

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

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[<<-REVISED IMPLEMENTING RULES](#)

Section 1. Short Title and Purpose

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

[RULE I GENERAL PROVISIONS](#)

Section 2. Declaration of Policy

The provisions of this IRR are in line with the commitment of the GOP to promote good governance and its effort to adhere to the principle of transparency, accountability, equity, efficiency, and economy in its procurement process. It is the policy of the GOP that procurement of infrastructure projects, goods and consulting services shall be competitive and transparent, and therefore shall go through public bidding, except as otherwise provided in this IRR.(a)

[RULE I - GENERAL PROVISIONS](#)

Section 3. Governing Principles on Government Procurement

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

[Principle of Transparency](#) [Principle of Competitiveness](#)

[Principle of Streamlined](#)

[Principle of System of Accountability](#)

[Principle of Public Monitoring](#)

[RULE I - GENERAL PROVISIONS](#)

a) Transparency in the procurement process and in the implementation of procurement contracts through wide dissemination of bid opportunities and participation of pertinent non-government organizations.

[Section 3](#)

b) Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding.

[Section 3](#)

c) Streamlined procurement process that will uniformly apply to all government procurement. The procurement process shall be simple and made adaptable to advances in modern technology in order to ensure an effective and efficient method.

[Section 3](#)

d) System of accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts and the private parties that deal with GOP are, when warranted by circumstances, investigated and held liable for their actions relative thereto.

[Section 3](#)

e) Public monitoring of the procurement process and the implementation of awarded contracts with the end in view of guaranteeing that these contracts are awarded pursuant to the provisions of the Act and this IRR, and that all these contracts are performed strictly according to specifications.

[Section 3](#)

Section 4. Scope and Application of the IRR

- 4.1. This IRR shall apply to all procurement
- 4.2. Any Treaty or International or Executive Agreement
- 4.3. Unless the Treaty or International or Executive Agreement
- 4.4. This IRR shall not apply

RULE I - GENERAL PROVISIONS

4.1 This IRR shall apply to all procurement of any branch, agency, department, bureau, office, or instrumentality of the GOP, including government-owned and/or -controlled corporations (GOCCs), government financial institutions (GFIs), state universities and colleges (SUCs), and local government units (LGUs).(a)

[Section 4. Scope and Application of the IRR](#)

4.2. Any Treaty or International or Executive Agreement to which the GOP is a signatory affecting the subject matter of the Act and this IRR shall be observed. In case of conflict between the terms of the Treaty or International or Executive Agreement and this IRR, the former shall prevail.(a)

[Section 4. Scope and Application of the IRR](#)

4.3. Unless the Treaty or International or Executive Agreement expressly provides use of foreign government/foreign or international financing institution procurement procedures and guidelines, this IRR shall apply to Foreign-funded Procurement for goods, infrastructure projects, and consulting services by the GOP. Consistent with the policies and principles set forth in Sections 2 and 3 of this IRR, the GOP negotiating panels shall adopt, as its default position, use of this IRR, or at the very least, selection through competitive bidding, in all Foreign-funded Procurement. If the Treaty or International or Executive Agreement states otherwise, then the negotiating panels shall explain in writing the reasons therefor.(n)

[Section 4. Scope and Application of the IRR](#)

4.4. This IRR shall not apply to the following activities:

a) Procurement for goods b) Acquisition of real property

c) Public-Private sector

Section 4. Scope and Application of the IRR

Section 5. Definition of Terms

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

[Act. Refers to R.A. 9184 Approved Budget for the Contract](#)

[BAC](#)

[Bid](#)

[Bidder](#)

[Bidding Documents](#)

[Common-Use Supplies](#)

[Competitive Bidding](#)

[Consulting Services](#)

[Domestic Bidder](#)

[Domestic Entity](#)

[Executive Agreements](#)

[Expendable Supplies](#)

[Foreign Bid](#)

[Foreign-funded Procurement](#)

[Foreign Grants](#)

[Foreign Loans](#)

[Goods](#)

[GPPB](#)

[Head of the Procuring Entity](#)

[Infrastructure Projects](#)

[International Agreement](#)

[Non-expendable Supplies](#)

[PhilGEPS](#)

[Philippine National](#)

[Portal](#)

[Procurement](#)

[Procuring Entity](#)

[Treaties](#)

[Universal or Commercial Banks](#)

[RULE I - GENERAL PROVISIONS](#)

Section 6. Standardization of Procurement Process and Forms

6.1. To systematize the procurement process, avoid confusion and ensure transparency, the GPPB shall pursue the development and approval of generic procurement manuals and standard bidding documents and forms including those to be used for major procurement like drugs and textbooks.

6.2. Once issued by the GPPB, the use of the Generic Procurement Manuals (GPMs), Philippine Bidding Documents (PBDs), and other standard forms shall be mandatory upon all Procuring Entities. However, whenever necessary, to suit the particular needs of the procuring entity, modifications may be made, particularly for major and specialized procurement, subject to the approval of the GPPB.

RULE I GENERAL PROVISIONS

RULE II – PROCUREMENT PLANNING

[Section 7. Procurement Planning and Budgeting Linkage](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 7. Procurement Planning and Budgeting Linkage

- [7.1. All procurement shall be within the approved budget](#)
- [7.2. No procurement shall be undertaken](#)
- [7.3. The APP shall be formulated and revised](#)
- [7.4. Updating of the individual PPMPs](#)
- [7.5. The ABC as reflected in the APP or PPMP](#)

[RULE II - PROCUREMENT PLANNING](#)

7.1. All procurement shall be within the approved budget of the procuring entity and should be meticulously and judiciously planned by the procuring entity. Consistent with government fiscal discipline measures, only those considered crucial to the efficient discharge of governmental functions shall be included in the Annual Procurement Plan (APP). For purposes of this IRR, a procurement project shall be considered crucial to the efficient discharge of governmental functions if it is required for the day-to-day operations or is in pursuit of the principal mandate of the procuring entity concerned. The APP shall include provisions for foreseeable emergencies based on historical records. In the case of infrastructure projects, the APP shall consider the appropriate timing/phasing of related project activities, such as, engineering design and acquisition of right of way, to reduce/lower project costs.(a)

[Section 7. Procurement Planning and Budgeting Linkage](#)

7.2. No procurement shall be undertaken unless it is in accordance with the approved APP of the procuring entity. The APP shall bear the approval of the Head of the Procuring Entity or second-ranking official designated by the Head of the Procuring Entity to act on his behalf, and must be consistent with its duly approved yearly budget.(a)

[Section 7. Procurement Planning and Budgeting Linkage](#)

7.3. The APP shall be formulated and revised only in accordance with the following guidelines:

7.3.1. At the start of every budget period 7.3.2. The end-user units of the procuring entity

7.3.3. The PPMP

7.3.4. After the budget proposal

7.3.5. As soon as the GAA, corporate budget, or appropriation ordinance

Section 7. Procurement Planning and Budgeting Linkage

7.4. Updating of the individual PPMPs and the consolidated APP for each procuring entity shall be undertaken every six (6) months or as often as may be required by the Head of the Procuring Entity. The updating of the PPMPs shall be the responsibility of the respective end-user units of the Procuring Entities, while the consolidation of these PPMPs into an APP shall be lodged with the BAC Secretariat, subject to approval of the Head of the Procuring Entity.(a)

[Section 7. Procurement Planning and Budgeting Linkage](#)

7.5. The [ABC](#) as reflected in the APP or PPMP shall be at all times consistent with the appropriations for the project authorized in the GAA, continuing, and automatic appropriations, the corporate budget, and the appropriation ordinance, as the case may be. For NGAs, to facilitate the immediate implementation of projects even pending approval of the GAA, the ABC shall be based on the budget levels under the proposed national budget submitted by the President to Congress.(a)

[Section 7. Procurement Planning and Budgeting Linkage](#)

RULE III – PROCUREMENT BY ELECTRONIC MEANS

[Section 8. Procurement by Electronic Means and the Philippine Government Electronic Procurement System \(PhilGEPS\)](#) [Section 9. Security, Integrity and Confidentiality](#)

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

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[RULE III - PROCUREMENT BY ELECTRONIC MEANS](#)

8.1. The PhilGEPS

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8.2. Features of the PhilGEPS

[8.2.1. The Electronic Bulletin Board](#) [8.2.2. Registry of Manufacturers, Suppliers, Distributors, Contractors and Consultants](#)

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[8.2.4. Additional Features](#)

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

8.3. Use of the PhilGEPS

[8.3.1. All Procuring Entities](#) [8.3.2. The rules and regulations](#)

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

8.4. Pre-bid Conferences and Notices under the PhilGEPS

[8.4.1. Pre-bid conferences](#) [8.4.2. Requests for clarification](#)

[8.4.3. The Supplemental/Bid Bulletins](#)

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

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

[8.5.1. To ensure the widest dissemination](#) [8.5.2. Eligibility requirements](#)

[8.5.3. Registered bidders](#)

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[8.5.5. Upon receipt of a bid](#)

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

8.6. Opening of Bids under the PhilGEPS

[8.6.1. The BAC](#) [8.6.2. Only the financial proposals of bidders](#)

[8.6.3. An update of all procurement contracts](#)

[8.6.4. Without prejudice to criminal prosecution](#)

[8.6.5. When any of the foregoing acts](#)

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

8.7. Observers

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

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

Section 9. Security, Integrity and Confidentiality

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

- [a\) Security](#) [b\) Integrity](#)
- [c\) Confidentiality](#)
- [d\) Audit Trail](#)
- [e\) Performance Tracking](#)

RULE III - PROCUREMENT BY ELECTRONIC MEANS

RULE IV – COMPETITIVE BIDDING

[Section 10. Competitive Bidding](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 10. Competitive Bidding

All procurement shall be done through competitive bidding, except as provided in [Rule XVI](#) of this IRR.

RULE IV - COMPETITIVE BIDDING

RULE V – BIDS AND AWARDS COMMITTEE

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Section 11. The BAC and its Composition

[11.1. BAC Structure 11.2. BAC Composition](#)

[RULE V - BIDS AND AWARDS COMMITTEE](#)

11.1. BAC Structure

11.1.1. Each procuring entity 11.1.2. However, to expedite the procurement process

Section 11. The BAC and its Composition

11.2. BAC Composition

[11.2.1. The Head of the Procuring Entity](#) [11.2.2. The BAC for NGAs](#)

[11.2.3. The BAC for Local Government Units](#)

[11.2.4. The Head of the Procuring Entity may designate alternate members to the BAC](#)

[11.2.5. In no case shall the Head of the Procuring Entity](#)

[11.2.6. Unless sooner removed for a cause](#)

[Section 11. The BAC and its Composition](#)

Section 12. Functions of the BAC

[12.1. The BAC shall have the following functions](#) [12.2. The BAC shall be responsible for ensuring](#)

[12.3. Quorum](#)

[12.4. Meetings](#)

[RULE V - BIDS AND AWARDS COMMITTEE](#)

12.1. The BAC shall have the following functions: (a) advertise and/or post the invitation to bid/request for expressions of interest; (b) conduct pre-procurement and pre-bid conferences; (c) determine the eligibility of prospective bidders; (d) receive bids; (e) conduct the evaluation of bids; (f) undertake post-qualification proceedings; (g) resolve motions for reconsideration; (h) recommend award of contracts to the Head of the Procuring Entity or his duly authorized representative; (i) recommend the imposition of sanctions in accordance with [Rule XXIII](#); (j) recommend to the Head of the Procuring Entity the use of Alternative Methods of Procurement as provided for in [Rule XVI](#) hereof; and (k) perform such other related functions as may be necessary, including the creation of a Technical Working Group (TWG) from a pool of technical, financial, and/or legal experts to assist in the procurement process, particularly in the eligibility screening, evaluation of bids, and post-qualification.(a)

[Section 12. Functions of the BAC](#)

12.2. The BAC shall be responsible for ensuring that the procuring entity abides by the standards set forth by the Act and this IRR, and it shall prepare a procurement monitoring report in the form prescribed by the GPPB. The procurement monitoring report shall cover all procurement activities specified in the APP, whether ongoing and completed, from the holding of the pre-procurement conference to the issuance of notice of award and the approval of the contract, including the standard and actual time for each major procurement activity. The procurement monitoring report shall be approved and submitted by the Head of the Procuring Entity to the GPPB in printed and electronic format within fourteen (14) calendar days after the end of each semester.(a)

[Section 12. Functions of the BAC](#)

12.3. Quorum A majority of the total BAC composition as designated by the Head of the Procuring Entity shall constitute a quorum for the transaction of business, provided that the presence of the Chairman or Vice-Chairman shall be required.

