.

It may also be downloaded free of charge from the website of the Department of Public Works and Highways (DPWH) and the website of the Philippine Government Electronic Procurement System (PhilGEPS), provided that Bidders shall pay the applicable fee for the Bidding Documents not later than the submission of their bids.

The Department of Public Works & Highways (DPWH) Misamis Occidental 2<sup>nd</sup> District Engineering Office, Tangub City will hold a **Pre-Bid Conference** on **December 5, 2024 at 10:00 AM** at **DPWH Conference Room**, which shall be open to prospective bidders.

Bids must be duly received by the BAC Secretariat at the address below on or before **December 17, 2024 until 1:00 PM**. All Bids must be accompanied by a bid security in any of the acceptable forms and in the amount stated in **ITB**.

Bid opening shall be on **December 17, 2024 at 01:00 PM** at **DPWH Conference Room**. Bids will be opened in the presence of the Bidders' representatives who choose to attend at the address below. Late bids shall not be accepted.

The Department of Public Works & Highways (DPWH) Misamis Occidental 2<sup>nd</sup> District Engineering Office, Tangub City 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 in accordance with Section 41 of RA 9184 and its IRR, without thereby incurring any liability to the affected bidder or bidders.

For further information, please refer to:

**MANUEL P. MEDINA**

BAC – Chairperson  
DPWH – Mis. Occ. 2<sup>nd</sup> DEO, Tangub City  
Tel no.: n/a  
Email address: [medina.manuel@dpwh.gov.ph](mailto:medina.manuel@dpwh.gov.ph)

**LZA A. SOLIJON**

Head, BAC-Secretariat  
DPWH–Mis. Occ. 2<sup>nd</sup> DEO, Tangub City  
Tel no.: n/a  
Email address: [solijon.liza@dpwh.gov.ph](mailto:solijon.liza@dpwh.gov.ph)

Approved by:

**(SGD.) MANUEL P. MEDINA**  
BAC- Chairperson

Date of Publication: November 22 - 29, 2024  
R10 16 BAC/asa/las/mpm

## Section II.

### INSTRUCTIONS TO BIDDERS

#### TABLE OF CONTENTS

A. GENERAL .....	5
1. Scope of Bid.....	63
2. Source of Funds .....	63
3. Corrupt, Fraudulent, Collusive, and Coercive Practices .....	63
4. Conflict of Interest.....	7
5. Eligible Bidders.....	86
6. Bidder's Responsibilities .....	97
7. Origin of Goods .....	119
8. Subcontracts.....	119
B. CONTENTS OF BIDDING DOCUMENTS .....	20
9. Pre-Bid Conference.....	20
10. Clarification and Amendment of Bidding Documents .....	20
C. PREPARATION OF BIDS.....	121
11. Language of Bid .....	121
12. Documents Comprising the Bid: Eligibility and Technical Components.....	121
13. Documents Comprising the Bid: Financial Component.....	143
14. Alternative Bids .....	153
15. Bid Prices.....	154
16. Bid Currencies .....	165
17. Bid Validity.....	165
18. Bid Security.....	166
19. Format and Signing of Bids .....	188
20. Sealing and Marking of Bids .....	188
D. SUBMISSION AND OPENING OF BIDS .....	199
21. Deadline for Submission of Bids .....	199
22. Late Bids.....	199
23. Modification and Withdrawal of Bids .....	199
24. Opening and Preliminary Examination of Bids.....	30
E. EVALUATION AND COMPARISON OF BIDS.....	211
25. Process to be Confidential .....	211
26. Clarification of Bids.....	211
27. Domestic Preference.....	211
28. Detailed Evaluation and Comparison of Bids.....	222
29. Post-Qualification .....	223
30. Reservation Clause .....	234
F. AWARD OF CONTRACT .....	245
31. Contract Award .....	245
32. Signing of the Contract .....	256
33. Performance Security.....	25
34. Notice to Proceed .....	267
35. Protest Mechanism.....	267

## **INSTRUCTIONS TO BIDDERS**

### **A. General**

#### **1. Scope of Bid**

- 1.1. The procuring entity named in the **BDS** (hereinafter referred to as the DPWH Procuring Entity) wishes to receive bids for the supply and delivery of goods as described in
- 1.2.
- 1.3.
- 1.4.

1.5. *Section VII* (hereinafter referred to as the “Goods”).

1.6. The name, identification, and number of lots specific to this bidding are provided in the **BDS**. The contracting strategy and basis of evaluation and award of lots is described in the BDS.

## 2. **Source of Funds**

The Procuring Entity has an Approved Budget for the Contract (ABC) budget or has applied for 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.

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

3.1. The DPWH Procuring Entity as well as bidders and suppliers shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the DPWH Procuring Entity:

(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 government, 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 RA 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-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.

(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 proceeding or investigation of the DPWH Procuring Entity or any foreign government/foreign or international financial 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 proceeding or investigation or from pursuing such proceeding or investigation; or

- (bb) acts intended to materially impede the exercise of the inspection and audit rights of the DPWH 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 any of the practices mentioned in this Clause for purposes of competing for the contract.
  - (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a Contract if it at any time determines that the firm has engaged in corrupt, fraudulent, collusive or coercive practices in competing or, or in executing, a Contract.
- 3.2 The DPWH will also seek to impose the maximum civil, administrative, and/or criminal penalties available under the applicable law 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 DPWH Procuring Entity reserves the right to inspect and audit records and accounts of a bidder or supplier in the bidding for and performance of a particular contract, themselves or through independent auditors as provided in **GCC** Clause 3.

#### **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) below 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. This will include a firm or an organization 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;
  - (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 temporary 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 (DPWH-G&S-17) that it is not related to the Head of the Procuring Entity, 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 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; and
- (d) If the Bidder is a joint venture (JV), the provisions of items (a), (b), or (c) 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 provided 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 sixty percent (60%) of the interest belongs to citizens of the Philippines;
- (c) Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
- (d) Cooperatives duly organized under the laws of the Philippines; and
- (e) Persons/entities forming themselves into a joint venture, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, that Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%). Filipino ownership shall be based on the contribution of each of the members of the joint venture as specified in the joint venture agreement (JVA);

- 5.2. Foreign bidders may be eligible to participate when any of the following circumstances exist, as specified in the **BDS**:

- (a) When provided for under any Treaty or International or Executive Agreement as provided in Section 4 of the RA 9184 and its IRR;
- (b) Citizens, corporations, or association of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations, or associations of the Philippines;

- (c) When the Goods sought to be procured are not available from local suppliers at the prescribed minimum specification and/or ABC;
  - (d) When there is a need to prevent situations that defeat competition or restrain trade; or
  - (e). If despite the availability of the goods sought to be procured, no local supplier is interested to participate in the procurement process.
- 5.3. Government corporate entities 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 dependent agencies of the GOP or the DPWH Procuring Entity.
- 5.4. Unless otherwise provided in the **BDS**, the Bidder must have accomplished a Single Largest Completed Contract (SLCC) similar to the contract to be bid and the value of which, adjusted to current prices using the Philippine Statistical Authority (PSA) consumer price index, must be at least fifty percent (50%) of the ABC stated in the **BDS**. In the case of Expendable Supplies, said single contract must be at least twenty-five percent (25%) of the ABC.

For this purpose, contracts similar to the contract to be bid shall be those described in the **BDS**, and completed within the relevant period stated in the Invitation to Bid and **ITB** Clause (k)(ii).

- 5.6. The Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC) which must at least be 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 on-going contracts, including awarded contracts yet to be started coinciding with the contract for to be bid.

The values of the bidder's current assets and current liabilities shall be based on the data 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.

- 5.7. In lieu of the NFCC computation, a committed line of credit (CLC) specific to the contract to be bid from a universal or commercial bank, which must be at least equal to ten percent (10%) of the ABC of the contract to be bid. If the CLC is issued by a foreign universal or commercial bank, it shall be confirmed or authenticated by a local universal or commercial bank.

## **6. Bidder's Responsibilities**

- 6.1. The Bidder or its duly authorized representative shall submit an omnibus sworn statement in the form prescribed in Section VIII. Bidding Forms as required in **ITB** Clause (i)(iii). (DPWH-G&S-17)
- 6.2. The Bidder is responsible for the following:
- (a) Having taken steps to carefully examine all of the Bidding Documents and to comply with the responsibilities of a bidder provided in this SBD;
  - (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 Head of the Procuring Entity 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 and/or to represent the Bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture or a duly notarized Special Power of Attorney in case of Sole Proprietorship;
- (i) Complying with the disclosure provision under Section 47 of RA 9184 in relation to other provisions of RA 3019;
- (j) Complying with existing labor laws and standards, in the case of procurement of services; and
- (k) Ensuring that it did not give or pay any, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement or activity.

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

- 6.3. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents.
- 6.4. It shall be the sole responsibility of the Bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to the contract to be bid, including: (a) the location and the nature of this Project; (b) climatic conditions; (c) transportation facilities; and (d) other factors that may affect the cost, duration, and execution or implementation of this Project.
- 6.5. The DWPH 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.
- 6.6. The Bidder shall bear all costs associated with the preparation and submission of his bid, and the DWPH Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 6.7. Before submitting their bids, the Bidder is deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect this Project in any way.

- 6.8. The Bidder should note that the DPWH 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**

Unless otherwise indicated in the **BDS**, there is no restriction on the origin of goods other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, subject to **ITB** Clause 0.

## **8. Sub-contracts**

- 8.1. Unless otherwise specified in the **BDS**, the Bidder may sub-contract a material or significant portion of the Goods which must not exceed twenty percent (20%) of the contract price. The **BDS** shall specify what are considered as significant/material components. However, sub-contracting of any portion shall not relieve the Bidder from any liability or obligation that may arise from the contract for this Project.
- 8.2. Sub-contractors must comply with the eligibility criteria and the documentary requirements specified in the **BDS**. In the event that any sub-contractor is found by the DPWH Procuring Entity to be ineligible, the subcontracting of such portion of the Goods shall be disallowed.
- 8.3. The Bidder shall disclose all sub-contracting arrangements at the time of bidding and sub-suppliers shall be identified in the Bid submitted. The Bidder shall include the required documents as part of the technical component of its bid.
- 8.4. Any sub-contracting arrangements made during project implementation and not disclosed at the time of the bidding shall not be allowed. The sub-contracting arrangement shall not relieve the supplier of any liability or obligation under the contract. Moreover, sub-suppliers are obliged to comply with the provisions of the contract and shall be jointly and severally liable with the principal supplier, in case of breach thereof, in so far as the portion of the contract sub-contracted to it is concerned.

