



## **PHILIPPINES BIDDING DOCUMENTS**

Procurement of GOODS:

***ACQUISITION OF WINDOW TYPE  
INVERTER AIR CONDITIONERS  
UNDER THE 2017 GENERAL FUND***

**Project No. 2017-10-005**

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# **SECTION I**

# **INVITATION To BID**



## INVITATION TO BID

### FOR THE PROJECT:

#### ACQUISITION OF WINDOW TYPE INVERTER AIR CONDITIONERS

1. The **PHILIPPINE HIGH SCHOOL FOR THE ARTS**, through the General Appropriations Act of 2017 intends to apply the sum of **ONE MILLION FIVE HUNDRED THOUSAND PESOS ONLY (Php 1,500,000.00)** being the Approved Budget for the Contract (ABC) to payments under the contract for the **ACQUISITION OF WINDOW TYPE INVERTER AIR CONDITIONERS** with **PROJECT NO. 2017-10-005**. Bids received in excess of the ABC shall be automatically rejected at bid opening.
2. The **PHILIPPINE HIGH SCHOOL FOR THE ARTS** now invites bids for the **ACQUISITION OF WINDOW TYPE INVERTER AIR CONDITIONERS**. Delivery of the Goods is required for the period of Thirty (30) Calendar Days reckoned from the date of Notice to Proceed. Bidders should have completed at least one (1) contract that is similar to the contract to be bid with an amount of at least 50% of the Approved Budget for the Contract. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II. Instructions to Bidders.
3. Bidding will be conducted through open competitive bidding procedures using a non-discretionary "pass/fail" criterion as specified in the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184, otherwise known as the "Government Procurement Reform Act".

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

4. Interested bidders may obtain further information from **PHILIPPINE HIGH SCHOOL FOR THE ARTS** and inspect the Bidding Documents at the address given below during weekdays, **Monday to Friday at 8:00a.m. to 4:00 p.m. only**.
5. A complete set of Bidding Documents may be acquired by interested Bidders from **November 23, 2017 to December 12, 2017** from the address below and upon payment of the applicable fee for the Bidding Documents, pursuant to the latest Guidelines issued by the GPPB, in the amount of **ONE THOUSAND PESOS ONLY (Php 1,000.00)**.

It may also be downloaded free of charge from the website of the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the **PHILIPPINE HIGH SCHOOL FOR THE ARTS**, provided that Bidders shall pay the applicable fee for the Bidding Documents not later than the submission of their bids.

6. The **PHILIPPINE HIGH SCHOOL FOR THE ARTS** will hold a **Pre-Bid Conference on December 01, 2017 at 10:00a.m. at PHSA Conference Room, National Arts Center, Mt. Makiling, Los Baños, Laguna**, which shall be open to prospective bidders.


Section II. Instructions to Bidders

7. Bids must be duly received by the BAC Secretariat at the address below on or before **December 12, 2017 at 1:30 p.m.** All Bids must be accompanied by a bid security in any of the acceptable forms and in the amount stated in ITB Clause 18.

***Bid opening*** shall be on **December 12, 2017 at 2:00p.m.** at **PHSA Conference Room, National Arts Center, Mt. Makiling, Los Baños, Laguna.** Bids will be opened in the presence of the bidders' representatives who choose to attend at the address below. Late bids shall not be accepted.

8. The **PHILIPPINE HIGH SCHOOL FOR THE ARTS** reserves the right to reject any and all bids, declare a failure of bidding, or not award the contract at any time prior to contract award in accordance with Section 41 of RA 9184 and its IRR, without thereby incurring any liability to the affected bidder or bidders.
9. For further information, please refer to:

**PRECY ANGELES-MONDEJAR**  
Head, BAC Secretariat  
**PHILIPPINE HIGH SCHOOL FOR THE ARTS**  
National Art Center, Mt. Makiling,  
Los Baños, Laguna, 4030  
Contact No. 049-5764100  
Email: [phsabac@gmail.com](mailto:phsabac@gmail.com)  
Website: [www.phsa.edu.ph](http://www.phsa.edu.ph)

  
**RONALDO A. ABUAN**  
BAC Chairperson

# **SECTION II**

# **INSTRUCTIONS TO BIDDERS**

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## SECTION II – INSTRUCTIONS TO BIDDERS

### A. General

#### 1. Scope of Bid

- 1.1. The Procuring Entity as defined in the **BDS**, invites bids for supply and delivery of the goods as described in Section VI, Schedule of Requirements and Specifications (hereinafter referred to as the “GOODS”).
- 1.2. The name, identification, and number of lots specific to this bidding are provided in the BDS.