[Section 12. Functions of the BAC](#)

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

[Section 12. Functions of the BAC](#)

Section 13. Observers

13.1. To enhance the transparency of the process 13.2. The observers shall come from an organization duly registered

13.3. Observers shall be invited at least three (3) calendar days

13.4. The observers shall have the following responsibilities

13.5. Observers shall be allowed access to the following documents

RULE V - BIDS AND AWARDS COMMITTEE

13.1. To enhance the transparency of the process, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the COA, at least two (2) observers, who shall not have the right to vote, to sit in its proceedings where:

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

[i\) For infrastructure projects](#) [ii\) For goods](#)

[iii\) For consulting services](#)

b) The other observer shall come from a non-government organization (NGO).(a)

[Section 13. Observers](#)

13.2. The observers shall come from an organization duly registered with the Securities and Exchange Commission (SEC) or the Cooperative Development Authority (CDA), and should meet the following criteria: a) Knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid; b) Absence of actual or potential conflict of interest in the contract to be bid; and c) Any other relevant criteria that may be determined by the BAC.(a)

[Section 13. Observers](#)

13.3. Observers shall be invited at least three (3) calendar days before the date of the procurement stage/activity. The absence of observers will not nullify the BAC proceedings, provided that they have been duly invited in writing.(a)

[Section 13. Observers](#)

13.4. The observers shall have the following responsibilities:

- a) To prepare the report either jointly or separately indicating their observations made on the procurement activities conducted by the BAC for submission to the Head of the Procuring Entity, copy furnished the BAC Chairman. The report shall assess the extent of the BAC's compliance with the provisions of this IRR and areas of improvement in the BAC's proceedings;
- b) To submit their report to the procuring entity and furnish a copy to the GPPB and Office of the Ombudsman/Resident Ombudsman. If no report is submitted by the observer, then it is understood that the bidding activity conducted by the BAC followed the correct procedure; and
- c) To immediately inhibit and notify in writing the procuring entity concerned of any actual or potential interest in the contract to be bid.(a)

[Section 13. Observers](#)

13.5. Observers shall be allowed access to the following documents upon their request, subject to signing of a confidentiality agreement: (a) minutes of BAC meetings; (b) abstract of Bids; (c) post-qualification summary report; (d) APP and related PPMP; and (e) opened proposals.(a)

[Section 13. Observers](#)

Section 14. BAC Secretariat

14.1. The Head of the Procuring Entity 14.2. The head of the Secretariat in central offices

14.3. To expedite the procurement process

RULE V - BIDS AND AWARDS COMMITTEE

14.1. The Head of the Procuring Entity shall create a Secretariat which will serve as the main support unit of the BAC. An existing organic office within the procuring entity may also be designated to serve as Secretariat. However, to strengthen and promote the professionalization of the organizations' procuring unit, the Head of the Procuring Entity may create procurement units that may serve concurrently as BAC Secretariat in accordance with the guidelines issued by DBM. The Secretariat shall have the following functions and responsibilities:

- a) Provide administrative support to the BAC;
- b) Organize and make all necessary arrangements for BAC meetings and conferences;
- c) Prepare minutes of meetings and resolutions of the BAC;
- d) Take custody of procurement documents and other records;
- e) Manage the sale and distribution of Bidding Documents to interested bidders;
- f) Advertise and/or post bidding opportunities, including Bidding Documents, and notices of awards;
- g) Assist in managing the procurement processes;
- h) Monitor procurement activities and milestones for proper reporting to relevant agencies when required;
- i) Consolidate PPMPs from various units of the procuring entity to make them available for review as indicated in [Section 7](#) of this IRR; and
- j) Act as the central channel of communications for the BAC with end users, PMOs, other units of the line agency, other government agencies, providers of goods, infrastructure projects, and consulting services, observers, and the general public.(a)

[Section 14. BAC Secretariat](#)

14.2. The head of the Secretariat in central offices shall be at least a fifth ranking permanent employee or, if not available, a permanent official of the next lower rank; or shall be at least a third ranking permanent employee in bureaus, regional offices and sub-regional/ district offices, or if not available, a permanent employee of the next lower rank. In addition to integrity, heads of Procuring Entities shall consider procurement proficiency as a factor in designating the head of the Secretariat and Procurement Unit.(a)

[Section 14. BAC Secretariat](#)

14.3. To expedite the procurement process, the Head of the Procuring Entity shall ensure that the members of the BAC and TWG shall give utmost priority to BAC assignments over all other duties and responsibilities, until the requirements for the said assignments at hand are completed.

[Section 14. BAC Secretariat](#)

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

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

[RULE V - BIDS AND AWARDS COMMITTEE](#)

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

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

[RULE V - BIDS AND AWARDS COMMITTEE](#)

RULE VI - PREPARATION OF BIDDING DOCUMENTS

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Section 17. Form and Contents of Bidding Documents

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[17.3. To provide prospective bidders ample time](#)

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[17.5. The procuring entity](#)

[17.6. Detailed Engineering for the Procurement of Infrastructure](#)

[RULE VI - PREPARATION OF BIDDING DOCUMENTS](#)

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

- a) Approved Budget for the Contract;
- b) Invitation to Bid/Request for Expression of Interest;
- c) Eligibility Requirements;
- d) Instructions to Bidders, including scope of bid, documents comprising the bid, criteria for eligibility, bid evaluation methodology/criteria in accordance with the Act, and post-qualification, as well as the date, time and place of the pre-bid conference (where applicable), submission of bids and opening of bids;
- e) Terms of Reference (TOR), for consulting services;
- f) Scope of work, where applicable;
- g) Plans/Drawings and Technical Specifications;
- h) Form of Bid, Price Form, and List of Goods or Bill of Quantities; i) Delivery Time or Completion Schedule;
- j) Form, Amount, and Validity Period of Bid Security;
- k) Form, Amount, and Validity of Performance Security and Warranty; and
- l) Form of Contract and General and Special Conditions of Contract.(a)

[Section 17. Form and Contents of Bidding Documents](#)

17.2. The specifications and other terms in the Bidding Documents shall reflect minimum requirements or specifications required to meet the needs of the procuring entity in clear and unambiguous terms.(a)

[Section 17. Form and Contents of Bidding Documents](#)

17.3. To provide prospective bidders ample time to examine the Bidding Documents and to prepare their respective bids, the concerned BAC shall make the Bidding Documents for the contract to be bid available for the following period:

- a) For the procurement of goods and infrastructure projects, from the time the Invitation to Bid is first advertised/posted until the deadline for the submission and receipt of bids.
- b) For the procurement of consulting services, eligibility documents shall be made available from the time the Request for Expression of Interest is first advertised/posted until the deadline for the eligibility check, and the Bidding Documents, from the determination of the short list until the deadline for the submission and receipt of bids.(21a)

[Section 17. Form and Contents of Bidding Documents](#)

17.4. Bidders may be asked to pay for the Bidding Documents to recover the cost of its preparation and development. The BAC shall issue the Bidding Documents upon payment of the corresponding cost thereof to the collecting/disbursing officer of the procuring entity concerned.(a)

[Section 17. Form and Contents of Bidding Documents](#)

17.5. The procuring entity shall also post the Bidding Documents at its website and at the PhilGEPS website from the time that the Invitation to Bid/Request for Expression of Interest is advertised. Prospective bidders may download the Bidding Documents from any of the said websites; Provided that, bidders shall pay the fee for the Bidding Documents upon submission of their Bids.(n)

[Section 17. Form and Contents of Bidding Documents](#)

17.6. Detailed Engineering for the Procurement of Infrastructure Projects No bidding and award of contract for infrastructure projects shall be made unless the detailed engineering investigations, surveys and designs, including the acquisition of the ROW, for the project have been sufficiently carried out and duly approved in accordance with the standards and specifications prescribed by the Head of the Procuring Entity concerned or his duly authorized representative, and in accordance with the provisions of [Annex "A"](#) of this IRR. The exception is design and build scheme, wherein the bidders shall be allowed to submit its detailed engineering designs as part of its bid. The procedures for the procurement and contract implementation of infrastructure projects using a design and build scheme shall be in accordance with the provisions of of [Annex "G"](#) of this IRR.(a)

[Section 17. Form and Contents of Bidding Documents](#)

Section 18. Reference to Brand Names

Specifications for the procurement of goods shall be based on relevant characteristics and/or performance requirements. Reference to brand names shall not be allowed.

[RULE VI - PREPARATION OF BIDDING DOCUMENTS](#)

Section 19. Access to Information

In all stages of the preparation of the Bidding Documents, the procuring entity shall ensure equal access to information. Prior to their official release to prospective bidders, no aspect of the Bidding Documents shall be divulged or released to any prospective bidder or person having direct or indirect interest in the project to be procured, or to any party, except those officially authorized in the handling of the documents.

[RULE VI - PREPARATION OF BIDDING DOCUMENTS](#)

RULE VII – INVITATION TO BID

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[<<-REVISED IMPLEMENTING RULES](#)

Section 20. Pre-procurement Conference

[20.1. Prior to the advertisement 20.2. The holding of a pre-procurement conference](#)

[RULE VII - INVITATION TO BID](#)

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

- a) Confirm the description and scope of the contract, the ABC, and contract duration.
- b) Ensure that the procurement is in accordance with the project and annual procurement plans;
- c) Determine the readiness of the procurement at hand, including, among other aspects, the following:
 - [i\) availability of appropriations](#)
 - [ii\) completeness of the Bidding Documents](#)
 - [iii\) completion of the detailed engineering](#)
 - [iv\) confirmation of the availability of ROW](#)
- d) Review, modify and agree on the criteria for eligibility screening, evaluation, and post-qualification;
- e) Review and adopt the procurement schedule, including deadlines and timeframes, for the different activities;
- f) Reiterate and emphasize the importance of confidentiality, in accordance with Section 19 of this IRR, and the applicable sanctions and penalties, as well as agree on measures to ensure compliance with the foregoing.(a)

[Section 20. Pre-procurement Conference](#)

20.2. The holding of a pre-procurement conference may not be required for small procurements, i.e., procurement of goods costing Two Million Pesos (P2,000,000.00) and below, procurement of infrastructure projects costing Five Million Pesos (P5,000,000.00) and below, and procurement of consulting services costing One Million Pesos (P1,000,000.00) and below.

[Section 20. Pre-procurement Conference](#)

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

[21.1. Contents of the Invitation to Bid/Request](#) [21.2. Advertising and Posting of the Invitation](#)

[RULE VII - INVITATION TO BID](#)

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

a) For the procurement of:

[i\) Goods](#)

[ii\) Infrastructure projects](#)

[iii\) Consulting services](#)

b) A general statement on the criteria to be used by the procuring entity for the eligibility check, the short listing of prospective bidders, in the case of the procurement of consulting services, the examination and evaluation of bids, post-qualification, and award;

c) The date, time and place of the deadline for the submission and receipt of the eligibility requirements, the pre-bid conference if any, the submission and receipt of bids, and the opening of bids;

d) ABC to be bid;

e) The source of funding;

f) The period of availability of the Bidding Documents, the place where the Bidding Documents may be secured, the website where the Bidding Documents may be downloaded, and, where applicable, the price of the Bidding Documents;

g) The contract duration or delivery schedule;

h) The name, address, telephone number, facsimile number, e-mail and website addresses of the concerned procuring entity, as well as its designated contact person; and

i) Such other necessary information deemed relevant by the procuring entity.

[Section 21. Advertising and Contents of the Invitation to Bid/Request for Expression of Interest](#)

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

[21.2.1. Except as otherwise provided in Sections 21.2.2 and 54.2](#) [21.2.2. Advertisement of the Invitation to Bid/Request](#)

[Section 21. Advertising and Contents of the Invitation to Bid/Request for Expression of Interest](#)

RULE VIII RECEIPT AND OPENING OF BIDS

[Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects](#)

[Section 24. Eligibility Requirements and Short Listing for Consulting Services](#)

[Section 25. Submission and Receipt of Bids](#)

[Section 26. Modification and Withdrawal of Bids](#)

[Section 27. Bid Security](#)

[Section 28. Bid Validity](#)

[Section 29. Bid Opening](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 22. Pre-bid Conference

22.1. For contracts to be bid 22.2. The pre-bid conference shall be held at least twelve (12) calendar days

22.3. The pre-bid conference shall discuss

22.4. The minutes of the pre-bid conference

22.5. Supplemental/Bid Bulletins

RULE VII - INVITATION TO BID

22.1. For contracts to be bid with an approved budget of One Million Pesos (P1,000,000.00) or more, the BAC shall convene at least one (1) pre-bid conference to clarify and/or explain any of the requirements, terms, conditions, and specifications stipulated in the Bidding Documents. For contracts to be bid with an approved budget of less than One Million Pesos (P1,000,000), pre-bid conferences may be conducted at the discretion of the BAC. Subject to the approval of the BAC, a pre-bid conference may also be conducted upon written request of any prospective bidder.