## **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 and receipt of bids, but not earlier than seven (7) calendar days from the posting of the Invitation to Bid/Bidding Documents at the DPWH and PhilGEPS websites. If the DPWH 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 DPWH 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 discussed during the pre-bid conference. 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 who have purchased the Bidding Documents may request for clarification on any part of the Bidding Documents for an interpretation. Such request must be in writing and submitted to the DPWH 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 DPWH 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 on the DPWH and PhilGEPS websites, and at any conspicuous place in the premises of the Procuring Entity concerned. It shall be the responsibility of all Bidders who secure 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 Bid**

The bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Procuring Entity, shall be written 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 of RA 9184
- (ii) Statement of all its ongoing and completed government and private contracts within the period stated in the **BDS**, including contracts awarded

but not yet started, if any whether similar or not similar in nature and complexity to the contract to be bid; and

Statement identifying the bidder's single largest completed contract (SLCC) similar to the contract to be bid, within the relevant period as provided in the BDS.

The statement shall include, for each contract, the following:

- (ii.1) name of the contract;
  - (ii.2) date of the contract;
  - (ii.3) kinds of Goods;
  - (ii.4) For Statement of Ongoing Contracts - amount of contract and value of outstanding contracts;
  - (ii.5) For Statement of SLCC - amount of completed contracts, adjusted by the bidder to current prices using PSA's consumer price index, if necessary for the purpose of meeting the SLCC requirement;
  - (ii.6) date of delivery; and
  - (ii.7) end user's acceptance or official receipt(s) or sales invoice issued for the contract, if completed, which shall be attached to the statements.
- (iii) NFCC computation in accordance with **ITB** Clause 5.5 or a committed Line of Credit from a universal or commercial bank.

Class "B" Document:

If applicable, the Joint Venture Agreement (JVA) in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners in accordance with Section 23.1(b) of the IRR.

(c) Technical Documents –

- (i) Bid Securing Declaration or any form of bid security in accordance with **ITB** Clause 18. If the DPWH Procuring Entity requires the bidder 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, it shall be accompanied by a certification by the Insurance Commission that the surety or insurance company is authorized to issue such instruments;
- (ii) Conformity with technical specifications, as enumerated and specified in Sections VI and VII of the Bidding Documents.
- (iii) Sworn statement in accordance with Section 25.3 of the IRR of RA 9184 and using the form prescribed in Section VIII. Bidding Forms.

- (iv) For foreign bidders claiming eligibility by reason of their country's extension of reciprocal rights to Filipinos, a certification from the relevant government office of their country stating that Filipinos are allowed to participate in their government procurement activities for the same item or product.

### **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) Bid Form, which includes total bid price, using Form DPWH-G&S-19.
  - (b) Bill of Quantities, which includes the schedule of unit and total bid prices per item, in accordance with **ITB** Clause 15.1, using Form DPWH-G&S-20.
  - (c) Recurrent and maintenance costs if applicable.
  - (d) If the Bidder claims preference as a Domestic Bidder or Domestic Entity, a certification from the DTI, SEC, or CDA issued in accordance with **ITB** Clause 27, unless otherwise provided in the **BDS**.
  - (e) 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 Total Bid Prices 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 the Total 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 DPWH procuring entity, payment could be made upon the submission of bids.
    - (ii) The DPWH procuring entity has procedures in place to ensure that the ABC is based on recent estimates made by the responsible unit of the procuring entity and that the estimates 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 DPWH procuring entity has trained cost estimators on estimating prices and analyzing bid variances.
    - (iv) The DPWH procuring entity has established a system to monitor and report bid prices relative to ABC and engineer's/procuring entity's estimate.
    - (v) The DPWH 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**

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.

## **15. Bid Prices**

- 15.1. The Bidder shall complete the Bill of Quantities with Price Schedule included herein (Form DPWH-G&S-20) for the Goods to be supplied under this Project.
- 15.2. The Bidder shall fill in the unit bid price and total bid price for each item of the Goods described in the Bill of Quantities. Bids not addressing or providing all of the required items in the 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 "0" (zero) or a dash (-) for the said item would mean that it is being offered for free to the Government.
- 15.3. The terms Ex Works (EXW), Cost, Insurance and Freight (CIF), Cost and Insurance Paid to (CIP), Delivered Duty Paid (DDP), and other trade terms used to describe the obligations of the parties, shall be governed by the rules prescribed in the current edition of the International Commercial Terms (INCOTERMS) published by the International Chamber of Commerce, Paris.
- 15.4. In the case of foreign-assisted procurement, prices indicated on the Price Schedule (see Bidding Forms) shall be entered separately in the following manner:
  - (a) For Goods offered from within the Philippines:
    - (i) The price of the Goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable);
    - (ii) The cost of all customs duties and sales and other taxes already paid or payable;
    - (iii) The cost of transportation, insurance, and other costs incidental to delivery of the Goods to their final destination; and
    - (iv) The price of other (incidental) services, if any, listed in the **BDS**.
  - (b) For Goods offered from abroad:
    - (i) Unless otherwise stated in the **BDS**, the price of the Goods shall be quoted DDP with the place of destination in the Philippines as specified in the **BDS**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.
    - (ii) The price of other (incidental) services, if any, listed in the **BDS**.
- 15.5. Prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation or price escalation on any account. A bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to **ITB** Clause 0.

All bid prices shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances. Extraordinary circumstances refer to events that may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon the recommendation of the Procuring Entity. 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.

## **16. Bid Currencies**

- 16.1. In the case of foreign-assisted procurement, prices shall be quoted in the following currencies:
- (a) For Goods that the Bidder will supply from within the Philippines, the prices shall be quoted in Philippine Pesos.
  - (b) For Goods that the Bidder will supply from outside the Philippines, the prices may be quoted in the currency(ies) stated 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 as published in the Bangko Sentral ng Pilipinas (BSP) reference rate bulletin on the day of the bid opening.
- 16.2. If so allowed in accordance with **ITB** Clause 0, the DPWH 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 foregoing exchange rates.
- 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 DPWH 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 the amount stated in the **BDS**, that is not less than the percentage of the ABC in accordance with the following schedule:

<b>Form of Bid Security</b>	<b>Minimum Amount of Bid Security (Percentage of ABC)</b>
Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Two percent (2%)

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.	
Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Five percent (5%)

A Bid Securing Declaration is an undertaking which states, among others, that the bidder shall enter into contract with the procuring entity and furnish the performance security required under ITB Clause 33.2, within ten (10) calendar days or less, from receipt of the Notice of Award, and commits to pay the corresponding amount as fine, and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as 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 those that failed or were declared as post-disqualified, upon submission of a written waiver of their right to file a motion for reconsideration and/or protest, or upon the lapse of the reglementary period to file a motion for reconsideration or protest. Without prejudice to its forfeiture, bid securities shall be returned only after the bidder with the Lowest Calculated and Responsive Bid 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 32, and the posting of the performance security pursuant to **ITB** Clause 33, the successful Bidder's bid security will be released, but in no case later than the bid security validity period as indicated in the **ITB** Clause 18.2.
- 18.5. The bid security may be forfeited:
  - (a) if a Bidder:
    - (v) withdraws its bid during the period of bid validity specified in **ITB** Clause 17;
    - (vi) does not accept the correction of errors pursuant to **ITB** Clause 28.3(b);
    - (vii) has a finding against the veracity of any of the documents submitted as stated in **ITB** Clause 29.2;
    - (viii) submission of eligibility requirements containing false information or falsified documents;
    - (ix) 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;

- (x) allowing the use of one's name, or using the name of another for purposes of public bidding;
  - (xi) withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the Lowest Calculated and Responsive Bid;
  - (xii) refusal or failure to post the required performance security within the prescribed time;
  - (xiii) 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;
  - (xiv) any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor;
  - (xv) failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
  - (xvi) 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:
- (xvii) fails to sign the contract in accordance with **ITB** Clause32; or
  - (xviii) fails to furnish performance security in accordance with **ITB** Clause33.

## **19. Format and Signing of Bids**

- 19.1. Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in Section VIII. Bidding Forms on or before the deadline specified in the **ITB** Clauses 21 in one (1) sealed bid envelope. The envelope shall contain (a) the Technical Component of the bid, including the eligibility requirements under **ITB** Clause12.1, in one smaller envelope, and the Financial Component of the bid in another smaller envelope.
- 19.2. Forms as mentioned in **ITB** Clause 19.1 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 envelope as described in **ITB** Clauses 12 and 13 and two (2) photocopies. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 19.4. The Bid Form, including the Bill of Quantities with Bid Prices attached to it, shall be signed on each and every page by the duly authorized representative/s of the Bidder.
- 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 12in the sealed envelope marked "ORIGINAL - TECHNICAL COMPONENT", and

the original of their financial component marked "ORIGINAL - FINANCIAL COMPONENT", sealing them all in an outer envelope marked "ORIGINAL BID".

- 20.2. Each copy of the envelope shall be similarly sealed duly marking the inner envelope 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 indelible 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 DPWH Procuring Entity's BAC in accordance with **ITB** Clause 1.1;
  - (d) bear the specific identification of this bidding process indicated in the **ITB** Clause 1.6; 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. If bids are not sealed and marked as required, the DPWH Procuring Entity will assume no responsibility for the misplacement or premature opening of the bid.

#### **D. Submission and Opening of Bids**

##### **21. Deadline for Submission of Bids**

Bids must be received by the DPWH 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 DPWH 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 DPWH 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, properly identified in accordance with **ITB** Clause 20.4, 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 DPWH Procuring Entity prior to the deadline prescribed for submission and receipt of bids. The Letter of Withdrawal must be executed by the duly authorized representative of the Bidder.

- 23.3. Bids requested to be withdrawn in accordance with **ITB** Clause 23.2 shall be returned unopened to the Bidders. A Bidder, who has purchased 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, 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, 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. The BAC shall open the envelope containing the Technical Component of the Bid in public as specified in the **BDS** to determine each Bidder's compliance with the documents prescribed in **ITB** Clause 12 to determine compliance with the eligibility and technical requirements. For this purpose, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a non-discretionary "pass/fail" criterion. 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 eligibility and technical component as "passed".
- 24.3. Unless otherwise specified in the **BDS**, immediately after determining compliance with the eligibility requirements, the BAC shall forthwith open the technical proposal of each remaining eligible bidder whose eligibility requirements was rated "passed." In case one or more of the requirements in the technical proposal 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 0, 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. In the case of an eligible foreign Bidder as described in **ITB** Clause 5, the Class "A" Documents described in **ITB** Clause 12.1(a) may be substituted with the appropriate equivalent documents, if any, issued by the country of the foreign Bidder concerned.
- 24.6. Each partner of a joint venture agreement shall likewise submit the requirements in **ITB** Clause 12.1(a)(i). Submission of documents required under **ITB** Clauses 12.1(a)(ii) to 12.1(a)(iii) by any of the joint venture partners constitutes compliance.