#### 2. Source of Funds

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

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

- 3.1. Unless otherwise specified in the BDS, the Procuring Entity, as well as bidders and contractors, shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the PROCURING ENTITY:
  - (a) defines, for purposes of this provision, the terms set forth below as follows:
    - (i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Procuring Entity, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019 (The Anti-Graft and Corrupt Practices Act);
    - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after Bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition;
    - (iii) "collusive practices" means a scheme or arrangement between two or more bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels;
    - (iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
    - (v) "obstructive practice" is
      - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or



## Section II. Instructions to Bidders

investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

- (bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.
  - (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract;
- 3.2. Further, the Procuring Entity will seek to impose the maximum civil, administrative, and/or criminal penalties available under the applicable laws on individuals and organizations deemed to be involved in any of the practices mentioned in **ITB** Clause 3.1(a).
- 3.3. Furthermore, the Funding Source and the Procuring Entity reserve the right to inspect and audit records and accounts of a Bidder or Supplier in the bidding for and performance of a contract themselves or through independent auditors as reflected in the **GCC** Clause 3.

### 4. Conflict of Interest

- 4.1. All bidders found to have conflicting interests shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described in paragraphs (a) through (c) and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (g) below:
- (a) A Bidder has controlling shareholders in common with another Bidder;
  - (b) A Bidder receives or has received any direct or indirect subsidy from any other Bidder;
  - (c) A Bidder has the same legal representative as that of another Bidder for purposes of this Bid;
  - (d) A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder or influence the decisions of the Procuring Entity regarding this bidding process. This will include a firm or an organization who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project if the personnel would be involved in any capacity on the same project;
  - (e) A Bidder submits more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one bid;
  - (f) A Bidder who participated as a consultant in the preparation of the design or technical specifications of the Goods and related services that are the subject of the bid.
- 4.2. In accordance with Section 47 of the IRR of RA 9184, all Bidding Documents shall be accompanied by a Sworn Affidavit of the Bidder that it is not related to the Head of the **PROCURING ENTITY**, by consanguinity or affinity up to the third civil degree or any of the **PROCURING ENTITY**'s officers or employees having direct access to information that may substantially affect the result of the bidding, such as, but not

## Section II. Instructions to Bidders

limited to, the members of the Bids and Awards Committee (BAC), members of the Technical Working Group (TWG), members of the BAC Secretariat, the members of the Procurement and Supply Unit, the end-user unit, and the project consultants, if any. On the part of the Bidder, this Clause shall apply to the following persons:

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

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

### 5. Eligible Bidders

- 5.1. Unless otherwise indicated in the **BDS**, the following persons shall be eligible to participate in this Bidding:
  - (a) Duly licensed Filipino citizens/sole proprietorships;
  - (b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
  - (c) Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
  - (d) Cooperatives duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines; and
  - (e) Unless otherwise provided in the **BDS**, persons/entities forming themselves into a JV, i.e., a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, that Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%).
- 5.2. Foreign bidders may be eligible to participate when any of the following circumstances exist, as specified in the **BDS**:
  - (a) When a Treaty or International or Executive Agreement as provided in Section 4 of the RA 9184 and its IRR allow foreign bidders to participate;
  - (b) Citizens, corporations, or associations of a country, included in the list issued by the GPPB, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations, or associations of the Philippines;
  - (c) When the GOODS sought to be procured are not available from local suppliers; or
  - (d) When there is a need to prevent situations that defeat competition or restrain trade.
- 5.3. Government Corporate Entities may be eligible to participate only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not dependent agencies of the GOP or the Procuring Entity.