[Section 22. Pre-bid Conference](#)

22.2. The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of bids. If the procuring entity determines that, by reason of the method, nature, or complexity of the contract to be bid or when international participation will be more advantageous to the GOP, a longer period for the preparation of bids is necessary, the pre-bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids.(a)

[Section 22. Pre-bid Conference](#)

22.3. The pre-bid conference shall discuss, among other things, the eligibility requirements and the technical and financial components of the contract to be bid. Attendance of the bidders shall not be mandatory. However, only those who have purchased the Bidding Documents shall be allowed to participate in the pre-bid conference and raise or submit written queries or clarifications.(a)

[Section 22. Pre-bid Conference](#)

22.4. The minutes of the pre-bid conference shall be recorded and made available to all participants not later than three (3) calendar days after the pre-bid conference. Any statement made at the pre-bid conference shall not modify the terms of the Bidding Documents, unless such statement is specifically identified in writing as an amendment thereto and issued as a Supplemental/Bid Bulletin.(a)

[Section 22. Pre-bid Conference](#)

22.5. Supplemental/Bid Bulletins

[22.5.1. Requests for clarification\(s\)](#) [22.5.2. Supplemental/Bid Bulletins may be issued upon the procuring entity's initiative](#)

[22.5.3. Any Supplemental/Bid Bulletin issued by the BAC](#)

[Section 22. Pre-bid Conference](#)

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

- [23.1. For purposes of determining the eligibility](#)
- [23.2. Subject to Section 37.1 of this IRR](#)
- [23.3. A prospective bidder](#)
- [23.4. To facilitate determination of eligibility](#)
- [23.5. Eligibility Criteria](#)
- [23.6. Government corporate entities](#)
- [23.7. Not with standing the eligibility of a prospective bidder](#)

[RULE VIII - RECEIPT AND OPENING OF BIDS](#)

23.1. For purposes of determining the eligibility of bidders using the criteria stated in Section 23.5 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents,:

a) Class A Documents Legal Documents

[i\) Registration certificate from SEC ii\) Mayors permit issued by the city or municipality](#)

[iii\) Statement of the prospective bidder](#)

[iv\) In the case of procurement of infrastructure projects](#)

[v\) The prospective bidders audited financial statements](#)

[vi\) The prospective bidders computation](#)

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

[Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects](#)

23.2. Subject to Section 37.1 of this IRR, in the case of foreign bidders, the foregoing eligibility requirements under Class A Documents may be substituted by the appropriate equivalent documents, if any, issued by the country of the foreign bidder concerned. The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. A translation of the documents in English certified by the appropriate embassy or consulate in the Philippines must accompany the eligibility requirements under Class A and B Documents if they are in other foreign language.(a)

[Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects](#)

23.3. A prospective bidder may be allowed to submit his eligibility requirements electronically in accordance with Section 8.5 of this IRR.(a)

[Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects](#)

23.4. To facilitate determination of eligibility, the BAC of a procuring entity may maintain a registry system using the PhilGEPs or its own manual or electronic system that allows submission and/or recording/entry of eligibility requirements simultaneously with registration.(a)

[23.4.1. The registry system](#) [23.4.2. A bidder who maintains a current and updated file](#)

[23.4.3. If the procuring entity maintains a registry system](#)

[Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects](#)

23.5. Eligibility Criteria

[23.5.1. For the procurement of goods: 23.5.2. For the procurement of infrastructure projects:](#)

[Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects](#)

23.6. Government corporate entities may be eligible to participate in Competitive Bidding only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not dependent agencies of the GOP or the procuring entity. The GPPB shall promulgate the necessary guidelines for this provision.(n)

[Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects](#)

23.7. Notwithstanding the eligibility of a prospective bidder, the procuring entity concerned reserves the right to review the qualifications of the bidder at any stage of the procurement process if the procuring entity has reasonable grounds to believe that a misrepresentation has been made by the said prospective bidder, or that there has been a change in the prospective bidders capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility requirements, statements or documents, or any changes in the situation of the prospective bidder which will affect the capability of the bidder to undertake the project so that it fails the eligibility criteria, the procuring entity shall consider the said prospective bidder as ineligible and shall disqualify it from obtaining an award or contract, in accordance with Rules XXI, XXII, and XXIII of this IRR.

[Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects](#)

Section 24. Eligibility Requirements and Short Listing for Consulting Services

- [24.1. The following documents shall be submitted](#)
- [24.2. In the case of foreign consultants](#)
- [24.3. Eligibility Criteria](#)
- [24.4. Eligibility Check of Prospective Bidders](#)
- [24.5. Short Listing of Prospective Bidders](#)
- [24.6. Government corporate entities](#)
- [24.7. Not with standing the eligibility of a consultant](#)

RULE VIII - RECEIPT AND OPENING OF BIDS

24.1. The following documents shall be submitted, using the forms prescribed by the BAC in the Bidding Documents, for purposes of determining eligibility and short listing of prospective bidders in accordance with Sections 24.4 and 24.5 of this IRR:

a) Class A Documents Legal Documents

[i\) Registration certificate from SEC](#) [ii\) Mayors permit issued by the city](#)

[iii\) Statement of the prospective bidder](#)

[iv\) Statement of the consultant](#)

[v\) The consultants audited financial statements](#)

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

[Section 24. Eligibility Requirements and Short Listing for Consulting Services](#)

24.2. In the case of foreign consultants, the foregoing eligibility requirements under Class A Documents may be substituted by the appropriate equivalent documents, if any, issued by the foreign consultants country. The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. A translation of the documents in English certified by the appropriate embassy or consulate in the Philippines must accompany the eligibility requirements under Class A and B Documents if they are in other foreign language.(a)

[Section 24. Eligibility Requirements and Short Listing for Consulting Services](#)

24.3. Eligibility Criteria

[24.3.1. The following persons/entities](#) [24.3.2. When the types and fields of consulting services](#)

[24.3.3. In order to manifest trust and confidence](#)

[Section 24. Eligibility Requirements and Short Listing for Consulting Services](#)

24.4. Eligibility Check of Prospective Bidders

[24.4.1. The eligibility envelopes of prospective bidders](#) [24.4.2. Subject to the short listing of consultants](#)

[24.4.3. To facilitate determination of eligibility](#)

[Section 24. Eligibility Requirements and Short Listing for Consulting Services](#)

24.5. Short Listing of Prospective Bidders

24.5.1. With respect to a particular contract 24.5.2. The BAC shall draw up the short list of consultants

24.5.3. The BAC shall specify in the Request for Expression

24.5.4. The BAC shall recommend the short list of consultants

Section 24. Eligibility Requirements and Short Listing for Consulting Services

24.6. Government corporate entities may be eligible to participate in Competitive Bidding only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not dependent agencies of the GOP or the procuring entity. The GPPB shall promulgate the necessary guidelines for this provision.(n)

[Section 24. Eligibility Requirements and Short Listing for Consulting Services](#)

24.7. Notwithstanding the eligibility of a consultant and/or inclusion in the short list of consultants, the procuring entity concerned reserves the right to review his qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said consultant, or that there has been a change in the consultants capability to undertake the project from the time he submitted his eligibility requirements. Should such review uncover any misrepresentation made in the eligibility requirements, statements or documents, or any changes in the situation of the consultant which will affect the capability of the consultant to undertake the project so that the consultant fails the preset eligibility criteria, the procuring entity shall consider the said consultant as ineligible and shall disqualify him from submitting a bid or from obtaining an award or contract, in accordance with Rules XXI, XXII, and XXIII of this IRR.

[Section 24. Eligibility Requirements and Short Listing for Consulting Services](#)

Section 25. Submission and Receipt of Bids

[25.1. Bidders shall submit their bids](#) [25.2. The first envelope](#)

[25.3. The second envelope](#)

[25.4. Bids shall be received by the BAC](#)

[25.5. Bids, including the eligibility requirements](#)

[RULE VIII - RECEIPT AND OPENING OF BIDS](#)

25.1. Bidders shall submit their bids through their duly authorized representative using the forms specified in the Bidding Documents in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under Section 23.1 of this IRR, and the second shall contain the financial component of the bid.(a)

[Section 25. Submission and Receipt of Bids](#)

25.2. The first envelope shall contain the following technical information/documents, at the least:

a) For the procurement of goods:

- [i\) Eligibility requirements](#)
- [ii\) The bid security](#)
- [iii\) Technical specifications](#)
- [iv\) Sworn statement](#)

b) For the procurement of infrastructure projects:

- [i\) Eligibility requirements](#)
- [ii\) Bid security](#)
- [iii\) Project Requirements](#)
- [iv\) Sworn statement](#)

c) For the procurement of consulting services:

- [i\) The bid security](#)
- [ii\) Organizational chart](#)
- [iii\) List of completed](#)
- [iv\) Approach, work plan, and schedule](#)
- [v\) List of key personnel](#)
- [vi\) Sworn statement](#)

[Section 25. Submission and Receipt of Bids](#)

25.3. The second envelope shall contain the financial information/documents as specified in the PBDs.
(a)

[Section 25. Submission and Receipt of Bids](#)

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

a) For Goods, a maximum period of forty-five (45) calendar days.

b) For infrastructure projects, the following maximum periods: Approved Budget for the Contract (in Philippine currency) Period Fifty (50) million and below 50 calendar days Above fifty (50) million 65 calendar days

c) For consulting services, a maximum period of seventy five (75) calendar days.(21a)

[Section 25. Submission and Receipt of Bids](#)

25.5. Bids, including the eligibility requirements under Section 23.1 of this IRR, submitted after the deadline shall not be accepted by the BAC.(a)

[Section 25. Submission and Receipt of Bids](#)

Section 26. Modification and Withdrawal of Bids

26.1. A bidder may modify its bid, provided that this is done before the deadline for the submission and receipt of bids. Where a bidder modifies its bid, it shall not be allowed to retrieve its original bid, but shall only be allowed to send another bid equally sealed, properly identified, linked to its original bid and marked as a modification, thereof, and stamped received by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the bidder unopened.

26.2. A bidder may, through a letter, withdraw its bid before the deadline for the receipt of bids. Withdrawal of bids after the applicable deadline shall be subject to appropriate sanctions as prescribed in this IRR. A bidder may also express its intention not to participate in the bidding through a letter which should reach and be stamped received by the BAC before the deadline for the receipt of bids. A bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.

[RULE VIII - RECEIPT AND OPENING OF BIDS](#)

Section 27. Bid Security

- 27.1. All bids shall be accompanied
- 27.2. The bid security shall be in an amount equal
- 27.3. The bid security shall be denominated
- 27.4. Without prejudice to the provisions
- 27.5. In no case shall bid security

RULE VIII - RECEIPT AND OPENING OF BIDS

27.1. All bids shall be accompanied by a bid security, payable to the procuring entity concerned as a guarantee that the successful bidder shall, within ten (10) calendar days or less, as indicated in the Instructions to Bidders, from receipt of the notice of award, enter into contract with the procuring entity and furnish the performance security required in Section 39 of this IRR, except when Section 37.1 of this IRR allows a longer period. Failure to enclose the required bid security in the form and amount prescribed herein shall automatically disqualify the bid concerned.

[Section 27. Bid Security](#)

27.2. The bid security shall be in an amount equal to a percentage of the ABC in accordance with the following schedule: Form of Bid Security Amount of Bid Security (Equal to Percentage of the ABC)

- a) Cash, cashiers/managers check, bank draft/guarantee confirmed by a Universal or Commercial Bank. Two percent (2%)
- b) 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. Five percent (5%)
- d) Any combination of the foregoing. Proportionate to share of form with respect to total amount of security For biddings conducted by LGUs, the prospective bidder may also submit bid securities in the form of cashiers/managers check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the BSP as authorized to issue such financial instrument.(a)

[Section 27. Bid Security](#)

27.3. The bid security shall be denominated in Philippine Pesos and posted in favor of the procuring entity.(a)

[Section 27. Bid Security](#)

27.4. Without prejudice to the provisions of the Act and this IRR on the forfeiture of bid securities, bid securities shall be returned only after the bidder with the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid, as the case may be, has signed the contract and furnished the performance security, except to those declared by the BAC as failed or post-disqualified in accordance with this IRR, upon submission of a written waiver of their right to file a motion for reconsideration and/or protest.(a)

[Section 27. Bid Security](#)

27.5. In no case shall bid security be returned later than the expiration of the bid validity period indicated in the Bidding Documents, unless it has been extended in accordance with Section 28.2 of this IRR.(n)

[Section 27. Bid Security](#)

Section 28. Bid Validity

[28.1. Bids and bid securities 28.2. Should it become necessary to extend the validity](#)

[RULE VIII - RECEIPT AND OPENING OF BIDS](#)

28.1. Bids and bid securities shall be valid for a reasonable period as determined by the Head of the Procuring Entity concerned, which shall be indicated in the Bidding Documents, but in no case shall the period exceed one hundred twenty (120) calendar days from the date of the opening of bids.

[Section 28. Bid Validity](#)

28.2. Should it become necessary to extend the validity of the bids and bid securities beyond one hundred twenty (120) calendar days, the procuring entity concerned shall request in writing all those who submitted bids for such extension before the expiration date therefor. Bidders, however, shall have the right to refuse to grant such extension without forfeiting their bid security.(37a)

[Section 28. Bid Validity](#)

Section 29. Bid Opening

The BAC shall open the bids at the time, date, and place specified in the Bidding Documents. The bidders or their duly authorized representatives may attend the opening of bids. The BAC shall adopt a procedure for ensuring the integrity, security, and confidentiality of all submitted bids. 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.

[RULE VIII - RECEIPT AND OPENING OF BIDS](#)

RULE IX - BID EVALUATION

[Section 30. Short Title and Purpose](#) [Section 31. Declaration of Policy](#)

[Section 32. Governing Principles on Government Procurement](#)

[Section 33. Scope and Application of the IRR](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 30. Preliminary Examination of Bids

30.1. The BAC shall open the first bid envelopes 30.2. Immediately after determining compliance

30.3. For the procurement of goods

30.4. For the procurement of consulting services

RULE IX BID EVALUATION

30.1. The BAC shall open the first bid envelopes of prospective bidders in public to determine each bidders compliance with the documents required to be submitted for eligibility and for the technical requirements, as prescribed in this IRR. For this purpose, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a nondiscretionary pass/fail criterion, as stated in the Instructions to Bidders. If a bidder submits the required document, it shall be rated passed for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as failed. Otherwise, the BAC shall rate the said first bid envelope as passed.(a)

[Section 30. Preliminary Examination of Bids](#)

30.2. Immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible bidder whose first bid envelope was rated passed. The second envelope of each complying bidder shall be opened within the same day, except as provided under Section 33 of this IRR. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC, 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.