- 24.7. The DPWH 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, bid security, findings of preliminary examination; 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.

## **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 DPWH 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 DPWH 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. Domestic Preference**

- 27.1. Unless otherwise stated in the **BDS**, the Procuring Entity will grant a margin of preference for the purpose of comparison of bids in accordance with the following:
- (a) The preference shall be applied when (i) the lowest Foreign Bid is lower than the lowest bid offered by a Domestic Bidder.
  - (b) For evaluation purposes, the lowest Foreign Bid shall be increased by fifteen percent (15%).
  - (c) In the event that the lowest bid offered by a Domestic Bidder does not exceed the lowest Foreign Bid as increased, then the Procuring Entity shall award the contract to the Domestic Bidder at the amount of the lowest Foreign Bid.
  - (d) If the Domestic Bidder refuses to accept the award of contract at the amount of the Foreign Bid within two (2) calendar days from receipt of written advice from the BAC, the Procuring Entity shall award to the bidder offering the Foreign Bid, subject to post-qualification and submission of all the documentary requirements under these Bidding Documents.
- 27.2. A Bidder may be granted preference as a Domestic Bidder subject to the certification from the DTI that the Bidder is offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.

## **28. Detailed Evaluation and Comparison of Bids**

- 28.1. The DPWH 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.
- 28.2. 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 the highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.
- 28.3. The DPWH Procuring Entity's BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary pass/fail criteria. The BAC shall consider the following in the evaluation of bids:
- (a) Completeness of the bid. Unless otherwise specified in the **BDS**, 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 "0" (zero) or a dash (-) for the said item would mean that it is being offered for free to the DPWH 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. Any adjustment shall be calculated in monetary terms to determine the calculated prices.
- 28.4. 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 errors, discounts and other modifications, which exceed the ABC shall not be considered, unless otherwise indicated in the **BDS**.
- 28.5. The DPWH Procuring Entity's evaluation of bids shall only be based on the bid price quoted in the Bid Form.
- 28.6. 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.

## **29. Post-Qualification**

- 29.1. The BAC shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid (LCB) complies with and is responsive to all the requirements and conditions specified in **ITB** Clauses 5, 12, and 13.
- 29.2. 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 LCB, the Bidder shall submit the following documentary requirements:

- (a) Latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS).
- (b) Other appropriate licenses and permits required by law and stated in the **BDS**.

Failure of the Bidder declared as LCB to duly submit the requirements under this Clause on time, or a finding against the veracity of any of the documents submitted, shall disqualify the bidder for award. A finding against the veracity of any of the documents submitted shall be ground for forfeiture of the bid security, in accordance with Section 69 of the IRR of RA 9184.

- 29.3. 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 DPWH Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion. The determination shall be completed within a period of twelve (12) calendar days.
- 29.4. 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 Lowest Calculated Responsive Bid, and recommend to the Head of the Procuring Entity the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower.
- 29.5. A negative determination shall result in rejection of the Bidder's Bid, in which event the DPWH 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 Lowest Calculated Responsive Bid is determined for recommendation for contract award.
- 29.6. Within a period not exceeding fifteen (15) calendar days from the date of receipt of the recommendation of the BAC, the Head of the Procuring Entity shall approve or disapprove the said recommendation.
- 29.7. 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.

### **30. Reservation Clause**

- 30.1. Notwithstanding the eligibility or post-qualification of a Bidder, the DPWH 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 DPWH Procuring Entity shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.
- 30.2. Based on the following grounds, the DPWH 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:

- (a) If there is *prima facie* evidence of collusion between appropriate public officers or employees of the DPWH 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 DPWH 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 head of the procuring entity;
  - (ii) If the project is no longer necessary as determined by the head of the procuring entity; and
  - (iii) If the source of funds for the project has been withheld or reduced through no fault of the DPWH Procuring Entity.

30.3. In addition, the DPWH 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 or fail post-qualification; or
- (d) The Bidder with the Lowest Calculated Responsive Bid (LCRB) refuses, without justifiable cause to accept the award of contract, and no award is made.

## **F. Award of Contract**

### **31. Contract Award**

- 31.1. Subject to **ITB** Clause 29, the HOPE or his duly authorized representative shall award the contract to the Bidder whose bid has been determined to be the LCRB.
- 31.2. Prior to the expiration or any agreed extension of the period of bid validity, the DPWH Procuring Entity shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to the DPWH Procuring Entity.
- 31.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:
  - (a) Submission of the valid JVA, if applicable, within ten (10) calendar days from receipt by the Bidder of the Notice of Award;
  - (b) Posting of the performance security in accordance with **ITB** Clause 33;
  - (c) Signing of the contract as provided in **ITB** Clause 32; and

- (d) Approval by higher authority, if required, as provided in Section 37.3 of the IRR.
- 31.2. At the time of contract award, the DPWH Procuring Entity shall not increase or decrease the quantity of goods originally specified in Section VI. Delivery Schedule.

### 32. Signing of the Contract

- 32.1. At the same time as the DPWH Procuring Entity notifies the successful Bidder that its bid has been accepted, the DPWH 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.
- 32.2. Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security and sign and date the contract and return it to the DPWH Procuring Entity.
- 32.3. The DPWH 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.
- 32.4. 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;
  - (d) Eligibility requirements, documents and/or statements;
  - (e) Performance Security;
  - (f) Line of Credit in accordance with **ITB** Clause 5.7, if applicable;
  - (g) Notice of Award of Contract and winning bidder's "Conforme"; and
  - (h) Other contract documents that may be required by existing laws and/or specified in the **BDS**.

### 33. Performance Security

- 33.1. 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.
- 33.2. The performance security shall prescribe at least two (2) acceptable forms of the performance security taken from two (2) categories below that bidders may opt to use, denominated in Philippine Pesos and posted in favor of the DPWH 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 (Percentage of Total Contract Price)
------------------------------	--

(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five percent (5%)
(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%)

- 33.3. 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 DPWH Procuring Entity shall have a fresh period to initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until the LCRB is identified and selected for 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.

#### **34. Notice to Proceed**

Within seven (7) calendar days from the date of signing and, if applicable, further approval of the contract by the appropriate government official, the Procuring Entity shall issue its 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, including the NTP, shall be effective only at the time of receipt thereof by the successful Bidder.

#### **35. Protest Mechanism**

Decisions of the Procuring Entity at any stage of the procurement process may be questioned in accordance with Section 55 of the IRR of RA 9184.

### Section III.

#### Bid Data Sheet

ITB Clause	
1.1	<p>The Procuring Entity is <b>DPWH Mis. Occ. 2<sup>nd</sup> DEO, Sta. Maria, Tangub City</b></p> <p>The scope of the Goods/Services required under this Contract is <b>Procurement of Materials for Patching of Potholes along Primary &amp; Secondary Roads</b></p>
1.6	<p>The lot(s) and reference is/are:</p> <p><i>P.R. No. <b>2024-11-0241</b> dated <b>11-22-2024</b></i>  <i>Project Reference No. <b>11532740</b></i></p> <p>The Contract Name is <b>Procurement of Materials for Patching of Potholes along Primary &amp; Secondary Roads, Ozamiz-Pagadian Road, Ozamiz-Oroquieta Road, Labuyo-Tangub-Silanga Road, Tangub-Polao Road, Bagacay Cadre Road, Ozamiz By-Pass Road, Misamis Occidental 2nd</b></p> <p>The Contract Location is <b>Ozamiz-Pagadian Road, Ozamiz-Oroquieta Road, Labuyo-Tangub-Silanga Road, Tangub-Polao Road, Bagacay Cadre Road, Ozamiz By-Pass Road, Misamis Occidental 2nd</b></p> <p>The Contract ID: <b>24GKJ0017</b></p> <p><i>If applicable, adopt the following provision:</i></p> <p><b>Grouping and Evaluation of Lots –</b></p> <p><i>Lots should be formed of similar items that are likely to attract the maximum competition. A lot is the quantity and number of items that will be included in a single contract. For example:</i></p> <p><i>Option 1 – Each item to be evaluated and compared with other Bids separately and recommended for contract award separately.</i></p> <p><i>Option 2 - All items to be grouped together to form one complete Lot that will be awarded to one Bidder to form one complete contract.</i></p> <p><i>Option 3 - Similar items, to be grouped together to form several lots that shall be evaluated and awarded as separate contracts.</i></p> <p><i>Select one of the following paragraphs and delete the other:</i></p> <p>The goods are grouped in a single lot and the lot shall not be divided into sub-lots for the purpose of bidding, evaluation, and contract award.</p> <p><i>Or</i></p> <p>All Goods are grouped in lots listed below. Bidders shall have the option of submitting a proposal on any or all lots and evaluation and contract award will be undertaken on a per lot basis. Lots shall not be divided further into sub-lots for the purpose of bidding, evaluation, and contract award.</p> <p><i>[Insert grouping of lots]</i></p>
2	<p>The Funding Source is: <b>MOOE 2024</b></p> <p>The Government of the Philippines (GOP) through: IRR</p>

	The name of the Project is: <b>Procurement of Materials for Patching of Potholes along Primary &amp; Secondary Roads, Ozamiz-Pagadian Road, Ozamiz-Oroquieta Road, Labuyo-Tangub-Silanga Road, Tangub-Polao Road, Bagacay Cadre Road, Ozamiz By-Pass Road, Misamis Occidental 2nd</b>
3.1	No further instructions.
5.1	No further instructions.
5.2	<p><i>Select one, delete the other.</i></p> <p>Foreign bidders may participate in this Project in view of the following circumstance(s):  <i>[State which of the circumstance(s) mentioned in the ITB Clause exists in the Project.]</i></p> <p><i>Or</i></p> <p>Foreign bidders, except those falling under <b>ITB</b> Clause 5.2(b), may not participate in this Project.</p>
5.4	<p><i>Select one, delete the other.</i></p> <p><i>Maintain the ITB Clause and insert any of the following:</i></p> <p><i>For the procurement of Non-Expendable Supplies and Services:</i> The Bidder must have completed, within the period specified in the Invitation to Bid and <b>ITB</b> Clause 12.1(a)(ii), a single contract that is similar to this Project, equivalent to at least fifty percent (50%) of the ABC.</p> <p><i>Or</i></p> <p><i>For the procurement of Expendable Supplies:</i> The Bidder must have completed, within the period specified in the Invitation to Bid and <b>ITB</b> Clause 12.1(a)(ii), a single contract that is similar to this Project, equivalent to at least twenty-five percent (25%) of the ABC.</p> <p><i>Or</i></p> <p><i>For procurement where the Procuring Entity has determined, after the conduct of market research, that imposition of the provisions of Section 23.4.1.3 of the IRR of RA 9184 will likely result to failure of bidding or monopoly that will defeat the purpose of public bidding:</i> In view of the determination by the Procuring Entity that imposition of the provisions of Section 23.4.1.3 of the IRR of RA 9184 will likely result to <i>[State "failure of bidding " or "monopoly that will defeat the purpose of public bidding "],</i> the Bidder should comply with the following requirements:</p> <p>a) Completed at least two (2) similar contracts, the aggregate amount of which should be equivalent to at least <i>[State "fifty percent (50%) " in the case of Non-Expendable Supplies and Services or "twenty-five percent (25%) " in the case of Expendable Supplies]</i> of the ABC for this Project; and</p> <p>b) The largest of these similar contracts must be equivalent to at least half of the percentage of the ABC as required above.</p> <p>For this purpose, similar contracts shall refer to <i>[insert description of similar contracts or state "No further instructions"]</i>.</p>
7.	No further instructions.