## Section II. Instructions to Bidders

- 5.4. Unless otherwise provided in the **BDS**, the Bidder must have an experience of having completed at least one (1) contract similar to the Project the value of which, adjusted to current prices using the National Statistics Office consumer price index, must be at least equivalent to a percentage of the ABC stated in the **BDS**.

For this purpose, contracts similar to the Project shall be those described in the **BDS**, and completed within the relevant period stated in the Invitation to Bid and **ITB** Clause 12.1(a)(iii).

- 5.5. The Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC), which must be at least equal to the ABC to be bid, calculated as follows:

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

The values of the bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements submitted to the BIR, through its Electronic Filing and Payment System (EFPS).

### 6. Bidder's Responsibilities

- 6.1. The Bidder or its duly authorized representative shall submit a sworn statement in the form prescribed in Section VII, Bidding Forms as required in **ITB** Clause 12.1(b)(iii).

- 6.2. The Bidder is responsible for the following:

- (a) Having taken steps to carefully examine all of the Bidding Documents;
- (b) Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
- (c) Having made an estimate of the facilities available and needed for the contract to be bid, if any;
- (d) Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin/s as provided under **ITB** Clause 10.3.
- (e) Ensuring that it is not "blacklisted" or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
- (f) Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
- (g) Authorizing the Head of the Procuring Entity or its duly authorized representative/s to verify all the documents submitted;
- (h) Ensuring that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the Bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture;
- (i) Complying with the disclosure provision under Section 47 of the Act in relation to other provisions of Republic Act 3019; and
- (j) Complying with existing labor laws and standards, if applicable.

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

## Section II. Instructions to Bidders

- 6.3. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents.
- 6.4. It shall be the sole responsibility of the prospective bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to the contract to be bid, including: (a) the location and the nature of the contract, project, or work; (b) climatic conditions; (c) transportation facilities; and (d) other factors that may affect the cost, duration, and execution or implementation of this Project.
- 6.5. The Procuring Entity shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder out of the data furnished by the procuring entity.
- 6.6. The Bidder shall bear all costs associated with the preparation and submission of his bid, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 6.7. Before submitting their bids, the Bidders are deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect this Project in any way.
- 6.8. The Bidder should note that the Procuring Entity will only accept bids only from those that have paid the nonrefundable fee for the Bidding Documents at the office indicated in the Invitation to Bid.

### 7. Origin of GOODS and Services

Unless otherwise indicated in the **BDS**, there is no restriction on the origin of Goods or Services other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, subject to **ITB** Clause 27.1.

### 8. Subcontracts

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

## B. Contents of Bidding Documents

### 9. Pre-Bid Conference

- 9.1. (a) If so specified in the **BDS**, a pre-bid conference shall be held at the venue and on the date indicated therein, to clarify and address the Bidders' questions on the technical and financial components of this Project.
- (b) The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission of and receipt of bids. If the Procuring Entity determines that, by reason of the method, nature, or complexity of the contract to

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be bid, or when international participation will be more advantageous to the GOP, a longer period for the preparation of bids is necessary, the pre-bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids, as specified in the **BDS**.

- 9.2. Bidders are encouraged to attend the pre-bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-attendance of the Bidder will in no way prejudice its bid; however, the Bidder is expected to know the changes and/or amendments to the Bidding Documents discussed during the pre-bid conference.
- 9.3. 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.

### 10. Clarification and Amendment of Bidding Documents

- 10.1. Bidders who have purchased the Bidding Documents may request for clarification(s) on any part of the Bidding Documents or for an interpretation. Such request must be in writing and submitted to the Procuring Entity at the address indicated in the **BDS** at least ten (10) calendar days before the deadline set for the submission and receipt of Bids.
- 10.2. Supplemental/Bid Bulletins may be issued upon the Procuring Entity's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than seven (7) calendar days before the deadline for the submission and receipt of Bids. Any modification to the Bidding Documents shall be identified as an amendment.
- 10.3. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted on the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the Procuring Entity concerned, if available. Unless, otherwise provided in the **BDS**, it shall be the responsibility of all Bidders who secure the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, Bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids in accordance with **ITB** Clause 23.