[Section 30. Preliminary Examination of Bids](#)

30.3. For the procurement of goods where, due to the nature of the requirements of the project, the required technical specifications/requirements of the contract cannot be precisely defined in advance of bidding, or where the problem of technically unequal bids is likely to occur, a two (2)-stage bidding procedure may be employed. In these cases, the procuring entity concerned shall prepare the Bidding Documents, including the technical specification in the form of performance criteria only. Under this procedure, prospective bidders shall be requested at the first stage to submit their respective eligibility requirements if needed, and initial technical proposals only (no price tenders). The concerned BAC shall then evaluate the technical merits of the proposals received from eligible bidders vis-à-vis the required performance standards. A meeting/discussion shall then be held by the BAC with those eligible bidders whose technical tenders meet the minimum required standards stipulated in the Bidding Documents for purposes of drawing up the final revised technical specifications/requirements of the contract. Once the final revised technical specifications are completed and duly approved by the concerned BAC, copies of the same shall be issued to all the bidders identified in the first stage who shall then be required to submit their revised technical tenders, including their price proposals in two (2) separate sealed envelopes in accordance with this IRR, at a specified deadline, after which time no more bids shall be received. The concerned BAC shall then proceed in accordance with the procedure prescribed in this IRR.

[Section 30. Preliminary Examination of Bids](#)

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

[Section 30. Preliminary Examination of Bids](#)

Section 31. Ceiling for Bid Prices

[31.1. The ABC shall be the upper limit 31.2. For Foreign-funded Procurement](#)

[RULE IX – BID EVALUATION](#)

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

[Section 31. Ceiling for Bid Prices](#)

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

a) Bidding Documents are obtainable free of charge on a freely accessible website. If payment of Bidding Documents is required by the procuring entity, payment could be made upon the submission of bids.

b) The procuring entity has procedures in place to ensure that the ABC is based on recent estimates made by the engineer or the responsible unit of the procuring entity and that the estimates are based on adequate detailed engineering (in the case of works) and reflect the quality, supervision and risk and inflationary factors, as well as prevailing market prices, associated with the types of works or goods to be procured.

c) The procuring entity has trained cost estimators on estimating prices and analyzing bid variances. In the case of infrastructure projects, the procuring entity must also have trained quantity surveyors.

d) The procuring entity has established a system to monitor and report bid prices relative to ABC and engineers/procuring entity's estimate.

e) The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of goods and works. However, the GOP and the foreign government/foreign or international financing institution may agree to waive the foregoing conditions.(n)

[Section 31. Ceiling for Bid Prices](#)

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

- [32.1. Members of the BAC](#)
- [32.2. For the procurement of goods](#)
- [32.3. After all bids have been received](#)
- [32.4. The entire evaluation process](#)

[RULE IX BID EVALUATION](#)

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

[Section 32. Bid Evaluation for the Procurement of Goods and Infrastructure Projects](#)

32.2. For the procurement of goods and infrastructure projects, the purpose of bid evaluation is to determine the Lowest Calculated Bid using the following steps:

32.2.1. The BAC shall immediately conduct 32.2.2. The BAC shall evaluate all bids

32.2.3. In case of discrepancies

32.2.4. Bids shall then be ranked

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

32.3. After all bids have been received, opened, examined, evaluated, and ranked, the BAC shall prepare the corresponding Abstract of Bids. All members of the BAC shall sign the Abstract of Bids and attach thereto all the bids with their corresponding bid securities and the minutes or proceedings of the bidding. The Abstract of Bids shall contain the following: a) Name of the contract and its location, if applicable; b) Time, date and place of bid opening; and c) Names of bidders and their corresponding calculated bid prices arranged from lowest to highest, the amount of bid security and the name of the issuing entity.

[Section 32. Bid Evaluation for the Procurement of Goods and Infrastructure Projects](#)

32.4. The entire evaluation process for the procurement of goods and infrastructure projects shall be completed within seven (7) calendar days from the deadline for receipt of proposals. However, for infrastructure projects costing Fifty Million Pesos (P50,000,000) and below, the entire evaluation process shall be completed in not more than five (5) calendar days from the deadline for receipt of proposals.(a)

[Section 32. Bid Evaluation for the Procurement of Goods and Infrastructure Projects](#)

Section 33. Bid Evaluation of Short Listed Bidders for Consulting Services

[33.1. From submission and receipt of bids](#) [33.2. The purpose of bid evaluation](#)

[33.3. There should be no replacement of key personnel](#)

[33.4. The entire evaluation process](#)

[RULE IX BID EVALUATION](#)

33.1. From submission and receipt of bids until the approval by the Head of the Procuring Entity of the ranking of short listed bidders, those that have submitted their bids are prohibited from making any communication with any BAC member, including its staff and personnel, as well as its Secretariat and TWG, regarding matters connected to their bids. However, the BAC, through its Secretariat, may ask in writing the bidder for a clarification of its bid. All responses to requests for clarification shall be in writing.(a)

[Section 33. Bid Evaluation of Short Listed Bidders for Consulting Services](#)

33.2. The purpose of bid evaluation is to determine the Highest Rated Bid using the following steps:

33.2.1. The BAC shall conduct a detailed evaluation 33.2.2. The technical proposals of consultants

33.2.3. In order to eliminate bias

33.2.4. All participating short listed consultants

33.2.5. Negotiations

33.2.6. Total calculated bid prices

Section 33. Bid Evaluation of Short Listed Bidders for Consulting Services

33.3. There should be no replacement of key personnel before the awarding of contract, except for justifiable reason, such as, illness, death, or resignation provided it is duly supported by relevant certificates, or any delay caused by the procuring entity. The procuring entity shall immediately consider negotiation with the next ranked consultant if unjustifiable replacement of personnel by the first ranked firm is made. Once the contract has been awarded, no replacement shall be allowed until after fifty percent (50%) of the personnels man-months have been served, except for justifiable reasons, subject to appropriate sanctions as prescribed in the PBDs.(a)

[Section 33. Bid Evaluation of Short Listed Bidders for Consulting Services](#)

33.4. The entire evaluation process, including the submission of the results thereof to the Head of the Procuring Entity for approval, shall be completed in not more than twenty-one (21) calendar days after the deadline for receipt of proposals. The proposal with the highest score shall be identified as the Highest Rated Bid.(a)

[Section 33. Bid Evaluation of Short Listed Bidders for Consulting Services](#)

RULE X – POST-QUALIFICATION

[Section 34. Objective and Process of Post-Qualification](#) [Section 35. Failure of Bidding](#)

[Section 36. Single Calculated/Rated and Responsive Bid Submission](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 34. Objective and Process of Post-Qualification

- 34.1. The Lowest Calculated Bid/Highest Rated Bid
- 34.2. Within three (3) calendar days
- 34.3. The post-qualification shall verify, validate, and ascertain all statements
- 34.4. If the BAC determines that the bidder
- 34.5. If, however, the BAC determines that the bidder
- 34.6. Immediately after the BAC has notified the first bidder
- 34.7. If the second bidder, however, fails the post-qualification
- 34.8. The post-qualification process shall be completed

RULE X POST-QUALIFICATION

34.1. The Lowest Calculated Bid/Highest Rated Bid shall undergo post-qualification in order to determine whether the bidder concerned complies with and is responsive to all the requirements and conditions as specified in the Bidding Documents.(a)

[Section 34. Objective and Process of Post-Qualification](#)

34.2. Within three (3) calendar days from receipt by the bidder of the notice from the BAC that the bidder has the Lowest Calculated Bid or Highest Rated Bid, the bidder shall submit the following documentary requirements to the BAC:

a) Tax clearance;

b) Latest income and business tax returns;

c) Certificate of PhilGEPS Registration; and

d) Other appropriate licenses and permits required by law and stated in the Bidding Documents. Failure to submit the above requirements on time or a finding against the veracity of such shall be ground for the forfeiture of the bid security and disqualify the bidder for award.(n)

[Section 34. Objective and Process of Post-Qualification](#)

34.3. The post-qualification shall verify, validate, and ascertain all statements made and documents submitted by the bidder with the Lowest Calculated Bid/Highest Rated Bid, using non-discretionary criteria, as stated in the Bidding Documents. These criteria shall consider, but shall not be limited to, the following:

a) Legal Requirements. To verify, validate, and ascertain licenses, certificates, permits, and agreements submitted by the bidder, and the fact that it is not included in any blacklist as provided in Section 25.2 of this IRR. For this purpose, the GPPB shall maintain a consolidated file of all blacklisted suppliers, contractors, and consultants.

b) Technical Requirements. To determine compliance of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including, where applicable:

[i\) Verification and validation](#) [ii\) Verification of availability](#)

[iii\) Verification and/or inspection](#)

[iv\) Ascertainment of the sufficiency](#)

c) Financial Requirements. To verify, validate and ascertain the bid price proposal of the bidder and, whenever applicable, the required CLC in the amount specified and over the period stipulated in the Bidding Documents, or the bidders NFCC to ensure that the bidder can sustain the operating cash flow of the transaction.

[Section 34. Objective and Process of Post-Qualification](#)

34.4. If the BAC determines that the bidder with the Lowest Calculated Bid/Highest Rated Bid passes all the criteria for post-qualification, it shall declare the said bid as the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid, and recommend to the Head of the Procuring Entity the award of contract to the said bidder at its submitted bid price or its calculated bid price, whichever is lower or, in the case of quality-based evaluation procedure, submitted bid price or its negotiated price, whichever is lower.(a)

[Section 34. Objective and Process of Post-Qualification](#)

34.5. If, however, the BAC determines that the bidder with the Lowest Calculated Bid/Highest Rated Bid fails the criteria for post-qualification, it shall immediately notify the said bidder in writing of its post-disqualification and the grounds for it.(a)

[Section 34. Objective and Process of Post-Qualification](#)

34.6. Immediately after the BAC has notified the first bidder of its post-disqualification, and notwithstanding any pending request for reconsideration thereof, the BAC shall initiate and complete the same post-qualification process on the bidder with the second Lowest Calculated Bid/Highest Rated Bid. If the second bidder passes the post-qualification, and provided that the request for reconsideration of the first bidder has been denied, the second bidder shall be post-qualified as the bidder with the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid.(a)

[Section 34. Objective and Process of Post-Qualification](#)

34.7. 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/Highest Rated Bid, and so on until the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid, as the case may be, is determined for award, subject to Section 37 of this IRR.

[Section 34. Objective and Process of Post-Qualification](#)

34.8. The post-qualification process shall be completed in not more than seven (7) calendar days from the determination of the Lowest Calculated Bid/Highest Rated Bid. In exceptional cases, the post-qualification period may be extended by the Head of the Procuring Entity, but in no case shall the aggregate period exceed thirty (30) calendar days.(a)

[Section 34. Objective and Process of Post-Qualification](#)

Section 35. Failure of Bidding

- 35.1. The BAC shall declare the bidding
- 35.2. In order to determine the reason
- 35.3. Based on its findings
- 35.4. All bidders who have initially responded
- 35.5. Should there occur a second failure

RULE X POST-QUALIFICATION

35.1. The BAC shall declare the bidding a failure 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, in the case of consulting services, there is no successful negotiation; or

d) The bidder with the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid refuses, without justifiable cause, to accept the award of contract, and no award is made in accordance with Section 40 of the Act and this IRR.

[Section 35. Failure of Bidding](#)

35.2. In order to determine the reason for the failed bidding, the BAC shall conduct a mandatory review and evaluation of the terms, conditions, and specifications in the Bidding Documents, including its cost estimates.(a)

[Section 35. Failure of Bidding](#)

35.3. Based on its findings, the BAC shall revise the terms, conditions, and specifications, and if necessary, adjust the ABC, subject to the required approvals, and conduct a re-bidding with re-advertisement and/or posting, as provided for in Section 21.2 of this IRR.(a)

[Section 35. Failure of Bidding](#)

35.4. All bidders who have initially responded to the Invitation to Bid/Request for Expression of Interest and have been declared eligible or short listed in the previous biddings shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules followed during the previous bidding(s).(a)

[Section 35. Failure of Bidding](#)

35.5. Should there occur a second failure of bidding, the procuring entity may resort to negotiated procurement, as provided for in Section 53.1 of this IRR.

[Section 35. Failure of Bidding](#)

Section 36. Single Calculated/Rated and Responsive Bid Submission

A single calculated/rated and responsive bid shall be considered for award if it falls under any of the following circumstances:

- a) If after advertisement, only one prospective bidder submits an LOI and/or applies for eligibility check, in accordance with the provisions of this IRR, and it meets the eligibility requirements or criteria, after which it submits a bid which is found to be responsive to the bidding requirements;
- b) If after advertisement, more than one prospective bidder submits an LOI and/or applies for eligibility check, in accordance with the provisions of this IRR, but only one bidder meets the eligibility requirements or criteria, after which it submits a bid which is found to be responsive to the bidding requirements; or
- c) If after the eligibility check, more than one bidder meets the eligibility requirements, but only one bidder submits a bid, and its bid is found to be responsive to the bidding requirements. In all instances, the procuring entity shall ensure that the ABC reflects the most advantageous prevailing price for the Government.