8.1	<i>State either "Subcontracting is not allowed." or specify the portions of Goods and the maximum percentage allowed to be subcontracted.</i>
8.2	<i>If subcontracting is allowed, specify the eligibility criteria that subcontractors must comply with, including the corresponding documentary requirements therefor; otherwise, state "Not applicable".</i>
9.1	<p>The Procuring Entity will hold a <b>Pre-Bid Conference</b> for this Project on <b>December 5, 2024 at 10:00 AM at</b> BAC Conference Room DPWH-Mis. Occ. 2<sup>nd</sup> DEO, Sta. Maria, Tangub City.</p> <p><i>If ADB, adopt the provision under Section IX. Foreign-Assisted Projects, ADB Bid Data Sheet <u>9.1</u>.</i></p> <p><i>If World Bank, adopt the provision under Section IX. Foreign-Assisted Projects, World Bank Bid Data Sheet <u>9.1</u>.</i></p>
10.1	<p>The Procuring Entity's address is:</p> <p><b>DPWH Misamis Occidental 2<sup>nd</sup> DEO, Sta. Maria, Tangub City</b></p> <p><b><i>Liza A. Solijon - Engineer III BAC Head Secretariat</i></b></p> <p><b><i>09482071693</i></b> <i><a href="mailto:solijon.liza@dpwh.gov.ph">solijon.liza@dpwh.gov.ph</a></i></p>
12.1	No further instructions.
12.1(b)(i)	<i>List any additional acceptable proof of registration mentioned in the ITB Clause or state "No other acceptable proof of registration is recognized."</i>
12.1(b)(k)(ii)	The statement of all ongoing government and private contracts shall include all such contracts within <i>[state relevant period as provided in the Invitation to Bid]</i> prior to the deadline for the submission and receipt of bids.
13.1(d)	No further instructions.
13.1(e)	<i>List any additional requirements and instructions, or state "No additional requirements and instructions."</i>
13.2	<p>The <b>ABC</b> is <b>₱ 2,398,620.00</b>. Any bid with a Financial Component exceeding this amount shall not be accepted.</p> <p><i>If ADB, adopt the provision under Section IX. Foreign-Assisted Projects, ADB Bid Data Sheet <u>13.2</u>. The ABC cannot be used to reject bids without the prior concurrence of ADB.</i></p> <p><i>If World Bank, adopt the provision under Section IX. Foreign-Assisted Projects, World Bank Bid Data Sheet <u>13.2</u>.</i></p>
15.4(a)(iv)	<p><i>List here the incidental services that are required as part of the Bidder's bid cross referencing to the technical specifications and SCC as appropriate.</i></p> <p><i>If none, state "No incidental services are required."</i></p>
15.4(b)	<p><i>Maintain the ITB Clause and state here "Not applicable"; "The price of the Goods shall be quoted DDP [state place of destination]", or the applicable INCOTERMS for this Project.</i></p> <p><i>List here the incidental services that are required as part of the Bidder's bid cross</i></p>

	<p><i>referencing to the technical specifications and SCC as appropriate.</i></p> <p><i>If none, state "No incidental services are required."</i></p>
16.1(b)	<p><i>Select one, delete the other:</i></p> <p>The Bid prices for Goods supplied from outside of the Philippines shall be quoted in Philippine Pesos.</p> <p><i>Or</i></p> <p>The Bid prices for Goods supplied from outside of the Philippines shall be quoted either in Philippine Pesos or United States Dollars at the discretion of the Bidder.</p>
16.3	<p><i>Maintain the ITB Clause and state here "Not applicable" or if procurement involves a foreign-denominated bid, state "Payment shall be made in [insert currency]."</i></p>
17.1	<p>Bids will be valid until <b>120 CD from the dates of Opening of Bids</b></p>
18.1	<p>The bid security shall be in the form of a Bid Securing Declaration, or any of the following forms and amounts:</p> <ol style="list-style-type: none"> <li>1. The amount of _____ <i>[Insert 2% of ABC]</i>, if bid security is in cash, cashier's/manager's check, bank draft/guarantee or irrevocable letter of credit; or</li> <li>2. The amount of _____ <i>[Insert 5% of ABC]</i> if bid security is in Surety Bond.</li> </ol>
18.2	<p>The bid security shall be valid until <b>April 15, 2025 until 10:00 AM.</b></p>
20.3	<p>Each Bidder shall submit <i>[insert required number]</i> original and <i>[insert required number]</i> copies of the first and second components of its bid.</p>
21	<p>The address for submission of bids is <b>DPWH Misamis Occidental 2<sup>nd</sup> DEO, Sta. Maria, Tangub City.</b></p> <p>The deadline for submission of bids is <b>December 17, 2024 until 1:00 PM.</b></p>
24.1	<p>The place of bid opening is <b>BAC Conference Room DPWH-Mis. Occ. 2<sup>nd</sup> DEO, Tangub City.</b></p> <p>The date and time of bid opening is <b>December 17, 2024 at 01:00 PM.</b></p>
24.2	<p>No further instructions.</p>
24.3	<p>No further instructions.</p>
27.1	<p>No further instructions.</p>
28.3(a)	<p><i>If applicable, adopt the following provision:</i></p> <p><b>Grouping and Evaluation of Lots –</b></p> <p><i>Lots should be formed of similar items that are likely to attract the maximum competition. A lot is the quantity and number of items that will be included in a single contract. For example:</i></p> <p><i>Option 1 – Each item to be evaluated and compared with other Bids separately and recommended for contract award separately.</i></p>

	<p><i>Option 2 - All items to be grouped together to form one complete Lot that will be awarded to one Bidder to form one complete contract.</i></p> <p><i>Option 3 - Similar items, to be grouped together to form several lots that shall be evaluated and awarded as separate contracts.</i></p> <p><i>Select one of the following paragraphs and delete the other:</i></p> <p>The goods are grouped in a single lot and the lot shall not be divided into sub-lots for the purpose of bidding, evaluation, and contract award.</p> <p><i>Or</i></p> <p>All Goods are grouped in lots listed below. Bidders shall have the option of submitting a proposal on any or all lots and evaluation and contract award will be undertaken on a per lot basis. Lots shall not be divided further into sub-lots for the purpose of bidding, evaluation, and contract award.</p> <p>In all cases, the NFCC computation, if applicable, must be sufficient for all the lots or contracts to be awarded to the Bidder.</p> <p><i>[Insert grouping of lots]</i></p>
28.4	No further instructions.
29.2	<i>List licenses and permits relevant to the Project and the corresponding law requiring it, or state "No additional requirement."</i>
32.4(h)	<i>List additional contract documents relevant to the Project that may be required by existing laws and/or the Procuring Entity.</i>



## Section IV

### GENERAL CONDITIONS OF CONTRACT

#### TABLE OF CONTENTS

1.	DEFINITIONS .....	337
2.	CORRUPT, FRAUDULENT, COLLUSIVE, AND COERCIVE PRACTICES .....	338
3.	INSPECTION AND AUDIT BY THE FUNDING SOURCE .....	349
4.	GOVERNING LAW AND LANGUAGE.....	359
5.	NOTICES .....	359
6.	SCOPE OF CONTRACT .....	50
7.	SUBCONTRACTING.....	50
8.	PROCURING ENTITY’S RESPONSIBILITIES .....	50
9.	PRICES .....	50
10.	PAYMENT .....	50
11.	ADVANCE PAYMENT AND TERMS OF PAYMENT .....	51
12.	TAXES AND DUTIES.....	372
13.	PERFORMANCE SECURITY .....	372
14.	USE OF CONTRACT DOCUMENTS AND INFORMATION .....	372
15.	STANDARDS .....	383
16.	INSPECTION AND TESTS .....	383
17.	WARRANTY.....	384
18.	DELAYS IN THE SUPPLIER’S PERFORMANCE .....	394
19.	LIQUIDATED DAMAGES.....	395
20.	SETTLEMENT OF DISPUTES .....	395
21.	LIABILITY OF THE SUPPLIER.....	405
22.	FORCE MAJEURE .....	406
23.	TERMINATION FOR DEFAULT.....	406
24.	TERMINATION FOR INSOLVENCY.....	417
25.	TERMINATION FOR CONVENIENCE .....	417
26.	TERMINATION FOR UNLAWFUL ACTS .....	427
27.	PROCEDURES FOR TERMINATION OF CONTRACTS .....	428
28.	ASSIGNMENT OF RIGHTS .....	439
29.	CONTRACT AMENDMENT .....	439
30.	APPLICATION .....	439

## GENERAL CONDITIONS OF CONTRACT

### 1. Definitions

1.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Procuring Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means all of the supplies, equipment, machinery, spare parts, other materials and/or general support services which the Supplier is required to provide to the Procuring Entity under the Contract.
- (d) "The Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) "GCC" means the General Conditions of Contract contained in this Section.
- (f) "SCC" means the Special Conditions of Contract.
- (g) "The Procuring Entity" means the organization purchasing the Goods, as named in the **SCC** such as the DPWH Central/Regional or District Engineering Offices.
- (h) "The Procuring Entity's country" is the Philippines.
- (i) "The Supplier" means the individual contractor, manufacturer distributor, or firm supplying/manufacturing the Goods and Services under this Contract and named in the **SCC**.
- (j) The "Funding Source" means the organization named in the **SCC**.
- (k) "The Project Site," where applicable, means the place or places named in the **SCC**.
- (l) "Day" means calendar day.
- (m) The "Effective Date" of the contract will be the date of signing the contract. However, the Supplier shall commence performance of its obligations only upon receipt of the Notice to Proceed and copy of the approved contract.
- (n) "Verified Report" refers to the report submitted by the Implementing Unit to the Head of the Procuring Entity setting forth its findings as to the existence of grounds or causes for termination and explicitly stating its recommendation for the issuance of a Notice to Terminate.