### C. Preparation of Bids

#### 11. Language of Bids

The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Procuring Entity, shall be written in English. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation in English certified by the appropriate embassy or consulate in the Philippines, in which case the English translation shall govern, for purposes of interpretation of the Bid.

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

- 12.1. Unless otherwise indicated in the **BDS**, the first envelope shall contain the following eligibility and technical documents:
  - (a) Eligibility Documents –  
Class "A" Documents:
    - (i) Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or Cooperative Development Authority (CDA) for cooperatives, or any proof of such registration as stated in the **BDS**;

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- (ii) Mayor's permit issued by the city or municipality where the principal place of business of the prospective bidder is located;
- (iii) Statement of all its ongoing and completed government and private contracts within the period stated in the **BDS**, including contracts awarded but not yet started, if any. The statement shall include, for each contract, the following: [**Refer to Section III, BDS 12.1(a)(iii)** for clarification on the statement of all ongoing contracts and the statement identifying similar single largest completed contract]
  - (iii.1) name of the contract;
  - (iii.2) date of the contract;
  - (iii.3) kinds of Goods
  - (iii.4) amount of contract and value of outstanding contracts;
  - (iii.5) date of delivery; and
  - (iii.6) end user's acceptance or official receipt(s) issued for the contract, if completed.
- (iv) Audited financial statements, showing, among others, the prospective total and current assets and liabilities, stamped "received" by the BIR or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission;
- (v) NFCC computation in accordance with ITB Clause 5.5; and
- (vi) Tax clearance per Executive Order 398, series of 2005, as finally reviewed and approved by the BIR.

### Class "B" Document:

- (vii) If applicable, valid Joint Venture Agreement (JVA) or, in lieu thereof, 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.
- (b) Technical Documents –
- (i) Bid security as prescribed in **ITB Clause 18**. If Procuring Entity requires the bidders to submit the bid security in the form of:
    - (i.1) a bank draft/guarantee or an irrevocable letter of credit issued by a foreign bank, it shall be accompanied by a confirmation from a Universal or Commercial Bank; or
    - (i.2) a surety bond accompanied by a certification coming from an authorized Insurance Commission that a surety or insurance company is authorized to issue such instrument;
  - (ii) Conformity with technical specifications, as enumerated and specified in Sections VI and VII of the Bidding Documents (Refer to Section III, BDS 12.1 (b)(ii) for further instruction); and
  - (iii) Sworn statement in accordance with Section 25.2(b)(iv) of the IRR of RA 9184 and using the form prescribed in Section VII, Bidding Forms. (**Refer to Section III, BDS 12.1(b)(iii) for clarification**).

## Section II. Instructions to Bidders

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

- 13.1. Unless otherwise stated in the **BDS**, the financial component of the bid shall contain the following:
- (a) Financial Bid Form, which includes bid prices and the bill of quantities and the applicable Price Schedules, in accordance with ITB Clauses 15.1 and 15.4; (Refer to Section III, BDS 13.1 for clarification;
  - (b) Any other document related to the financial component of the bid as stated in the **BDS**.
- 13.2. (a) Unless otherwise stated in the **BDS**, all Bids that exceed the ABC shall not be accepted.
- (b) Unless otherwise indicated in the **BDS**, for foreign-funded procurement, a ceiling may be applied to bid prices provided the following conditions are met:
- (i) Bidding Documents are obtainable free of charge on a freely accessible website. If payment of Bidding Documents is required by the procuring entity, payment could be made upon the submission of bids.
  - (ii) The procuring entity has procedures in place to ensure that the ABC is based on recent estimates made by the responsible unit of the procuring entity and that the estimates reflect the quality, supervision and risk and inflationary factors, as well as prevailing market prices, associated with the types of Works or Goods to be procured.
  - (iii) The procuring entity has trained cost estimators on estimating prices and analyzing bid variances.
  - (iv) The procuring entity has established a system to monitor and report bid prices relative to ABC and procuring entity's estimate.
  - (v) The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of Goods and Works.