[RULE X POST-QUALIFICATION](#)

RULE XI – AWARD, IMPLEMENTATION AND TERMINATION OF THE CONTRACT

[Section 37. Notice and Execution of Award](#) [Section 38. Period of Action on Procurement Activities](#)
[Section 39. Performance Security](#)
[Section 40. Failure to Enter into Contract and Post Performance Security](#)
[Section 41. Reservation Clause](#)
[Section 42. Contract Implementation and Termination](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 37. Notice and Execution of Award

[37.1. Contract Award](#) [37.2. Contract Signing](#)

[37.3. Contract Approval](#)

[37.4. Notice to Proceed](#)

[RULE XI – AWARD, IMPLEMENTATION AND TERMINATION OF THE CONTRACT](#)

37.1. Contract Award

37.1.1. The BAC shall recommend to the Head of the Procuring Entity 37.1.2. Within a period not exceeding seven (7) calendar days

37.1.3. In case of approval, the Head of the Procuring Entity

37.1.4. Notwithstanding the issuance of the Notice of Award

37.1.5. Contract award

37.1.6. The BAC, through the Secretariat

Section 37. Notice and Execution of Award

37.2. Contract Signing

[37.2.1. The winning bidder](#) [37.2.2. The procuring entity](#)

[37.2.3. The following documents](#)

[Section 37. Notice and Execution of Award](#)

37.3. Contract Approval by Higher Authority When further approval of higher authority is required, the approving authority for the contract or his duly authorized representative shall be given a maximum of fifteen (15) calendar days from receipt thereof to approve or disapprove it. However, for infrastructure projects with an ABC of Fifty Million Pesos (P50,000,000) and below, the maximum period is five (5) calendar days. In the case of GOCCs, the concerned board or its duly authorized representative shall be given a maximum of twenty-five (25) calendar days from receipt thereof to approve or disapprove it.

[Section 37. Notice and Execution of Award](#)

37.4. Notice to Proceed

37.4.1. The procuring entity shall issue the Notice 37.4.2. The procuring entity, through the BAC Secretariat

Section 37. Notice and Execution of Award

Section 38. Period of Action on Procurement Activities

[38.1. The procurement process](#) [38.2. The maximum periods](#)

[38.3. If no action on the contract](#)

[RULE XI – AWARD, IMPLEMENTATION AND TERMINATION OF THE CONTRACT](#)

38.1. The procurement process from the opening of bids up to the award of contract shall not exceed three (3) months, or a shorter period to be determined by the procuring entity concerned. All members of the BAC shall be on a jury duty type of assignment until the Notice of Award is issued by the Head of the Procuring Entity in order to complete the entire procurement process at the earliest possible time. For purposes of this section, the term jury duty shall be understood to mean a state by which the members give utmost priority to BAC assignment over all the other duties and responsibilities until the requirements for the said assignments at hand are completed.

[Section 38. Period of Action on Procurement Activities](#)

38.2. The maximum periods and earliest possible time for action on specific procurement activities are provided for in Annex C of this IRR. In case the deadline for each activity falls on a non-working day (i.e. Saturday and Sunday), legal holiday, or special non-working holiday, the deadline shall be the next working day.

[Section 38. Period of Action on Procurement Activities](#)

38.3. If no action on the contract is taken by the Head of the Procuring Entity or the appropriate approving authority within the periods specified in this IRR, the contract concerned shall be deemed approved: Provided, however, That where further approval by the Office of the President is required, the contract shall not be deemed approved unless and until the Office of the President gives actual approval to the contract concerned.

[Section 38. Period of Action on Procurement Activities](#)

Section 39. Performance Security

- 39.1. To guarantee the faithful performance
- 39.2. The performance security shall be in an amount equal
- 39.3. The performance security shall be denominated in Philippine Pesos
- 39.4. The performance security shall remain valid
- 39.5. The performance security may be released
- 39.6. For the procurement of infrastructure projects
- 39.7. In case of a reduction in the contract value

RULE XI AWARD, IMPLEMENTATION AND TERMINATION OF THE CONTRACT

39.1. To guarantee the faithful performance by the winning bidder of its obligations under the contract in accordance with the Bidding Documents, it shall post a performance security prior to the signing of the contract.

[Section 39. Performance Security](#)

39.2. The performance security shall be in an amount equal to a percentage of the total contract price in accordance with the following schedule: Form of Performance Security Amount of Performance Security (Equal to Percentage of the Total Contract Price)

- a) Cash, cashiers/managers check, bank draft/guarantee confirmed by a Universal or Commercial Bank. Goods and Consulting Services Five percent (5%) Infrastructure Projects Ten percent (10%)
- b) 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 Thirty percent (30%) by the Insurance Commission as authorized to issue such security.
- d) Any combination of the foregoing. Proportionate to share of form with respect to total amount of security For biddings conducted by LGUs, the prospective bidder may also submit performance securities in the form of cashiers/managers check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the BSP as authorized to issue such financial instrument.(a)

[Section 39. Performance Security](#)

39.3. The performance security shall be denominated in Philippine Pesos and posted in favor of the procuring entity, which shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.(n)

[Section 39. Performance Security](#)

39.4. The performance security shall remain valid until issuance by the procuring entity of the final Certificate of Acceptance.

[Section 39. Performance Security](#)

39.5. The performance security may be released by the procuring entity after the issuance of the Certificate of Acceptance, subject to the following conditions:

- a) Procuring entity has no claims filed against the contract awardee or the surety company;
- b) It has no claims for labor and materials filed against the contractor; and
- c) Other terms of the contract.(a)

[Section 39. Performance Security](#)

39.6. For the procurement of infrastructure projects, the winning bidder shall post an additional performance security following the schedule above to cover any cumulative increase of more than ten percent (10%) over the original value of the contract as a result of amendments to order or change orders, extra work orders and supplemental agreements, as the case may be. The winning bidder shall cause the extension of the validity of the Performance Security to cover approved contract time extensions.

[Section 39. Performance Security](#)

39.7. In case of a reduction in the contract value, or, in the case of procurement of infrastructure projects, for partially completed works under the contract which are usable and accepted by the GOP, and the use of which, in the judgment of the implementing agency or the procuring entity, will not affect the structural integrity of the entire project, the said agency or 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.(a)

[Section 39. Performance Security](#)

Section 40. Failure to Enter into Contract and Post Performance Security

40.1. If the bidder with the Lowest Calculated 40.2. In the case of the failure, refusal or inability the bidder with the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid

40.3. In the case of failure, refusal or inability of the bidder with the Single Calculated/Rated Responsive Bid

RULE XI AWARD, IMPLEMENTATION AND TERMINATION OF THE CONTRACT

40.1. If the bidder with the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid or the bidder with the Single Calculated/Rated Responsive Bid, fails, refuses or is unable to submit the documents required under Section 37.1 of this IRR or to make good its bid by entering into a contract with the procuring entity or post the required Performance Security within the period stipulated in this IRR or in the Bidding Documents, the bid security shall be forfeited and the appropriate sanctions provided in this IRR and existing laws shall be imposed, except where such failure, refusal or inability is through no fault of the said bidder.

[Section 40. Failure to Enter into Contract and Post Performance Security](#)

40.2. In the case of the failure, refusal or inability of the bidder with the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid to submit the documents required under Section 37.1 of this IRR or to enter into contract and post the required Performance Security, as provided in this Section, the BAC shall disqualify the said bidder, and shall initiate and complete the post-qualification process on the bidder with the second Lowest Calculated Bid/Highest Rated Bid: Provided, however, That in the case of consulting services, the second Highest Rated Bid has successfully undergone the negotiation stage in accordance with Section 33.2.5 of this IRR. This procedure shall be repeated until the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid is determined for award. However, if no bidder passes post-qualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement. Should there occur another failure of bidding after the conduct of the contracts re-bidding, the procuring entity concerned may enter into a negotiated procurement.

[Section 40. Failure to Enter into Contract and Post Performance Security](#)

40.3. In the case of failure, refusal or inability of the bidder with the Single Calculated/Rated Responsive Bid to submit the documents required under Section 37.1 of this IRR or to enter into contract and post the required Performance Security, as provided in this Section, the BAC shall disqualify the said bidder, and shall declare the bidding a failure and conduct a re-bidding with re-advertisement and/or posting, as provided for in Sections 21 and 25 of this IRR. Should there occur another failure of bidding after the conduct of the contracts re-bidding, the procuring entity concerned may enter into a negotiated procurement.

[Section 40. Failure to Enter into Contract and Post Performance Security](#)

Section 41. Reservation Clause

The Head of the Procuring Entity reserves the right to reject any and all bids, declare a failure of bidding, or not award the contract in the following situations:

- a) If there is prima facie evidence of collusion between appropriate public officers or employees of the procuring entity, or between the BAC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
- b) If the 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 procuring entity.

[RULE XI AWARD, IMPLEMENTATION AND TERMINATION OF THE CONTRACT](#)

Section 42. Contract Implementation and Termination

[42.1. The contract implementation guidelines for the procurement of goods](#) [42.2. The contract implementation guidelines for the procurement of infrastructure projects](#)

[42.3. The contract implementation guidelines for the procurement of consulting services](#)

[42.4. No incentive bonus](#)

[42.5. Procuring Entities](#)

[RULE XI AWARD, IMPLEMENTATION AND TERMINATION OF THE CONTRACT](#)

42.1. The contract implementation guidelines for the procurement of goods, supplies and materials are provided for in Annex D of this IRR.

[Section 42. Contract Implementation and Termination](#)

42.2. The contract implementation guidelines for the procurement of infrastructure projects are provided for in Annex E of this IRR.

[Section 42. Contract Implementation and Termination](#)

42.3. The contract implementation guidelines for the procurement of consulting services are provided for in Annex F of this IRR.

[Section 42. Contract Implementation and Termination](#)

42.4. No incentive bonus, in whatever form or for whatever purpose, shall be allowed.

[Section 42. Contract Implementation and Termination](#)

42.5. Procuring Entities may issue a letter of credit in favor of a local or foreign suppliers; Provided, that, no payment on the letter of credit shall be made until delivery and acceptance of the goods as certified to by the procuring entity in accordance with the delivery schedule provided for in the contract have been concluded; Provided further, that, the cost for the opening of letter of credit shall be for the account of the local or foreign supplier and must be stated in the Bidding Documents.

[Section 42. Contract Implementation and Termination](#)

RULE XII – DOMESTIC AND FOREIGN PROCUREMENT

[Section 43. Procurement of Domestic and Foreign Goods](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 43. Procurement of Domestic and Foreign Goods

[43.1. Scope and Application](#) [43.2. Procedures and Guidelines](#)

[RULE XII – DOMESTIC AND FOREIGN PROCUREMENT](#)

43.1. Scope and Application

[43.1.1. Consistent with the GOPs obligations](#) [43.1.2. The procuring entity](#)

[43.1.3. A Domestic Entity](#)

[43.1.4. A Domestic Bidder](#)

[Section 43. Procurement of Domestic and Foreign Goods](#)

43.2. Procedures and Guidelines

[43.2.1. The preference shall be applied](#) [43.2.2. For evaluation purposes](#)

[43.2.3. In the event that \(a\) the lowest bid](#)

[43.2.4. If the Domestic Entity/Bidder](#)

[Section 43. Procurement of Domestic and Foreign Goods](#)

RULE XIII – BIDDING OF PROVINCIAL PROJECTS

[Section 44. Bidding of Provincial Projects Section 45. Provincial Bidders](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 44. Bidding of Provincial Projects

Priority programs and infrastructure projects funded out of the annual GAA which are intended for implementation within the province shall be subject to the same public bidding and to the procurement processes prescribed in this IRR. For purposes of this Section, Engineering District infrastructure projects and priority programs fully funded by the Government and identified in consultation with the concerned members of Congress, shall constitute provincial projects and shall be governed by this Section.

[RULE XIII BIDDING OF PROVINCIAL PROJECTS](#)

Section 45. Provincial Bidders

In accordance with Section 45 of the Act, the right to match accorded to provincial bidders is no longer available after 26 January 2008.(a)

[RULE XIII BIDDING OF PROVINCIAL PROJECTS](#)

RULE XIV - LEASE OF COMPUTERS, COMMUNICATIONS, INFORMATION AND OTHER EQUIPMENT

[Section 46. Lease Contracts](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 46. Lease Contracts

The lease of construction and office equipment, including computers, communication and information technology equipment, are subject to the same public bidding and to the processes prescribed under the Act and this IRR. Lease may also cover lease purchases or lease-to-own and similar variations.

[RULE XIV LEASE OF COMPUTERS, COMMUNICATIONS, INFORMATION AND OTHER EQUIPMENT](#)

RULE XV – DISCLOSURE OF RELATIONS

[Section 47. Disclosure of Relations](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 47. Disclosure of Relations

All bids shall be accompanied by a sworn affidavit of the bidder that it is not related to the Head of the Procuring Entity, members of the BAC, the TWG, and the BAC Secretariat, the head of the PMO or the end-user unit, and the project consultants, by consanguinity or affinity up to the third civil degree. Failure to comply with the aforementioned provision shall be a ground for the automatic disqualification of the bid in consonance with Section 30 of this IRR. For this reason, relation to the aforementioned persons within the third civil degree of consanguinity or affinity shall automatically disqualify the bidder from participating in the procurement of contracts of the procuring entity. On the part of the bidder, this provision 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, the provisions of items (a), (b), or (c) of this Section shall correspondingly apply to each of the members of the said joint venture, as may be appropriate.(a)

[RULE XV DISCLOSURE OF RELATIONS](#)

RULE XVI – ALTERNATIVE METHODS OF PROCUREMENT

[Section 48. Alternative Methods](#) [Section 49. Limited Source Bidding](#)

[Section 50. Direct Contracting](#)

[Section 51. Repeat Order](#)

[Section 52. Shopping](#)

[Section 53. Negotiated Procurement](#)

[Section 54. Terms and Conditions for the use of Alternative Methods](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 48. Alternative Methods

[48.1. Subject to the prior approval](#) [48.2. In accordance with Section 10 of this IRR](#)

[48.3. The method of procurement](#)

[RULE XVI – ALTERNATIVE METHODS OF PROCUREMENT](#)

48.1. Subject to the prior approval of the Head of the Procuring Entity, and whenever justified by the conditions provided in this Act, the procuring entity may, in order to promote economy and efficiency, resort to any of the alternative methods of procurement provided in this Rule. In all instances, the procuring entity shall ensure that the most advantageous price for the Government is obtained.