### 2. Corrupt, Fraudulent, Collusive, and Coercive Practices

2.1. The DPWH Procuring Entity as well as the bidders, contractors, or suppliers shall observe the highest standard of ethics during the procurement and execution of this Contract. In pursuance of this policy, the DPWH Procuring Entity:

- (a) defines, for the 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 it 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 Government, 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-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.
- (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 any of the practices mentioned in this Clause for purposes of competing for the contract.

2.2. Further the Funding Source, Borrower or DPWH 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 any of the practices mentioned in **GCC** Clause 2.1(a).

### **3. Inspection and Audit by the Funding Source**

The Supplier shall permit the Funding Source to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.

#### **4. Governing Law and Language**

- 4.1. This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.
- 4.2. 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 exchanged by the parties shall be written in English.

#### **5. Notices**

- 5.1. Any notice, request, or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request, or consent shall be deemed to have been given or made when received by the concerned party, either in person or through an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the **SCC**, which shall be effective when delivered and duly received or on the notice's effective date, whichever is later.
- 5.2. A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the **SCC** for **GCC** Clause 5.1.

#### **6. Scope of Contract**

- 6.1. The GOODS and Related Services to be provided shall be as specified in Section VI. Delivery Schedule.
- 6.2. This Contract shall include all such items, although not specifically mentioned, that can be reasonably inferred as being required for its completion as if such items were expressly mentioned herein. Any additional requirements for the completion of this Contract shall be provided in the **SCC**.

#### **7. Subcontracting**

- 7.1. Subcontracting of any portion of the Goods, if allowed in the **BDS**, does not relieve the Supplier of any liability or obligation under this Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Supplier's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 7.2. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract, subject to compliance with the required qualifications and the approval of the DPWH Procuring Entity.

#### **8. Procuring Entity's Responsibilities**

- 8.1. Whenever the performance of the obligations in this Contract requires that the Supplier obtain permits, approvals, import, and other licenses from local public authorities, the DPWH Procuring Entity shall, if so needed by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 8.2. The DPWH Procuring Entity shall pay all costs involved in the performance of its responsibilities in accordance with **GCC** Clause 0.

## 9. Prices

- 9.1. For the given scope of work in this Contract as awarded, all bid prices are considered fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB in accordance with Section 61 of R.A. 9184 and its IRR or except as provided in this Clause.
- 9.2. Prices charged by the Supplier for Goods delivered and/or services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any change in price resulting from a Change Order issued in accordance with **GCC** Clause 29.

## 10. Payment

- 10.1. Payments shall be made only upon a certification by the Head of the Procuring Entity to the effect that the Goods have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. Ten percent (10%) of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract as described in **GCC** Clause 17.
- 10.2. The Supplier's request(s) for payment shall be made to the DPWH Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and/or Services performed, and by documents submitted pursuant to the **SCC** provision for **GCC** Clause 6.2, and upon fulfillment of other obligations stipulated in this Contract.
- 10.3. Pursuant to **GCC** Clause 10.2, payments shall be made promptly by the DPWH Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier. Payments shall be in accordance with the schedule stated in the **SCC**.
- 10.4. Unless otherwise provided in the SCC, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.
- 10.5. Unless otherwise provided in the **SCC**, payments using Letter of Credit (LC), in accordance with the Guidelines issued by the GPPB, is allowed. For this purpose, the amount of provisional sum is indicated in the **SCC**. All charges for the opening of the LC and/or incidental expenses thereto shall be for the account of the Supplier.

## 11. Advance Payment and Terms of Payment

- 11.1. Advance payment shall be made only after prior approval of the President, and shall not exceed fifteen percent (15%) of the Contract amount, unless otherwise directed by the President or in cases allowed under Annex "D" of RA 9184.
- 11.2. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.
- 11.3. For Goods supplied from abroad, , unless otherwise indicated in the **SCC**, the terms of payment shall be as follows:
  - (a) On Contract Signature: Fifteen percent (15%) of the Contract Price shall be paid within sixty (60) days from signing of the Contract and upon submission of a claim and a bank guarantee for the equivalent amount valid until the Goods are delivered and in the form provided in Section VIII. Bidding Forms.

- (b) On Delivery: sixty-five percent (65%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of receipt of the Goods and upon submission of the documents (i) through (vi) specified in the SCC provision on Delivery and Documents.
- (c) On Acceptance: The remaining twenty percent (20%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of submission of the acceptance and inspection certificate for the respective delivery issued by the DPWH Procuring Entity's authorized representative. In the event that no inspection or acceptance certificate is issued by the DPWH Procuring Entity's authorized representative within forty five (45) days of the date shown on the delivery receipt the Supplier shall have the right to claim payment of the remaining twenty percent (20%) subject to the DPWH Procuring Entity's own verification of the reason(s) for the failure to issue documents (vii) and (viii) as described in the SCC provision on Delivery and Documents.

## **12. Taxes and Duties**

The Supplier, whether local or foreign, shall be entirely responsible for all the necessary taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

## **13. Performance Security**

- 13.1. Within ten (10) calendar days from receipt of the Notice of Award from the DPWH Procuring Entity but in no case later than the signing of the contract by both parties, the successful Bidder shall furnish the performance security in any the forms prescribed in the **ITB** Clause 0.
- 13.2. The performance security posted in favor of the DPWH Procuring Entity shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.
- 13.3. The performance security shall remain valid until issuance by the DPWH Procuring Entity of the Certificate of Final Acceptance.
- 13.4. The performance security may be released by the DPWH Procuring Entity and returned to the Supplier after the issuance of the Certificate of Final Acceptance subject to the following conditions:
  - (a) There are no pending claims against the Supplier or the surety company filed by the Procuring Entity;
  - (b) The Supplier has no pending claims for labor and materials filed against it; and
  - (c) Other terms specified in the SCC.
- 13.5. In case of a reduction of the contract value, the DPWH 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.

## **14. Use of Contract Documents and Information**

- 14.1. The Supplier shall not, except for purposes of performing the obligations in this Contract, without the DPWH Procuring Entity's prior written consent, disclose this Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the DPWH Procuring Entity. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.

- 14.2. Any document, other than this Contract itself, enumerated in **GCC** Clause 14.1 shall remain the property of the DPWH Procuring Entity and shall be returned (all copies) to the DPWH Procuring Entity on completion of the Supplier's performance under this Contract if so required by the DPWH Procuring Entity.

## **15. Standards**

The Goods provided under this Contract shall conform to the standards mentioned in the technical specifications; and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the institution concerned.

## **16. Inspection and Tests**

- 16.1. The DPWH Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Entity. The **SCC** shall specify what inspections and/or tests the DPWH Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 16.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the DPWH Procuring Entity. The Supplier shall provide the DPWH Procuring Entity with results of such inspections and tests.
- 16.3. The DPWH Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the DPWH Procuring Entity shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 16.4. The DPWH Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the DPWH Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to **GCC** Clause 5.
- 16.5. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the DPWH Procuring Entity or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

## **17. Warranty**

- 17.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials, except when the technical specifications required by the DPWH Procuring Entity provides otherwise.
- 17.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.

- 17.3. In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier for a minimum period specified in the **SCC**. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least one percent (1%) of every progress payment, or a special bank guarantee equivalent to at least one percent (1%) of the total Contract Price or other such amount if so specified in the **SCC**. The said amounts shall only be released after the lapse of the warranty period specified in the **SCC**; provided, however, that the Supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.
- 17.4. The DPWH Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC** and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the DPWH Procuring Entity.
- 17.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in **GCC** Clause 17.4, the DPWH Procuring Entity may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the DPWH Procuring Entity may have against the Supplier under the Contract and under the applicable law.

## **18. Delays in the Supplier's Performance**

- 18.1. Delivery of the Goods and/or performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the DPWH Procuring Entity in Section Schedule.
- 18.2. If at any time during the performance of this Contract, the Supplier or its Subcontractor(s) should encounter conditions impeding timely delivery of the Goods and/or performance of Services, the Supplier shall promptly notify the DPWH Procuring Entity in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, and upon causes provided for under **GCC** Clause 22, the DPWH Procuring Entity shall evaluate the situation and may extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of Contract.
- 18.3. Except as provided under **GCC** Clause 22, a delay by the Supplier in the performance of its obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to **GCC** Clause 19, unless an extension of time is agreed upon pursuant to **GCC** Clause 29 without the application of liquidated damages.

## **19. Liquidated Damages**

Subject to **GCC** Clauses 18 and 22, if the Supplier fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions if any, the DPWH Procuring Entity shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, the applicable rate of one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay until actual delivery or performance. The maximum deduction shall be ten percent (10%) of the amount of contract. Once the maximum is reached, the DPWH Procuring Entity may rescind or terminate the Contract pursuant to **GCC** Clause 23, without prejudice to other courses of action and remedies open to it.

## **20. Settlement of Disputes**

- 20.1. If any dispute or difference of any kind whatsoever shall arise between the DPWH Procuring Entity and the Supplier in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.



- 20.2. If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the DPWH Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 20.3. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract.
- 20.4. In the case of a dispute between the DPWH Procuring Entity and the Supplier, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."
- 20.5. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the DPWH Procuring Entity shall pay the Supplier any monies due the Supplier.

## **21. Liability of the Supplier**

- 21.1. The Supplier's liability under this Contract shall be as provided by the laws of the Republic of the Philippines, subject to additional provisions, if any, set forth in the **SCC**.
- 21.2. Except in cases of criminal negligence or willful misconduct, and in the case of infringement of patent rights, if applicable, the aggregate liability of the Supplier to the DPWH Procuring Entity shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

## **22. Force Majeure**

- 22.1. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that the Supplier's delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.
- 22.2. 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 Supplier 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 Supplier. Such events may include, but not limited to, acts of the DPWH Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 22.3. If a *force majeure* situation arises, the Supplier shall promptly notify the DPWH Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the DPWH Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the *force majeure*.