### 14. Alternative Bids

- 14.1. Alternative Bids shall be rejected. For this purpose, alternative bid is an offer made by a Bidder in addition or as a substitute to its original bid which may be included as part of its original bid or submitted separately therewith for purposes of bidding. A bid with options is considered an alternative bid regardless of whether said bid proposal is contained in a single envelope or submitted in two (2) or more separate bid envelopes.
- 14.2. Each Bidder shall submit only one Bid, either individually or as a partner in a JV. A Bidder who submits or participates in more than one bid (other than as a subcontractor if a subcontractor is permitted to participate in more than one bid) will cause all the proposals with the Bidder's participation to be disqualified. This shall be without prejudice to any applicable criminal, civil and administrative penalties that may be imposed upon the persons and entities concerned.

### 15. Bid Prices

- 15.1. The Bidder shall complete the appropriate Price Schedules included herein, stating the unit prices, total price per item, the total amount and the expected countries of origin of the Goods to be supplied under this Project.
- 15.2. The Bidder shall fill in rates and prices for all items of the Goods described in the Bill of Quantities. Bids not addressing or providing all of the required items in the Bidding Documents including, where applicable, bill of quantities, shall be considered non-

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responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) for the said item would mean that it is being offered for free to the Government. (Refer to Section III, BDS 15.2 for clarification)

- 15.3. The terms Ex Works (EXW), Cost, Insurance and Freight (CIF), Cost and Insurance Paid (CIP), Delivered Duty Paid (DDP), and other trade terms used to describe the obligations of the parties, shall be governed by the rules prescribed in the current edition of the International Commercial Terms (INCOTERMS) published by the International Chamber of Commerce, Paris.
- 15.4. Prices indicated on the Price Schedules shall be entered separately in the following manner:
- (a) For GOODS offered from within the PROCURING ENTITY's country:
    - (i) The price of the GOODS quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable:
      - (i.1) on the components and raw material used in the manufacture or assembly of GOODS quoted ex works or ex factory; or
      - (i.2) on the previously imported GOODS of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf and any PROCURING ENTITY country sales and other taxes which will be payable on the GOODS if the contract is awarded.
    - (ii) The price for inland transportation, insurance, and other local costs incidental to delivery of the GOODS to their final destination.
    - (iii) The price of other (incidental) services, if any listed in the BDS;
  - (b) For GOODS offered from abroad:
    - (i) Unless otherwise stated in the **BDS**, the price of the GOODS shall be quoted DDP with the place of destination in the Philippines as specified in the **BDS**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.
    - (ii) the price of other (incidental) services, if any, listed in the **BDS**.
- 15.5. Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation or price escalation on any account, unless otherwise specified in the **BDS**. A Bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 28.

## 16. Bid Currencies

- 16.1. Prices shall be quoted in the following currencies:
- (a) For GOODS that the Bidder will supply from within the Philippines, the prices shall be quoted in Philippines Pesos.
  - (b) For GOODS and services that the Bidder will supply from outside the Philippines, the prices may be quoted in the currency(ies) stated in the **BDS**. However, for purposes of bid evaluation, bids denominated in foreign currencies shall be converted to Philippine currency based on the exchange as published in the BSP reference rate bulletin on the day of the bid opening.



## Section II. Instructions to Bidders

- 16.2. If so allowed in accordance with **ITB** Clause 16.1, the Procuring Entity for purposes of bid evaluation and comparing the bid prices will convert the amounts in various currencies in which the bid price is expressed to Philippine Pesos at the foregoing exchange rates.
- 16.3. Unless otherwise specified in the **BDS**, payment of the contract price shall be made in Philippine Pesos.

### 17. Bid Validity

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

### 18. Bid Security

- 18.1. The procuring entity **shall prescribe** in the **BDS** the acceptable forms of bid security that bidders may opt to use, which shall **include the Bid Securing Declaration**, the amount of which shall be equal to a percentage of the ABC in accordance with the following schedule: **(Refer to Section III, BDS 18.1 for clarification)**

Form of Bid Security	Amount of Bid Security (Equal to Percentage of the ABC)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Two percent (2%)
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	Two percent (2%)
(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; and/or	Five percent (5%)
(d) Bid Securing Declaration	No percentage required

The Bid Securing Declaration mentioned above is an undertaking which states, among others, that the bidder shall enter into contract with the procuring entity and furnish the performance security required under **ITB** Clause 32.2, from receipt of the Notice of Award, and committing to pay the corresponding fine, and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as provided in the guidelines issued by the GPPB.