[Section 48. Alternative Methods](#)

48.2. In accordance with Section 10 of this IRR, as a general rule, the Procuring Entities shall adopt public bidding as the general mode of procurement and shall see to it that the procurement program allows sufficient lead time for such public bidding. Alternative methods shall be resorted to only in the highly exceptional cases provided for in this Rule.

[Section 48. Alternative Methods](#)

48.3. The method of procurement to be used shall be as indicated in the approved APP. If the original mode of procurement recommended in the APP was public bidding but cannot be ultimately pursued, the BAC, through a resolution, shall justify and recommend the change in the mode of procurement to be approved by the Head of the procuring entity.(n)

[Section 48. Alternative Methods](#)

Section 49. Limited Source Bidding

49.1. Limited Source Bidding 49.2. The pre-selected suppliers or consultants

49.3. The pre-selection shall be based upon the capability

49.4. The BAC of the concerned procuring entity

RULE XVI - ALTERNATIVE METHODS OF PROCUREMENT

49.1. Limited Source Bidding, otherwise known as selective bidding, is a method of procurement of goods and consulting services that involves direct invitation to bid by the procuring entity from the list of pre-selected suppliers or consultants with known experience and proven capability on the requirements of the particular contract. This alternative method of procurement may be employed under any of the following conditions:

- a) Procurement of highly specialized types of goods (e.g., sophisticated defense equipment, complex air navigation systems, coal) and consulting services where only a few suppliers or consultants are known to be available, such that resorting to the public bidding method will not likely result in any additional suppliers or consultants participating in the bidding; or
- b) Procurement of major plant components where it is deemed advantageous to limit the bidding to known qualified bidders in order to maintain uniform quality and performance of the plant as a whole.(a)

[Section 49. Limited Source Bidding](#)

49.2. The pre-selected suppliers or consultants shall be those appearing in a list maintained by the relevant government authority that has expertise in the type of procurement concerned. The list of pre-selected suppliers or consultants shall be updated periodically. A copy of the list shall be submitted to, and maintained updated with, the GPPB.(a)

[Section 49. Limited Source Bidding](#)

49.3. The pre-selection shall be based upon the capability and resources of the bidders to perform the contract taking into account their experience and past performance on similar contracts, capabilities with respect to personnel equipment or manufacturing facilities, and financial position. Pre-selection shall be done in accordance with the procedures provided in the GPMs.(n)

[Section 49. Limited Source Bidding](#)

49.4. The BAC of the concerned procuring entity shall directly invite all the suppliers or consultants appearing in the pre-selected list. All other procedures for competitive bidding shall be undertaken, except for the advertisement of Invitation to Bid/Request for Expression of Interest under Section 21.2.1 of this IRR.(a)

[Section 49. Limited Source Bidding](#)

Section 50. Direct Contracting

Direct Contracting or single source procurement is a method of procurement of goods that does not require elaborate Bidding Documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations. Direct contracting may be resorted to by concerned Procuring Entities under any of the following conditions:

- a) Procurement of goods of proprietary nature which can be obtained only from the proprietary source, i.e. when patents, trade secrets, and copyrights prohibit others from manufacturing the same item;
- b) When the procurement of critical plant components from a specific supplier is a condition precedent to hold a contractor to guarantee its project performance, in accordance with the provisions of its contract; or
- c) Those sold by an exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the GOP.

[RULE XVI - ALTERNATIVE METHODS OF PROCUREMENT](#)

Section 51. Repeat Order

Repeat Order, when provided for in the APP, is a method of procurement of goods from the previous winning bidder, whenever there is a need to replenish goods procured under a contract previously awarded through Competitive Bidding. Repeat orders shall likewise be subject to the following conditions:

- a) Unit prices of the repeat order must be the same as or lower than those in the original contract, provided that such prices are still the most advantageous to the GOP after price verification;
- b) The repeat order will not result in splitting of contracts, requisitions, or purchase orders, as provided for in Section 54.1 of this IRR;
- c) Except in cases duly approved by the GPPB, the repeat order shall be availed of only within six (6) months from the contract effectivity date stated in the Notice to Proceed arising from the original contract; and
- d) The repeat order shall not exceed twenty-five percent (25%) of the quantity of each item in the original contract.

[RULE XVI - ALTERNATIVE METHODS OF PROCUREMENT](#)

Section 52. Shopping

[52.1. Shopping is a method of procurement of goods](#) [52.2. The phrase “ordinary or regular office supplies”](#)

[52.3. Under Section 52.1 \(b\) of this IRR](#)

[52.4. The thresholds prescribed in Annex “H” of this IRR](#)

[RULE XVI - ALTERNATIVE METHODS OF PROCUREMENT](#)

52.1. Shopping is a method of procurement of goods whereby the procuring entity simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications. This method of procurement shall be employed in any of the following cases:

a) When there is an unforeseen contingency requiring immediate purchase: Provided, however, That the amount shall not exceed the thresholds prescribed in Annex H of this IRR.

b) Procurement of ordinary or regular office supplies and equipment not available in the Procurement Service involving an amount not exceeding the thresholds prescribed in Annex H of this IRR.(a)

[Section 52. Shopping](#)

52.2. The phrase ordinary or regular office supplies shall be understood to include those supplies, commodities, or materials which, depending on the procuring entity's mandate and nature of operations, are necessary in the transaction of its official businesses, and consumed in the day-to-day operations of said procuring entity. However, office supplies shall not include services such as repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services.(a)

[Section 52. Shopping](#)

52.3. Under Section 52.1 (b) of this IRR, at least three (3) price quotations from bona fide suppliers shall be obtained.(a)

[Section 52. Shopping](#)

52.4. The thresholds prescribed in Annex H of this IRR shall be subject to a periodic review by the GPPB. For this purpose, the GPPB shall be authorized to increase or decrease the said amount in order to reflect changes in economic conditions and for other justifiable reasons.(a)

[Section 52. Shopping](#)

Section 53. Negotiated Procurement

Negotiated Procurement is a method of procurement of goods, infrastructure projects and consulting services, whereby the procuring entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant in any of the following cases:

[53.1. Two Failed Biddings](#) [53.2. Emergency Cases](#)

[53.3. Take-Over of Contracts](#)

[53.4. Adjacent or Contiguous](#)

[53.5. Agency-to-Agency](#)

[53.6. Procurement Agent](#)

[53.7. Highly Technical Consultants](#)

[53.8. Defense Cooperation Agreement](#)

[53.9. Small Value Procurement](#)

[53.10. Lease of Real Property](#)

[53.11. NGO Participation](#)

[53.12. Community Participation](#)

[53.13. United Nations Agencies](#)

[RULE XVI - ALTERNATIVE METHODS OF PROCUREMENT](#)

53.1. Two Failed Biddings. Where there has been failure of public bidding for the second time as provided in Section 35 of the Act and this IRR.

[53.1.1. After conduct of the mandatory review](#) [53.1.2. The BAC shall invite and engage](#)

[53.1.3. Any requirements, guidelines, documents, clarifications](#)

[53.1.4. Following completion of the negotiations](#)

[53.1.5. The procuring entity](#)

[53.1.6. In all stages of the negotiations](#)

[Section 53. Negotiated Procurement](#)

53.2. Emergency Cases. In case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities. In the case of infrastructure projects, the procuring entity has the option to undertake the project through negotiated procurement or by administration or, in high security risk areas, through the AFP.

[Section 53. Negotiated Procurement](#)

53.3. Take-Over of Contracts. Take-over of contracts, which have been rescinded or terminated for causes provided for in the contract and existing laws, where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities.

[53.3.1. The contract may be negotiated](#) [53.3.2. If negotiation fails](#)

[53.3.3. Authority to negotiate contracts](#)

[Section 53. Negotiated Procurement](#)

53.4. Adjacent or Contiguous. Where the subject contract is adjacent or contiguous to an on-going Infrastructure Project or Consulting Service where the consultants have unique experience and expertise to deliver the required service: Provided, however, That (a) the original contract is the result of a Competitive Bidding; (b) the subject contract to be negotiated has similar or related scopes of work; (c) it is within the contracting capacity of the contractor/consultant; (d) the contractor/consultant uses the same prices or lower unit prices as in the original contract less mobilization cost; (e) the amount involved does not exceed the amount of the ongoing project; and (f) the contractor/consultant has no negative slippage/delay: Provided, further, That negotiations for the procurement are commenced before the expiry of the original contract.(a)

[Section 53. Negotiated Procurement](#)

53.5. Agency-to-Agency. Procurement of infrastructure projects, consulting services, and goods from another agency of the GOP, such as the PS-DBM, which is tasked with a centralized procurement of Common-Use Supplies for the GOP in accordance with Letters of Instruction No. 755 and Executive Order No. 359, series of 1989. For purposes of this sub-section, the term agency shall exclude GOCCs incorporated under Batas PambansaBlg. 68, otherwise known as the Corporation Code of the Philippines. The GPPB shall issue guidelines to implement this provision.(a)

[Section 53. Negotiated Procurement](#)

53.6. Procurement Agent. In order to hasten project implementation, Procuring Entities which may not have the proficiency or capability to undertake a particular procurement, as determined by the Head of the Procuring Entity concerned, may request other GOP agencies to undertake such procurement for them, or at their option, recruit and hire consultants or procurement agents to assist them directly and/or train their staff in the management of the procurement function. The GPPB shall issue guidelines to implement this provision.(a)

[Section 53. Negotiated Procurement](#)

53.7. Highly Technical Consultants. In the case of individual consultants or partnerships hired to do work that is (i) highly technical or proprietary; or (ii) primarily confidential or policy determining, where trust and confidence are the primary consideration for the hiring of the consultant: Provided, however, That the term of the individual consultants or partnerships shall, at the most, be on a six month basis, renewable at the option of the appointing Head of the Procuring Entity, but in no case shall exceed the term of the latter.(a)

[Section 53. Negotiated Procurement](#)

53.8. Defense Cooperation Agreement. Upon prior approval by the President of the Philippines, and when the procurement for use by the AFP involves major defense equipment or materiel and/or defense-related consultancy services, when the expertise or capability required is not available locally, and the Secretary of National Defense has determined that the interests of the country shall be protected by negotiating directly with an agency or instrumentality of another country with which the Philippines has entered into a defense cooperation agreement or otherwise maintains diplomatic relations: Provided, however, That the performance by the supplier of its obligations under the procurement contract shall be covered by a performance security in accordance with Section 39 of this IRR.(a)

[Section 53. Negotiated Procurement](#)

53.9. Small Value Procurement. Where the procurement does not fall under Shopping in Section 52 of this IRR and the amount involved does not exceed the thresholds prescribed in Annex H of this IRR.(a)

[53.9.1. The procuring entity](#) [53.9.2. The thresholds prescribed in Annex H of this IRR](#)

[Section 53. Negotiated Procurement](#)

53.10. Lease of Real Property. Lease of privately owned real property and venue for official use, subject to guidelines to be issued by the GPPB.(a)

[Section 53. Negotiated Procurement](#)

53.11. NGO Participation. When an appropriation law or ordinance earmarks an amount to be specifically contracted out to Non-Governmental Organizations (NGOs), the procuring entity may enter into a Memorandum of Agreement with an NGO, subject to guidelines to be issued by the GPPB.(a)

[Section 53. Negotiated Procurement](#)

53.12. Community Participation. Where, in the interest of project sustainability or to achieve certain specific social objectives, it is desirable in selected project components to call for participation of local communities in the delivery of services, the procuring entity shall propose the procedures, specifications, and contract packaging which are subject to the approval of the GPPB.(n)

[Section 53. Negotiated Procurement](#)

53.13. United Nations Agencies. Procurement from specialized agencies of the United Nations of any of the following: (a) small quantities of off-the-shelf goods, primarily in the fields of education and health; and (b) specialized products where the number of suppliers is limited, such as vaccines or drugs.(n)

[Section 53. Negotiated Procurement](#)

Section 54. Terms and Conditions for the use of Alternative Methods

[54.1. Splitting of Government Contracts](#) [54.2. For alternative methods of procurement](#)

[54.3. In all instances of alternative methods](#)

[54.4. Except for Limited Source Bidding](#)

[54.5. Performance and warranty securities](#)

[RULE XVI - ALTERNATIVE METHODS OF PROCUREMENT](#)

54.1. Splitting of Government Contracts is not allowed. Splitting of Government Contracts means the division or breaking up of GOP contracts into smaller quantities and amounts, or dividing contract implementation into artificial phases or sub-contracts for the purpose of evading or circumventing the requirements of law and this IRR, especially the necessity of public bidding and the requirements for the alternative methods of procurement.