## **23. Termination for Default**

- 23.1. The DPWH Procuring Entity shall terminate this Contract for default when any of the following conditions attends its implementation:

- (a) Outside of *force majeure*, the Supplier fails to deliver or perform any or all of the Goods within the period(s) specified in the contract, or within any extension thereof granted by the DPWH Procuring Entity pursuant to a request made by the Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price;
  - (b) As a result of *force majeure*, the Supplier is unable to deliver or perform any or all of the Goods, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the DPWH Procuring Entity stating that the circumstance of force majeure is deemed to have ceased; or
  - (c) The Supplier fails to perform any other obligation under the Contract.
- 23.2. In the event the DPWH Procuring Entity terminates this Contract in whole or in part, for any of the reasons provided under **GCC** Clauses 23 to 26, the DPWH Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the DPWH Procuring Entity for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of this Contract to the extent not terminated.
- 23.3. In case the delay in the delivery of the Goods and/or performance of the Services exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the Supplier, the DPWH Procuring Entity may terminate this Contract, forfeit the Supplier's performance security and award the same to a qualified Supplier.

#### **24. Termination for Insolvency**

The DPWH Procuring Entity shall terminate this Contract if the Supplier 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 Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the DPWH Procuring Entity and/or the Supplier.

#### **25. Termination for Convenience**

- 25.1. The DPWH Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. The Head of the Procuring Entity may terminate a contract for the convenience of the Government 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.
- 25.2. The Goods that have been delivered and/or performed or are ready for delivery or performance within thirty (30) calendar days after the Supplier's receipt of Notice to Terminate shall be accepted by the DPWH Procuring Entity at the contract terms and prices. For Goods not yet performed and/or ready for delivery, the DPWH Procuring Entity may elect:
- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
  - (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed goods and for materials and parts previously procured by the Supplier.
- 25.3. If the Supplier suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for goods specially manufactured for the DPWH Procuring

Entity which cannot be sold in open market, it shall be allowed to recover partially from this Contract, on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the Supplier to the satisfaction of the DPWH Procuring Entity before recovery may be made.

## **26. Termination for Unlawful Acts**

26.1. The DPWH Procuring Entity may terminate this Contract in case it is determined *prima facie* that the Supplier has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation. Unlawful acts include, but are not limited to, the following:

- (a) Corrupt, fraudulent, and coercive practices as defined in **ITB** Clause 3.1(a);
- (b) Drawing up or using forged documents;
- (c) Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
- (d) Any other act analogous to the foregoing.

## **27. Procedures for Termination of Contracts**

27.1. The following provisions shall govern the procedures for 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 Implementing Unit 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 Implementing Unit, the Head of the Procuring Entity shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
  - (i) that this Contract is being terminated for any of the ground(s) aforementioned, 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 Supplier to show cause as to why this Contract should not be terminated; and
  - (iv) special instructions of the DPWH Procuring Entity, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the Head of the Procuring Entity a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the Head of the Procuring Entity shall issue an order terminating this Contract;
- (e) The DPWH Procuring Entity may, at any time before receipt of the Supplier's verified position paper described in item (d) 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 Supplier's receipt of the notice;

- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the Head of the Procuring Entity shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
- (g) The Head of the Procuring Entity 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 Head of the Procuring Entity; and
- (h) The Supplier must serve a written notice to the Procuring Entity of its intention to terminate the contract at least thirty (30) calendar days before its intended termination. The Contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the Procuring Entity.

**28. Assignment of Rights**

The Supplier shall not assign his rights or obligations under this Contract, in whole or in part, except with the DPWH Procuring Entity's prior written consent.

**29. Contract Amendment**

Subject to applicable laws, no variation in or modification of the terms of this Contract shall be made except by written amendment signed by the parties.

**30. Application**

These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of this Contract.

## Section V

### Special Conditions of Contract

GCC Clause	
1.1(g)	The Procuring Entity is <b>Department of Public Works Highways thru the Bids and Awards Committee.</b>
1.1(i)	The Supplier is <i>[to be inserted at the time of contract award]</i> .
1.1(j)	The Funding Source is <b>MOOE 2024</b>  in the amount of <b>₱ 2,398,620.00</b>
1.1(k)	The Project Site is <b>DPWH-MODEO II, Sta. Maria, Tangub City</b> <i>For multiple sites state "The Project sites are defined in Section VI"</i>
5.1	<p>The Procuring Entity's address for Notices is:</p> <p><b>Department of Public Works and Highways</b>  <b>Misamis Occidental 2<sup>nd</sup> District Engineering Office, Sta. Maria, Tangub City</b></p> <p>Attn: <b>MANUEL P. MEDINA</b>  BAC-Chairperson</p> <p>The Supplier's address for Notices is: <i>[Insert address including, name of contact, fax and telephone number]</i></p>
6.2	<p><i>List here any additional requirements for the completion of this Contract. The following requirements and the corresponding provisions may be deleted, amended, or retained depending on its applicability to this Contract:</i></p> <p><b>Delivery and Documents –</b></p> <p>For purposes of the Contract, "EXW," "FOB," "FCA," "CIF," "CIP," "DDP" and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of INCOTERMS published by the International Chamber of Commerce, Paris. The Delivery terms of this Contract shall be as follows:</p> <p><i>For Goods Supplied from Abroad, state "The delivery terms applicable to the Contract are DDP delivered [insert place of destination]. In accordance with INCOTERMS."</i></p> <p><i>For Goods Supplied from Within the Philippines, state "The delivery terms applicable to this Contract are delivered [insert place of destination]. Risk and title will pass from the Supplier to the Procuring Entity upon receipt and final acceptance of the Goods at their final destination."</i></p> <p>Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in <i>Section VI</i>. The details of shipping and/or other documents to be furnished by the Supplier are as follows:</p> <p><i>For Goods supplied from within the Philippines:</i></p> <p>Upon delivery of the Goods to the Project Site, the Supplier shall notify the Procuring Entity and present the following documents to the Procuring Entity:</p> <ul style="list-style-type: none"> <li>(i) Original and four copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;</li> <li>(ii) Original and four copies delivery receipt/note, railway receipt, or truck receipt;</li> <li>(iii) Original Supplier's factory inspection report;</li> <li>(iv) Original and four copies of the Manufacturer's and/or Supplier's warranty certificate;</li> </ul>

	<p>(v) Original and four copies of the certificate of origin (for imported Goods);</p> <p>(vi) Delivery receipt detailing number and description of items received signed by the authorized receiving personnel;</p> <p>(vii) Certificate of Acceptance/Inspection Report signed by the Procuring Entity's representative at the Project Site; and</p> <p>(viii) Four copies of the Invoice Receipt for Property signed by the Procuring Entity's representative at the Project Site.</p> <p><i>For Goods supplied from abroad:</i></p> <p>Upon shipment, the Supplier shall notify the Procuring Entity and the insurance company by cable the full details of the shipment, including Contract Number, description of the Goods, quantity, vessel, bill of lading number and date, port of loading, date of shipment, port of discharge etc. Upon delivery to the Project Site, the Supplier shall notify the Procuring Entity and present the following documents as applicable with the documentary requirements of any letter of credit issued taking precedence:</p> <p>(i) Original and four copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;</p> <p>(ii) Original and four copies of the negotiable, clean shipped on board bill of lading marked "freight pre-paid" and five copies of the non-negotiable bill of lading;</p> <p>(iii) Original Supplier's factory inspection report;</p> <p>(iv) Original and four copies of the Manufacturer's and/or Supplier's warranty certificate;</p> <p>(v) Original and four copies of the certificate of origin (for imported Goods);</p> <p>(vi) Delivery receipt detailing number and description of items received signed by the Procuring Entity's representative at the Project Site;</p> <p>(vii) Certificate of Acceptance/Inspection Report signed by the Procuring Entity's representative at the Project Site; and</p> <p>(viii) Four copies of the Invoice Receipt for Property signed by the Procuring Entity's representative at the Project Site.</p> <p>For purposes of this Clause the Procuring Entity's Representative at the Project Site is <i>[insert name(s)]</i>.</p> <p><b>Incidental Services –</b></p> <p>The Supplier is required to provide all of the following services, including additional services, if any, specified in <i>Section VI: Delivery Schedule</i>:</p> <p><i>Select appropriate requirements and delete the rest.</i></p> <p>(a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;</p> <p>(b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;</p> <p>(c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;</p> <p>(d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and</p> <p>(e) training of the Procuring Entity's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.</p> <p>The Contract price for the Goods shall include the prices charged by the Supplier for incidental</p>
--	---

services and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

### **Spare Parts –**

The Supplier is required to provide all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:

*Select appropriate requirements and delete the rest.*

- (a) such spare parts as the Procuring Entity may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under this Contract; and
- (b) in the event of termination of production of the spare parts:
  - i. advance notification to the Procuring Entity of the pending termination, in sufficient time to permit the Procuring Entity to procure needed requirements; and
  - ii. following such termination, furnishing at no cost to the Procuring Entity, the blueprints, drawings, and specifications of the spare parts, if requested.

The spare parts required are listed in *Section VI. Delivery Schedule* and the cost thereof are included in the Contract Price

The Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares for the Goods for a period of *[insert here the time period specified. If not used insert time period of three times the warranty period]*.

Other spare parts and components shall be supplied as promptly as possible, but in any case within *[insert appropriate time period]* months of placing the order.

### **Packaging –**

The Supplier shall provide such packaging of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in this Contract. The packaging shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packaging case size and weights shall take into consideration, where appropriate, the remoteness of the GOODS' final destination and the absence of heavy handling facilities at all points in transit.

The packaging, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified below, and in any subsequent instructions ordered by the Procuring Entity.