[Section 54. Terms and Conditions for the use of Alternative Methods](#)

54.2. For alternative methods of procurement, advertisement and posting as prescribed in Section 21.2.1 of this IRR may be dispensed with: Provided, however, That the BAC, through its Secretariat, shall post the invitation or request for submission of price quotations for Shopping under Sections 52.1 (b) and Negotiated Procurement under Sections 53.1 (two-failed biddings) and 53.9 (small value procurement) of this IRR in the PhilGEPS website, the website of the procuring entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the procuring entity for a period of seven (7) calendar days.(a)

[Section 54. Terms and Conditions for the use of Alternative Methods](#)

54.3. In all instances of alternative methods of procurement, the BAC, through the Secretariat, shall post, for information purposes, the notice of award in the PhilGEPS website, the website of the procuring entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the procuring entity.(a)

[Section 54. Terms and Conditions for the use of Alternative Methods](#)

54.4. Except for Limited Source Bidding under Section 49 of this IRR, submission of bid securities may be dispensed with.(n)

[Section 54. Terms and Conditions for the use of Alternative Methods](#)

54.5. Performance and warranty securities, as prescribed in Sections 39 and 62 of this IRR, shall be submitted for contracts acquired through the alternative methods of procurement, except for Shopping under Section 52 and Negotiated Procurement under Sections 53.2 (emergency cases), 53.9 (small value procurement), 53.10 (lease of real property), and 53.13 (UN agencies).(n)

[Section 54. Terms and Conditions for the use of Alternative Methods](#)

RULE XVII – PROTEST MECHANISM

[Section 55. Protests on Decisions of the BAC](#) [Section 56. Resolution of Protests](#)

[Section 57. Non-interruption of the Bidding Process](#)

[Section 58. Resort to Regular Courts; Certiorari](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 55. Protests on Decisions of the BAC

[55.1. Decisions of the BAC](#) [55.2. In the event that the request](#)

[55.3. The protest must be filed within seven \(7\) calendar days](#)

[55.4. The verified position paper](#)

[RULE XVII PROTEST MECHANISM](#)

55.1. Decisions of the BAC at any stage of the procurement process may be questioned by filing a request for reconsideration within the three (3) calendar days upon receipt of written notice or upon verbal notification. The BAC shall decide on the request for reconsideration within seven (7) calendar days from receipt thereof. If a failed bidder signifies his intent to file a request for reconsideration, the BAC shall keep the bid envelopes of the said failed bidder unopened and/or duly sealed until such time that the request for reconsideration has been resolved.(a)

[Section 55. Protests on Decisions of the BAC](#)

55.2. In the event that the request for reconsideration is denied, decisions of the BAC may be protested in writing to the Head of the Procuring Entity: Provided, however, That a prior request for reconsideration should have been filed by the party concerned in accordance with the preceding Section, and the same has been resolved.(a)

[Section 55. Protests on Decisions of the BAC](#)

55.3. The protest must be filed within seven (7) calendar days from receipt by the party concerned of the resolution of the BAC denying its request for reconsideration. A protest may be made by filing a verified position paper with the Head of the Procuring Entity concerned, accompanied by the payment of a non-refundable protest fee. The non-refundable protest fee shall be in an amount equivalent to no less than one percent (1%) of the ABC.(a)

[Section 55. Protests on Decisions of the BAC](#)

55.4. The verified position paper shall contain the following information:

- a) The name of bidder;
- b) The office address of the bidder;
- c) The name of project/contract;
- d) The implementing office/agency or procuring entity;
- e) A brief statement of facts;
- f) The issue to be resolved; and
- g) Such other matters and information pertinent and relevant to the proper resolution of the protest.

The position paper is verified by an affidavit that the affiant has read and understood the contents thereof and that the allegations therein are true and correct of his personal knowledge or based on authentic records. An unverified position paper shall be considered unsigned, produces no legal effect, and results to the outright dismissal of the protest.

[Section 55. Protests on Decisions of the BAC](#)

Section 56. Resolution of Protests

The protests shall be resolved strictly on the basis of records of the BAC. The Head of the Procuring Entity shall resolve the protest within seven (7) calendar days from receipt thereof. Subject to the provisions of existing laws on the authority of Department Secretaries and the heads of agencies, branches, constitutional commissions, or instrumentalities of the GOP to approve contracts, the decisions of the Head of the Procuring Entity concerned shall be final up to the limit of his contract approving authority. With respect to LGUs, the decision of the local chief executive shall be final. The head of the BAC Secretariat shall furnish the GPPB a copy of the decision resolving the protest within seven (7) calendar days from receipt thereof.

[RULE XVII - PROTEST MECHANISM](#)

Section 57. Non-interruption of the Bidding Process

In no case shall any protest taken from any decision treated in this Rule stay or delay the bidding process: Provided, however, That protests must first be resolved before any award is made.

[RULE XVII - PROTEST MECHANISM](#)

Section 58. Resort to Regular Courts; Certiorari

[58.1. Court action may be resorted](#) [58.2. This provision is without prejudice](#)

[58.3. The head of the BAC Secretariat](#)

[RULE XVII - PROTEST MECHANISM](#)

58.1. Court action may be resorted to only after the protests contemplated in this Rule shall have been completed, i.e., resolved by the Head of the Procuring Entity with finality. The regional trial court shall have jurisdiction over final decisions of the Head of the Procuring Entity. Court actions shall be governed by Rule 65 of the 1997 Rules of Civil Procedure.

[Section 58. Resort to Regular Courts; Certiorari](#)

58.2. This provision is without prejudice to any law conferring on the Supreme Court the sole jurisdiction to issue temporary restraining orders and injunctions relating to infrastructure projects of the GOP.

[Section 58. Resort to Regular Courts; Certiorari](#)

58.3. The head of the BAC Secretariat of the procuring entity concerned shall ensure that the GPPB shall be furnished a copy of the cases filed in accordance with this Section.

[Section 58. Resort to Regular Courts; Certiorari](#)

RULE XVIII – SETTLEMENT OF DISPUTES

[Section 59. Arbitration Section 60. Appeals](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 59. Arbitration

59.1. If any dispute or difference 59.2. Any and all disputes arising

RULE XVIII - SETTLEMENT OF DISPUTES

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

[Section 59. Arbitration](#)

59.2. Any and all disputes arising from the implementation of a contract covered by the Act and this IRR shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law" and Republic Act No. 9285, otherwise known as the Alternative Dispute Resolution Act of 2004: Provided, however, That, disputes that are within the competence of the Construction Industry Arbitration Commission to resolve shall be referred thereto. The process of arbitration shall be incorporated as a provision in the contract that will be executed pursuant to the provisions of the Act and this IRR: Provided, further, That, by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution.(a)

[Section 59. Arbitration](#)

Section 60. Appeals

The arbitral award and any decision rendered in accordance with the foregoing Section shall be appealable by way of a petition for review to the Court of Appeals. The petition shall raise pure questions of law and shall be governed by the Rules of Court.

[RULE XVIII - SETTLEMENT OF DISPUTES](#)

RULE XIX – CONTRACT PRICES AND WARRANTIES

[Section 61. Contract Prices Section 62. Warranty](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 61. Contract Prices

61.1. For the given scope of work 61.2. In cases where the cost of the awarded contract

61.3. Any request for price escalation

61.4. All contracts shall be denominated

RULE XIX – CONTRACT PRICES AND WARRANTIES

61.1. For the given scope of work in the contract as awarded, all bid prices shall be considered as fixed prices, and therefore not subject to price adjustment and escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB, or when a Treaty or International or Executive Agreement expressly allows it pursuant to Section 4 of this IRR.(a)

[Section 61. Contract Prices](#)

61.2. 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.(17a)

[Section 61. Contract Prices](#)

61.3. Any request for price escalation under extraordinary circumstances shall be submitted by the concerned entity to the National Economic and Development Authority (NEDA) with the endorsement of the procuring entity. The burden of proving the occurrence of extraordinary circumstances that will allow for price escalation shall rest with the entity requesting for such escalation. NEDA shall only respond to such request after receiving the proof and the necessary documentation. For purposes of this Section, extraordinary circumstances shall refer to events that may be determined by the NEDA in accordance with the Civil Code of the Philippines, and upon the recommendation of the procuring entity concerned.(a)

[Section 61. Contract Prices](#)

61.4. All contracts shall be denominated and payable in Philippine currency, and this shall be stated in the Bidding Documents: Provided, however, That subject to the guidelines issued by the GPPB, the procuring entity may provide in the Bidding Documents that obligations may be paid in foreign currency; Provided, further, That should the procuring entity receive bids denominated in foreign currency, the same shall be converted to Philippine currency based on the exchange rate prevailing on the day of the bid opening for purposes of bid comparison and evaluation.(a)

[Section 61. Contract Prices](#)

Section 62. Warranty

[62.1. For the procurement of goods](#) [62.2. For the procurement of infrastructure projects](#)

[RULE XIX - CONTRACT PRICES AND WARRANTIES](#)

62.1. For the procurement of goods, in order to assure that manufacturing defects shall be corrected by the supplier, a warranty security shall be required from the contract awardee for a minimum period of three (3) months, in the case of Expendable Supplies, or a minimum period of one (1) year, in the case of Non-expendable Supplies, after acceptance by the procuring entity of the delivered supplies. The obligation for the warranty shall be covered by either retention money in an amount equivalent to at least ten percent (10%) of every progress payment, or a special bank guarantee equivalent to at least ten percent (10%) of the total contract price. The said amounts shall only be released after the lapse of the warranty period or, in the case of Expendable Supplies, after consumption thereof: Provided, however, That the supplies delivered are free from patent and latent defects and all the conditions imposed under the contract have been fully met.(a)

[Section 62. Warranty](#)

62.2. For the procurement of infrastructure projects, the following warranties shall be made:

62.2.1. From the time project construction 62.2.2. One (1) year from project completion

62.2.3. From final acceptance of the project

62.2.4. In case of Structural Defects/Failure

Section 62. Warranty

RULE XX – THE GOVERNMENT PROCUREMENT POLICY BOARD

[Section 63. Organization and Functions](#) [Section 64. Membership](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 63. Organization and Functions

[63.1. The Government Procurement Policy Board](#) [63.2. The GPPB Technical Support Office](#)

[63.3. The TSO](#)

[63.4. In addition to the powers granted](#)

[RULE XX - THE GOVERNMENT PROCUREMENT POLICY BOARD](#)

63.1. The Government Procurement Policy Board (GPPB), as established in Section 63 of the Act, shall have the following duties and responsibilities:

- a) To protect national interest in all matters affecting public procurement, having due regard to the country's regional and international obligations;
- b) To formulate and amend public procurement policies, rules and regulations, and amend, whenever necessary, this IRR;
- c) To prepare a generic procurement manual and the standard bidding forms for procurement;
- d) To ensure the proper implementation by Procuring Entities of the Act, this IRR and all other relevant rules and regulations pertaining to public procurement;
- e) To establish a sustainable training program to develop the capacity of Government procurement officers and employees, and to ensure the conduct of regular procurement training programs by and for Procuring Entities; and
- f) To conduct an annual review of the effectiveness of the Act and recommend any amendments thereto, as may be necessary. The GPPB shall be under the administrative supervision of the DBM for general oversight and for budgeting purposes.

[Section 63. Organization and Functions](#)

63.2. The GPPB Technical Support Office The GPPB shall create a Technical Support Office (TSO) which shall provide support in the performance of its duties and responsibilities specified in the Act and this IRR. The GPPB shall determine the TSOs organizational structure and staffing, subject to DBM approval. The TSO shall be headed by an Executive Director of good moral character, unquestionable integrity, and known probity.

[Section 63. Organization and Functions](#)

- 63.3. The TSO shall provide research, technical and administrative support to the GPPB, including:
- a) Research-based procurement policy recommendations and rule-drafting;
 - b) Development and updating of generic procurement manuals and standard bidding forms;
 - c) Management and conduct of training on procurement systems and procedures;
 - d) Evaluation of the effectiveness of the government procurement system and recommendation of improvements in systems and procedures;
 - e) Monitoring the compliance to the Act and assisting Procuring Entities improve their compliance;
 - f) Monitoring the implementation and effectiveness of the PHILGEPS; and
 - g) Secretariat support.

[Section 63. Organization and Functions](#)

63.4. In addition to the powers granted under the Act and this IRR, the GPPB shall absorb all the powers, functions and responsibilities of the Procurement Policy Board created under Executive Order No. 359, series of 1989. All functions related to procurement policy-making of the Infrastructure Committee of the NEDA Board are transferred to the GPPB.

[Section 63. Organization and Functions](#)

Section 64. Membership

The GPPB shall be composed of the Secretary of the Department of Budget and Management, as Chairman, the Director-General of NEDA, as Alternate Chairman, with the following as Members; the Secretaries of the Departments of Public Works and Highways, Finance, Trade and Industry, Health, National Defense, Education, Interior and Local Government, Science and Technology, Transportation and Communications, and Energy, or their duly authorized representatives and a representative from the private sector to be appointed by the President upon the recommendation of the GPPB. The GPPB may invite representatives from the COA or from relevant Government agencies and private sectors to serve as resource persons.

RULE XX - THE GOVERNMENT PROCUREMENT POLICY BOARD

RULE XXI – PENAL CLAUSE

[Section 65. Offenses and Penalties Section 66. Jurisdiction](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 65. Offenses and Penalties

[65.1. Without prejudice to the provisions 65.2. Private individuals](#)

[65.3. Private individuals who commit any of the following acts](#)

[65.4. It is understood that the above penalties](#)

[65.5. When the bidder is a juridical entity](#)

[RULE XXI - PENAL CLAUSE](#)

65.1. Without prejudice to the provisions of R.A. 3019 and other penal laws, public officers who commit any of the following acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years:

a) Opening any sealed bid including but not limited to Bids that may have been submitted through the electronic system and any and all documents required to be sealed or divulging their contents, prior to the appointed time for the public opening of Bids or other documents.

b) Delaying, without justifiable cause, the screening for eligibility, opening of bids, evaluation and post evaluation of bids, and awarding of contracts beyond the prescribed periods of action provided for in this IRR.

c) Unduly influencing or exerting undue pressure on any member of the BAC or any officer or employee of the procuring entity to take a particular action which favors, or tends to favor a particular bidder.

d) Splitting of contracts which exceed procedural purchase limits to avoid competitive bidding or to circumvent the limits of approving or procurement authority.

e) Abuse by the Head of the Procuring Entity of his power to reject any and all bids as mentioned under Section 41 of the Act and this IRR, with manifest preference to any bidder who is closely related to him in accordance with Section 47 of the Act and this IRR. When any of the foregoing acts is done in collusion with private individuals, the private individuals shall likewise be liable for the offense. In addition, the public officer involved shall also suffer the penalty of temporary disqualification from public office, while the private individual shall be permanently disqualified from transacting business with the Government.

[Section 65. Offenses and Penalties](#)

65.2. Private individuals who commit any of the following acts, and any public officer who conspires with them, shall upon conviction, suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years:

a) When two or more bidders agree and submit different bids as bona fide bidders, all the while knowing that the bid(s) of one or more of them was so much higher than the other that the latter could not be honestly accepted and that the contract will surely be awarded to the pre-arranged lowest bid.

b) When a bidder maliciously submits different bids through two or more persons, corporations, partnerships or any other business entity in which he has an interest, to create the appearance of competition that does not in fact exist so as to be adjudged as the winning bidder.

c) When two or more bidders enter into an agreement which calls upon one or more of them to refrain from bidding for procurement contracts, or which requires one or more of them to withdraw Bids already submitted, in order to secure an undue advantage to any one of them.

d) When a bidder, by himself or in connivance with others, employs schemes which tend to restrain the natural rivalry of the parties or operates to stifle or suppress competition and thus produce a result disadvantageous to the public. In addition, the public officer persons involved shall also suffer the penalty of temporary or perpetual disqualification from public office and the private individual shall be permanently disqualified from transacting business with the Government.

[Section 65. Offenses and Penalties](#)

65.3. Private individuals who commit any of the following acts, and any public officer conspiring with them, shall upon conviction, suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years:

- a) Submitting eligibility requirements of whatever kind and nature that contain false information or falsified documents calculated to influence the outcome of the eligibility screening process or conceal such information in the eligibility requirements when the information will lead to a declaration of ineligibility from participating in public bidding.
- b) Submitting Bidding Documents of whatever kind and nature that contain false information or falsified documents or conceal such information in the Bidding Documents, in order to influence the outcome of the public bidding.
- c) Participating in a public bidding using the name of another or allowing another to use ones name for the purpose of participating in a public bidding.
- d) Withdrawing a bid, after it shall have qualified as the Lowest Calculated Bid/Highest Rated Bid, or refusing to accept an award, without just cause or for the purpose of forcing the procuring entity to award the contract to another bidder. This shall include the non-submission within the prescribed time, or delaying the submission of requirements such as, but not limited to, performance security, preparatory to the final award of the contract.

[Section 65. Offenses and Penalties](#)

65.4. It is understood that the above penalties and offenses shall cover all types of procurement whether done manually or electronically.

[Section 65. Offenses and Penalties](#)

65.5. When the bidder is a juridical entity, criminal liability and the accessory penalties shall be imposed on its directors, officers or employees who actually commit any of the foregoing acts. If a person previously held liable or found guilty under the provisions of the Act and this IRR has a controlling interest in a prospective bidder-entity, the said bidder-entity shall be disqualified to participate in any procurement activity being conducted by the Government.

[Section 65. Offenses and Penalties](#)

Section 66. Jurisdiction

Jurisdiction over the offenses defined under this Rule shall belong to the appropriate courts, according to laws existing at the time of the commission of the offenses.

[RULE XXI - PENAL CLAUSE](#)

RULE XXII – CIVIL LIABILITY

[Section 67. Civil Liability in Case of Conviction Section 68. Liquidated Damages](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 67. Civil Liability in Case of Conviction

Without prejudice to administrative sanctions that may be imposed in proper cases, a conviction under the Act and this IRR or R.A. 3019 shall carry with it civil liability, which may either consist of restitution for the damage done or the forfeiture in favor of the government of any unwarranted benefit derived from the act or acts in question, or both, at the discretion of the courts.

[RULE XXII - CIVIL LIABILITY](#)

Section 68. Liquidated Damages

All contracts executed in accordance with the Act and this IRR shall contain a provision on liquidated damages which shall be payable by the contractor in case of breach thereof. For the procurement of goods, infrastructure projects and consulting services, the amount of the liquidated damages shall be at least equal to one-tenth of one percent (0.1%) of the cost of the unperformed portion for every day of delay. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, the procuring entity shall rescind the contract, without prejudice to other courses of action and remedies open to it.

[RULE XXII - CIVIL LIABILITY](#)

RULE XXIII – ADMINISTRATIVE SANCTIONS

[Section 69. Imposition of Administrative Penalties](#) [Section 70. Preventive Suspension](#)

[Section 71. Lifting of Suspension and Removal of Administrative Disabilities](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 69. Imposition of Administrative Penalties

[69.1. In addition to the provisions of Rules XXI and XXII of this IRR](#) [69.2. In addition to the penalty of suspension](#)

[69.3. The Head of the Procuring Entity](#)

[69.4. The procedures for the suspension](#)

[RULE XXIII - ADMINISTRATIVE SANCTIONS](#)

69.1. In addition to the provisions of Rules XXI and XXII of this IRR, the Head of the Procuring Entity, subject to the authority delegated to the BAC, if any, shall impose on bidders or prospective bidders, the administrative penalty of suspension for one (1) year for the first offense, and suspension of two (2) years for the second offense from participating in the public bidding process, as well as disqualification from further participating in the public bidding being undertaken by the procuring entity concerned, where applicable, for the following violations:

- a) Submission of eligibility requirements containing false information or falsified documents.
- b) 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.
- c) Allowing the use of ones name, or using the name of another for purposes of public bidding.
- d) Withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after he had been adjudged as having submitted the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.
- e) Refusal or failure to post the required performance security within the prescribed time.
- f) Termination of the contract due to the default of the bidder.
- g) 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.
- h) Any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor.
- i) 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.(a)

[Section 69. Imposition of Administrative Penalties](#)

69.2. In addition to the penalty of suspension, the bid security or the performance security posted by the concerned bidder or prospective bidder shall also be forfeited.

[Section 69. Imposition of Administrative Penalties](#)

69.3. The Head of the Procuring Entity may delegate to the BAC the authority to impose the aforementioned administrative penalties.

[Section 69. Imposition of Administrative Penalties](#)

69.4. The procedures for the suspension or blacklisting of suppliers, contractors, or consultants for GOP projects shall be undertaken in accordance with the guidelines issued by the GPPB.

[Section 69. Imposition of Administrative Penalties](#)

Section 70. Preventive Suspension

The Head of the Procuring Entity may preventively suspend any member of the Technical Working Group or the Secretariat, or the BAC, if there are strong reasons or prima facie evidence showing that the officials or employees concerned are guilty of the charges filed against them under Rules XXI and XXII of this IRR, or for dishonesty as defined by the Civil Service Laws. For uniformed personnel of the AFP, the substantive and procedural due process under its justice system shall be applied. In all cases, due process as mandated by the Constitution and Civil Service laws, rules and regulations, shall be strictly observed.

[RULE XXIII - ADMINISTRATIVE SANCTIONS](#)

Section 71. Lifting of Suspension and Removal of Administrative Disabilities

Lifting of preventive suspension pending administrative investigation, as well as removal of administrative penalties and disabilities shall be in accordance with the provisions of Sections 52 and 53, Chapter 6, Subtitle A (Civil Service Commission), Title I, Book V of Executive Order No. 292, otherwise known as the Administrative Code of 1987.

[RULE XXIII - ADMINISTRATIVE SANCTIONS](#)

RULE XXIV - LEGAL ASSISTANCE AND INDEMNIFICATION OF BAC MEMBERS

[Section 72. Private Legal Assistance Section 73. Indemnification of BAC Members](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 72. Private Legal Assistance

All the members of the BAC are hereby authorized to engage the services of private lawyers or external counsel immediately upon receipt of Court Notice that a civil or criminal action, suit or proceeding is filed against them in connection with the lawful performance of their official functions and duties as BAC members. The lawyer's fee shall be part of the indemnification package for the BAC members, subject to the provisions of Section 73 of the Act and this IRR. For purposes of this Rule, the BAC members shall be understood to include its support staff, such as the members of the TWG and the BAC Secretariat.

[RULE XXIV - LEGAL ASSISTANCE AND INDEMNIFICATION OF BAC MEMBERS](#)

Section 73. Indemnification of BAC Members

73.1. The GPPB shall establish an equitable indemnification 73.2. In the event of a settlement or compromise

73.3. The members of the BAC

RULE XXIV - LEGAL ASSISTANCE AND INDEMNIFICATION OF BAC MEMBERS

73.1. The GPPB shall establish an equitable indemnification package for public officials providing services in and for the BAC, which may be in the form of free legal assistance, liability insurance, and other forms of protection and indemnification for all reasonable fees, costs, and expenses incurred by such persons in connection with any administrative, civil or criminal action, suit or proceeding to which they may be, or have been made, a party, by reason of the lawful performance of their official functions and duties, unless they are finally adjudged in such action or proceeding to be liable for gross negligence or misconduct or grave abuse of discretion, or otherwise held liable or guilty of the complaints or charges.

[Section 73. Indemnification of BAC Members](#)

73.2. In the event of a settlement or compromise, indemnification shall be confined only on matters covered by the settlement, for which the procuring entity had been advised by counsel, that, the public officials to be indemnified have not committed gross negligence or misconduct or grave abuse of discretion in the performance of their functions and duties.

[Section 73. Indemnification of BAC Members](#)

73.3. The members of the BAC and its support staff, such as the members of the TWG and the BAC Secretariat, shall also be entitled to medical assistance for injuries incurred in the performance of their functions.

[Section 73. Indemnification of BAC Members](#)

RULE XXV - FINAL PROVISIONS

[Section 74. Amendment Section 75. Repealing Clause](#)

[Section 76. Separability Clause](#)

[Section 77. Transitory Clause](#)

[Section 78. Effectivity Clause](#)

[<<-REVISED IMPLEMENTING RULES](#)

Section 74. Amendment

74.1. As the need arises, this IRR may be amended by the GPPB.(a)

74.2. Any amendment to this IRR shall be applicable to all procurement activities, the advertisement or invitation of which were issued after the date of effectivity of the said amendment.

[RULE XXV - FINAL PROVISIONS](#)

Section 75. Repealing Clause

The Act repeals E.O. 40, entitled Consolidating Procurement Rules and Procedures for All National Government Agencies, Government-Owned or -Controlled Corporations and/or Government Financial Institutions, and Requiring the Use of the Government Electronic Procurement System; Executive Order No. 262, series of 2000, entitled "Amending Executive Order No. 302, series of 1996, entitled "Providing Policies, Guidelines, Rules and Regulations for the Procurement of Goods/Supplies by the National Government" and Sec. Three (3) of Executive order No. 201, series of 2000, entitled "Providing Additional Policies and Guidelines in the Procurement of Goods/Supplies by the National Government;" Executive Order No. 302, series of 1996, entitled "Providing Policies, Guidelines, Rules and Regulations for the Procurement of Goods/Supplies by the National Government" and Presidential Decree No. 1594 (P.D. 1594), dated June 11, 1978, entitled Prescribing Policies, Guidelines, Rules and Regulations for Government Infrastructure Contracts;" and the relevant provisions of Republic Act No. 7898 dated February 23, 1995, entitled An Act Providing for the Modernization of the Armed Forces of the Philippines and for Other Purposes. This law amends Title Six, Book Two of Republic Act No. 7160 (R.A. 7160), otherwise known as the Local Government Code of 1991," and, in furtherance thereto, Chapter Five, Title One, Book One of the same law; the relevant provisions of Executive Order No. 164, series of 1987, entitled "Providing Additional Guidelines in the Processing and Approval of Contracts of the National Government." Any other law, presidential decree or issuance, executive order, letter of instruction, administrative order, proclamation, charter, rule or regulation and/or parts thereof contrary to or inconsistent with the provisions of the Act is hereby repealed, modified or amended accordingly. This IRR repeals Memorandum Order No. 119 dated 18 September 2003, otherwise known as the Implementing Rules and Regulations Part A and relevant portions of Executive Order No. 301, series of 1987 entitled Decentralizing Actions on Government Negotiated Contracts, Lease Contracts and Records Disposal. Any other issuance, executive order, administrative order, proclamation, charter, rule or regulation and/or parts thereof contrary to or inconsistent with the provisions of this IRR is hereby repealed, modified or amended accordingly.(a)

[RULE XXV - FINAL PROVISIONS](#)

Section 76. Separability Clause

If any provision in this IRR, or application of such provision to any circumstance, is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

[RULE XXV - FINAL PROVISIONS](#)

Section 77. Transitory Clause

77.1. In all procurement activities, if the advertisement or invitation for bids was issued prior to the effectivity of the Act, the provisions of E.O. 40 and its IRR, P.D. 1594 and its IRR, R.A. 7160 and its IRR, or other applicable laws, as the case may be, shall govern.(a)

77.2. In cases where the advertisements or invitations for bids were issued before the effectivity of this IRR, Procuring Entities may continue adopting the procurement procedures, rules, and regulations provided in the IRR Part A or other applicable laws, as the case may be.(a)

[RULE XXV - FINAL PROVISIONS](#)

Section 78. Effectivity Clause

This IRR shall take effect thirty (30) calendar days after its publication in the Official Gazette or in a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of this IRR.(a)

[RULE XXV - FINAL PROVISIONS](#)