The outer packaging must be clearly marked on at least four (4) sides as follows:

Name of the Procuring Entity

Name of the Supplier

Contract Description

Final Destination

Gross weight

Any special lifting instructions

Any special handling instructions

	<p>Any relevant classifications</p> <p>A packaging list identifying the contents and quantities of the package is to be placed on an accessible point of the outer packaging if practical. If not practical the packaging list is to be placed inside the outer packaging but outside the secondary packaging.</p> <p><b>Insurance –</b></p> <p>The Goods supplied under this Contract shall be fully insured by the Supplier in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery. The Goods remain at the risk and title of the Supplier until their final acceptance by the Procuring Entity.</p> <p><b>Transportation –</b></p> <p>Where the Supplier is required under Contract to deliver the Goods CIF, CIP or DDP, transport of the Goods to the port of destination or such other named place of destination in the Philippines, as shall be specified in this Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.</p> <p>Where the Supplier is required under this Contract to transport the Goods to a specified place of destination within the Philippines, defined as the Project Site, transport to such place of destination in the Philippines, including insurance and storage, as shall be specified in this Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.</p> <p>Where the Supplier is required under Contract to deliver the Goods CIF, CIP or DDP, Goods are to be transported on carriers of Philippine registry. In the event that no carrier of Philippine registry is available, Goods may be shipped by a carrier which is not of Philippine registry provided that the Supplier obtains and presents to the Procuring Entity certification to this effect from the nearest Philippine consulate to the port of dispatch. In the event that carriers of Philippine registry are available but their schedule delays the Supplier in its performance of this Contract the period from when the Goods were first ready for shipment and the actual date of shipment the period of delay will be considered <i>force majeure</i> in accordance with <b>GCC</b> Clause 22.</p> <p>The Procuring Entity accepts no liability for the damage of Goods during transit other than those prescribed by INCOTERMS for DDP Deliveries. In the case of Goods supplied from within the Philippines or supplied by domestic Suppliers risk and title will not be deemed to have passed to the Procuring Entity until their receipt and final acceptance at the final destination.</p> <p><b>Patent Rights –</b></p> <p>The Supplier shall indemnify the Procuring Entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof.</p>
10.3	<p><i>State</i> "Payment shall be made only after inspection and acceptance of the Goods, in accordance with GCC Clauses 10.1 and 10.2."</p> <p>Or</p> <p><i>If payment is in tranches, state</i> "Payments shall be in accordance with the following schedule: _____"</p>
10.4	<p><i>Maintain the GCC Clause and state here</i> "Not applicable" <i>or if procurement involves a foreign-denominated bid, state</i> "Payment shall be made in [insert currency]."</p>
10.5	<p><i>State</i> "Payment using LC is not allowed."</p>



	<p><i>or</i></p> <p><i>If payment using LC is allowed, state "The amount of provisional sum is _____ Pesos (PhP _____)." [Note: The provisional sum shall not exceed 10% of the ABC, and shall form part of the ABC].</i></p>
11.3	<p><i>State "Maintain the GCC Clause."</i></p> <p><i>or</i></p> <p><i>State "The terms of payment shall be as follows: _____"</i></p>
13.4(c)	<p><i>Specify additional conditions, if any, that must be met prior to the release of the performance security, otherwise, state "No further instructions".</i></p>
16.1	<p>The inspections and tests that will be conducted are: <i>[Insert the applicable inspections and tests, if none, state "None"]</i>.</p>
17.3	<p><i>If the Goods pertain to Expendable Supplies:</i> Three (3) months after acceptance by the Procuring Entity of the delivered Goods or after the Goods are consumed, whichever is earlier, in the amount of <i>[insert amount]</i>.</p> <p><i>If the Goods pertain to Non-expendable Supplies:</i> One (1) year after acceptance by the Procuring Entity of the delivered Goods, in the amount of <i>[insert amount]</i>.</p>
17.4	<p>The period for correction of defects in the warranty period is <i>[insert number of days]</i>.</p>
21.1	<p><i>State here "No additional provision." or, if the Supplier is a joint venture, "All partners to the joint venture shall be jointly and severally liable to the Procuring Entity."</i></p>

## Section VI

## Delivery Schedule of Requirements

[illegible]

**Section VII****Technical Proposal**

<b>Item /Lot No.</b>	<b>DPWH Specification</b>	<b>Bidder's Specification/Statement of Compliance (Specify Brand Name of Offered Product/s)</b>
		<p>Bidders must state here either "Comply" or "Not Comply" against each of the individual parameters of each Specification stating the corresponding performance parameter of the equipment offered. Statements of "Comply" or "Not Comply" must be supported by evidence in a Bidders Bid and cross-referenced to that evidence. Evidence shall be in the form of manufacturer's un-amended sales literature, unconditional statements of specification and compliance issued by the manufacturer, samples, independent test data etc., as appropriate. A statement that is not supported by evidence or is subsequently found to be contradicted by the evidence presented will render the Bid under evaluation liable for rejection. A statement either in the Bidders statement of compliance or the supporting evidence that is found to be false either during Bid evaluation, post-qualification or the execution of the Contract may be regarded as fraudulent and render the Bidder or supplier liable for prosecution subject to the provisions of <b>ITB</b> Clause 3.1(a)(ii) and/or <b>GCC</b> Clause 2.1(a)(ii).</p>

---

(Name of Bidder)

---

(Signature Over Printed Name of  
Authorized Representative)

---

(Designation)

## **Section VIII. Bidding Forms**

---

### **BID FORM**

Date: \_\_\_\_\_  
Project Identification No.: \_\_\_\_\_

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

Having examined the Philippine Bidding Documents (PBDs) including the Supplemental or Bid Bulletin Numbers [insert numbers], the receipt of which is hereby duly acknowledged, we, the undersigned, offer to [supply/deliver/perform] [description of the Goods] in conformity with the said PBDs for the sum of [total Bid amount in words and figures] or the total calculated bid price, as evaluated and corrected for computational errors, and other bid modifications in accordance with the Price Schedules attached herewith and made part of this Bid. The total bid price includes the cost of all taxes, such as, but not limited to: [specify the applicable taxes, e.g. (i) value added tax (VAT), (ii) income tax, (iii) local taxes, and (iv) other fiscal levies and duties] which are itemized herein or in the Price Schedules.

If our Bid is accepted, we undertake:

- a. to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements of the Philippine Bidding Documents (PBDs);
- b. to provide a performance security in the form, amounts, and within the times prescribed in the PBDs;
- c. to abide by the Bid Validity Period specified in the PBDs and it shall remain binding upon us at any time before the expiration of that period.

[insert this paragraph if Foreign-Assisted Project with the Development Partner:

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

Name and Address	Amount and Purpose of
Agent	Currency Commission or gratuity


(if none, state "None") ]

Until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof and your Notice of Award, shall be binding upon us.

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

We certify/confirm that we comply with the eligibility requirements pursuant to the PBDs.

The undersigned is authorized to submit the bid on behalf of [name of the bidder] as evidence by the attached [state the written authority].

We acknowledge that failure to sign each and every page of this Bid Form, including the attached Schedule of Prices, shall be a ground for the rejection of our bid.

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

Legal capacity: \_\_\_\_\_

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

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

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

**BILL OF QUANTITIES  
WITH UNIT BID PRICES AND TOTAL BID PRICES**

Date of Bid Opening: \_\_\_\_\_

1	2	3	4	5	6	7
Item No.	Description	Unit	Quantity	Unit Bid Price(Peso)	Total Bid Price(Peso) <sup>1</sup>	Delivery Schedule
Total Amount of Bid:						
			(in words)		(in figures)	

Bid Validity: \_\_\_\_\_

Name and Signature of Bidder: \_\_\_\_\_

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

Telephone No. \_\_\_\_\_

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

Signature of Representative: \_\_\_\_\_

Note: Columns 1 to 4 are to be filled up by the Procuring Entity.  
Columns 5 to 7 shall be filled up by the Bidder.

\_\_\_\_\_

*Bidders are required to include the cost of all taxes, such as, but not limited to: value added tax (VAT), income tax, local taxes, customs duties, freight, insurance, bank charges and other fiscal levies and duties. These shall be itemized in the bid form and reflected in the detailed estimates.*

**Price Schedule for Goods Offered from Abroad**  
*[shall be submitted with the Bid if bidder is offering goods from Abroad]*

---

**For Goods Offered from Abroad**

Name of Bidder \_\_\_\_\_. Project ID No. \_\_\_\_\_. Page \_\_\_\_ of \_\_\_\_.

1	2	3	4	5	6	7	8	9
Item	Description	Country of origin	Quantity	Unit price CIF port of entry (specify port) or CIP named place  (specify border point or place of destination)	Total CIF or CIP price per item  (col. 4 x 5)	Unit Price Delivered Duty Unpaid (DDU)	Unit price Delivered Duty Paid (DDP)	Total Price delivered DDP  (col 4 x 8)

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

Legal capacity: \_\_\_\_\_

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

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

**Price Schedule for Goods Offered from Within the Philippines**

*[shall be submitted with the Bid if bidder is offering goods from within the Philippines]*

**For Goods Offered from Within the Philippines**

Name of Bidder \_\_\_\_\_. Project ID No. \_\_\_\_\_ Page \_ of \_\_\_\_.

1	2	3	4	5	6	7	8	9	10
Item	Description	Country of origin	Quantity	Unit price EXW per item	Transportation and all other costs incidental to delivery, per item	Sales and other taxes payable if Contract is awarded per item	Cost of Incidental Services, if applicable per item	Total Price, per unit (col 5+6+7+8)	Total Price delivered Final Destination (col 9) x (col 4)

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

Legal capacity: \_\_\_\_\_

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

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



## **Contract Agreement Form for the Procurement of Goods (Revised)**

[Not required to be submitted with the Bid, but it shall be submitted within ten (10) days after receiving the Notice of Award]

---

### **CONTRACT AGREEMENT**

THIS AGREEMENT made the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ between [name of PROCURING ENTITY] of the Philippines (hereinafter called "the Entity") of the one part and [name of Supplier] of city and country of Supplier] (hereinafter called "the Supplier") of the other part;

WHEREAS, THE Entity invited Bids for certain goods and ancillary services, particularly [brief description of goods and services] and has accepted a Bid by the Supplier for the supply of those goods and services in the sum of [contract price in words and figures in specified currency] (hereinafter called "the Contract Price").

#### **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 referred to.
2. The following documents as required by the 2016 revised Implementing Rules and Regulations of Republic Act No. 9184 shall be deemed to form and be read and construed as integral part of this Agreement, viz:
  - i. Philippine Bidding Documents (PBDs);
    - i. Schedule of Requirements;
    - ii. Technical Specification;
    - iii. General and Special Conditions of Contract; and
    - iv. Supplemental or Bid Bulletins, if any
  - ii. Winning bidder's bid, including the Eligibility requirements, Technical and Financial Proposals, and all other documents or statements submitted;
  - iii. Performance Security;
  - iv. Notice of Award of Contract, and Bidder's conforme thereto; and
  - v. Other contract documents that may be required by existing laws and/or the Procuring Entity concerned in the PBDs. **Winning bidder agrees that additional contract documents or information prescribed by the GPPB that are subsequently required for submission after the contract execution, such as the Notice to Proceed, Variation Orders, and Warranty Security, shall likewise form part of the Contract.**
3. In consideration for the sum of [total contract price in words and figures] or such other sums as may be ascertained. [Named of the bidder] agrees to [state the object of the contract] in accordance with his/her/its Bid.
4. The [Name of the procuring entity] agrees to pay the above-mentioned sum in accordance with the terms of the Bidding.

IN WITNESS whereof the parties hereto have caused this agreement to be executed in accordance with the laws of the Republic of the Philippines on the day and year first above written.

[Insert Name and Signature]

[Insert Name and Signature]

[Insert Signatory's Legal Capacity]

[Insert Signatory's Legal Capacity]

for:

for:

[Insert Procuring Entity]

[Insert Name of Supplier]

**Acknowledgement**

[Format shall be based on the latest Rules on Notarial Practice]

**OMNIBUS SWORN STATEMENT (Revised)**  
*[shall be submitted with the bid]*

---

REPUBLIC OF THE PHILIPPINES)  
CITY/MUNICIPALITY OF \_\_\_\_\_) S.S.

**AFFIDAVIT**

I, *[Name of Affiant]*, of legal age, *[Civil Status]*, *[Nationality]*, and residing at *[Address of Affiant]*, after having been duly sworn in accordance with law, do hereby depose and state that:

1. *[Select one, delete the other:]*

*[If a sole proprietorship:]* I am the sole proprietor or authorized representative of *[Name of Bidder]* with office address at *[address of Bidder]*;

*[If a partnership, corporation, cooperative, or joint venture:]* I am the duly authorized and designated representative of *[Name of Bidder]* with office address at *[address of Bidder]*;

2. *[Select one, delete the other:]*

*[If a sole proprietorship:]* As the owner and sole proprietor or authorized representative of *[Name of Bidder]*, I have 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 for *[Name of the Project]* of the *[Name of the Procuring Entity]*, as shown in the attached duly notarized Special Power of Attorney;

*[If a partnership, corporation, cooperative, or joint venture:]* I am 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 for *[Name of the Project]* of the *[Name of the Procuring Entity]*, as shown in the attached *[state title of attached documents showing proof of authorization (e.g., duly notarized Secretary's Certificate, Board/Partnership Resolution, or Special Power of Attorney, whichever is applicable);]*;

3. *[Name of Bidder]* is not "blacklisted" or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board; **by itself or by relation, membership, association, affiliation, or controlling interest with another blacklisted person or entity as defined and provided for in the Uniform Guidelines on Blacklisting;**

4. 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;

5. *[Name of Bidder]* is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;

6. *[Select one, delete the rest:]*

*[If a sole proprietorship:]* The owner or sole proprietor is not related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

*[If a partnership or cooperative:]* None of the officers and members of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC),

the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

*[If a partnership or cooperative:]* None of the officers and members of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

*[If a corporation or joint venture:]* None of the officers, directors, and controlling stockholders of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

7. *[Name of Bidder]* complies with existing labor laws and standards; and
8. *[Name of Bidder]* is aware of and has undertaken the responsibilities as a Bidder in compliance with the Philippine Bidding Documents, which includes:
  - a) Carefully examine all of the Bidding Documents;
  - b) Acknowledging all conditions, local or otherwise, affecting the implementation of the Contract;
  - c) Making an estimate of the facilities available and needed for the contract to be bid, if any; and
  - d) Inquiring or securing Supplemental/Bid Bulletin(s) issued for the *[Name of the Project]*.
9. *[Name of Bidder]* did not give or pay directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

**10. In case advance payment was made or given, failure to perform or deliver any of the obligations and undertaking's in the contract shall be sufficient grounds to constitute criminal liability for Swindling (Estafa) or the commission of fraud with unfaithfulness or abuse of confidence through misappropriating or converting any payment received by a person or entity under an obligation involving the duty to deliver certain goods or services, to prejudice and the government of the Philippines pursuant to article 315 of the Act No. 3815 s. 1930, as amended, or the Revised Penal Code.**

**IN WITNESS WHEREOF**, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_, 20\_\_ at \_\_\_\_\_, Philippines.

[Insert NAME OF BIDDER OR ITS AUTHORIZED REPRESENTATIVE]

[Insert signatory's legal capacity Affiant]

**[Jurat]**

[Format shall be based on the latest Rules on Notarial Practice]

**STATEMENT OF ALL GOVERNMENT AND PRIVATE CONTRACTS COMPLETED WHICH ARE SIMILAR TO THE CONTRACT TO BE BID**

**Business Name:**

**Business Address:**

Name of Contract /Project Cost	a. Owner's Name b. Address c. Telephone Nos.	Nature of Work	Bidder's Role		a. Amount at Award b. Amount at Completion c. Duration	a. Date Awarded b. Contract Effectivity c. Date Completed
			Description	%		
<u>Government</u>						
<u>Private</u>						

Note: This statement shall be supported with:

1. Copy Contract
2. Certificate of Completion
3. Certificate of Acceptance

Submitted by: \_\_\_\_\_  
(Printed Name and Signature)

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

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

DPWH-G&S-13: Statement of all Government and Private Contracts Completed which are Similar in Nature: The Prospective Bidders shall list down all government contracts completed which are similar in nature to the procurement at hand. The BAC shall use the form to determine whether the period specified in the Invitation to Bid, a single contract that is similar to the contract to be bid, and whose value, adjusted to the current prices using the National Statistics Office (NSO) consumer price indices, must be at least fifty percent (50%) of the ABC, in the case of Expendable Supplies, said single contract must be at least twenty-five percent (25%) of the ABC.

**LIST OF ALL ONGOING GOVERNMENT AND PRIVATE CONTRACTS INCLUDING CONTRACTS  
AWARDED BUT NOT YET STARTED**

**Business Name:**

**Business Address:**

Name of Contract /Project Cost	a. Owner's Name b. Address c. Telephone Nos.	Nature of Work	Bidder's Role		a. Date Awarded b. Date Started c. Date of Completion	% of Accomplishment		Value of Outstanding Works/ Undelivered Portion
			Description	%		Planned	Actual	
<u>Government</u>								
<u>Private</u>								
Note: This statement shall be supported with:						Total Cost		

1. Notice of Award and/or Contract
2. Notice to Proceed issued by owner
3. Certificate of Accomplishment signed by the owner or authorized representative

Submitted by: \_\_\_\_\_  
(Printed Name and Signature)

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

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

DPWH-G&S-14: List of all On-going Government and Private Contracts including Contracts Awarded but not yet Started: The Prospective Bidders shall list down all government and private contracts completed which are similar in nature to the procurement at hand. The BAC shall use the form to determine whether the period specified in the Invitation to Bid, a single contract that is similar to the contract to be bid, and whose value, adjusted to the current prices using the National Statistics Office (NSO) consumer price indices, must be at least fifty percent (50%) of the ABC, in the case of Expendable Supplies, said single contract must be at least twenty-five percent (25%) of the ABC

## Department of Public Works and Highways (DPWH)

**Contract ID:** \_\_\_\_\_

**Contract Name:** \_\_\_\_\_

**Location of the Contract:** \_\_\_\_\_

### Checklist of Eligibility, Technical and Financial Requirements for Bidders

The **Eligibility Component** shall contain the following:

1. **Certification** in lieu of Class "A" Documents.

Note: This document certifies that the Class "A" Documents are complete, current and updated. Presence of this document shall forego the checking of Class "A" Documents

OR all requirements listed under Class "A" and "B" Documents

#### **2. CLASS "A" DOCUMENTS**

1. Registration Certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, CDA for cooperatives, or any proof of such registration as stated in the Bidding Documents
2. Valid and current Mayor's permit/municipal license issued by the city or municipality where the principal place of business of the prospective bidder is located
3. Statement of ongoing and similar completed government and private contracts within the period specified in the ITB, including contract awarded but not yet started, if any, the statement shall include, for each contract, the following (Form No. 1&2):
  - a. Name of the Contract
  - b. Date and Status of the Contract
  - c. Kind of Goods Sold
  - d. Amount of Contract and Value of Outstanding Contracts
  - e. Date of Delivery
  - f. End-User Acceptance, if completed
4. Statement of the bidder's Single Largest Completed Contract similar to the contract to be bid. (G&S Form 13)
5. List of All Ongoing Government and Private Contracts including Contracts Awarded But Not Yet Started. (G&S Form 14)
6. The prospective bidder's audited financial statements, showing among others, the prospective bidder's total and current assets and liabilities, stamped "received" by the BIR or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission
7. The prospective bidder's computation for its Net Financial Contracting Capacity (NFCC) (Form No. 3)
8. Tax Clearance per Executive Order No. 398 series of 2005, as finally reviewed and approved by the BIR.

#### **3. CLASS "B" DOCUMENTS**

1. Valid joint venture agreement (JVA), in case the joint venture is already in existence. In the absence of a JVA, a duly notarized statement from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA if the bid is successful. Failure to enter into a joint venture in the event of a contract award shall be ground for the forfeiture of the Bid security. Each partner of the joint venture shall submit the legal eligibility documents. The submission of technical and financial eligibility documents by any of the joint venture partners constitutes compliance.

The Technical Component shall contain the following:

- 1. PhilGEPS Certificate of Registration
- 2. NFCC computation or committed Line of Credit
- 3. Bid Security in accordance with ITB Clause 18, a Bid Securing Declaration or any of the following:

Form of Bid Security	Amount of Bid Security (Equal to Percentage of ABC)
a. Cash or cashier’s/manager’s check issued by a Universal or Commercial Bank; or	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; or	
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; or	Five percent (5%)

- 4. Technical specifications proposal
- 5. Schedule of requirements/delivery
- 6. Manpower requirements, if applicable
- 7. After-sales service/parts, if applicable
- 8. Omnibus Sworn Statement.

**CHECKLIST OF FINANCIAL COMPONENT FOR BIDDERS**

**The Financial Component shall contain the following:**

- 1. Bid Form which includes Bid Prices
- 2. Bill of Quantities which includes Unit Bid Price and Total Bid Prices for each Item
- 2. Recurring or maintenance costs, if applicable



**Bid Securing Declaration Form**  
**[shall be submitted with the Bid if bidder opts to provide this form of bid security]**

---

REPUBLIC OF THE PHILIPPINES )  
 CITY OF \_\_\_\_\_ ) S.S.

**BID-SECURING DECLARATION**  
**Project Identification No.: [Insert number]**

To: **Department of Public Works & Highways**  
 Misamis Occidental 2<sup>nd</sup> DEO, Tangub City

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 procurement 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 the 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 validity period, or any extension thereof pursuant to your request;
  - (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 and Responsive Bid, and I/we have furnished the performance security and signed the Contract.

**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

**[Jurat]**

[Format shall be based on the latest Rules on Notarial Practice]