- 18.2. The bid security should be valid for the period specified in the **BDS**. Any bid not accompanied by an acceptable bid security shall be rejected by the Procuring Entity as non-responsive.

## Section II. Instructions to Bidders

- 18.3. No bid securities shall be returned to bidders after the opening of bids and before contract signing, except to those that failed or declared as post-disqualified, upon submission of a written waiver of their right to file a motion for reconsideration and/or protest. Without prejudice on its forfeiture, Bid Securities shall be returned only after the bidder with the Lowest Calculated Responsive Bid has signed the contract and furnished the Performance Security, but in no case later than the expiration of the Bid Security validity period indicated in **ITB Clause 18.2**.
- 18.4. Upon signing and execution of the contract, pursuant to **ITB Clause 32**, and the posting of the performance security, pursuant to **ITB Clause 33**, the successful Bidder's Bid security will be discharged, but in no case later than the Bid security validity period as indicated in **ITB Clause 18.2**.
- 18.5. The bid security may be forfeited:
- (a) if a Bidder:
    - (i) withdraws its bid during the period of bid validity specified in **ITB Clause 17**;
    - (ii) does not accept the correction of errors pursuant to **ITB Clause 28.3(b)**;
    - (iii) fails to submit the requirements within the prescribed period, or a finding against their veracity, as stated in **ITB Clause 29.2**;
    - (iv) submission of eligibility requirements containing false information or falsified documents;
    - (v) submission of bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding;
    - (vi) allowing the use of one's name, or using the name of another for purposes of public bidding;
    - (vii) withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the Lowest Calculated and Responsive Bid;
    - (viii) refusal or failure to post the required performance security within the prescribed time;
    - (ix) refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification;
    - (x) any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor;
    - (xi) failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
    - (xii) all other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.
  - (b) if the successful Bidder:
    - (i) fails to sign the contract in accordance with **ITB Clause 32**;
    - (ii) fails to furnish performance security in accordance with **ITB Clause 33**.

## Section II. Instructions to Bidders

### 19. Format and Signing of Bids

- 19.1. Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in Section VII, Bidding Forms on or before the deadline specified in the **ITB** Clause 21 in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under **ITB** Clause 12.1, and the second shall contain the financial component of the bid.
- 19.2. Forms as mentioned in **ITB** Clause 19.1 must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.
- 19.3. The Bidder shall prepare an original of the first and second envelopes as described in **ITB** Clauses 12 and 13. In addition, the Bidder shall submit copies of the first and second envelopes. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 19.4. The bid, except for unamended printed literature, shall be signed, and each and every page thereof shall be initialed, by the duly authorized representative/s of the Bidder. **(Refer to Section III, BDS 19.4 for clarification)**
- 19.5. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

### 20. Sealing and Marking of Bids

- 20.1. Bidders shall enclose their original eligibility and technical documents described in **ITB** Clause 12, in one sealed envelope marked "ORIGINAL - TECHNICAL COMPONENT", and the original of their financial component in another sealed envelope marked "ORIGINAL - FINANCIAL COMPONENT", sealing them all in an outer envelope marked "ORIGINAL BID." (Refer to **Section III, BDS 20.1 for clarification** and refer also to the **Envelope Sealing Illustration** on last page)
- 20.2. Each copy of the Technical Component and the Financial Component shall be similarly sealed duly marking the inner envelope as "COPY NO. 1 – ELIGIBILITY-TECHNICAL COMPONENT" and "COPY NO. 1 – FINANCIAL COMPONENT" and the outer envelope as "COPY NO. 1", respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope. **(Refer to Section III, BDS 20.2 for clarification** and refer also to the **Envelope Sealing Illustration** on last page)
- 20.3. The original and the number of copies of the Bid as indicated in the **BDS** shall be typed or written in indelible ink and shall be signed by the Bidder or its duly authorized representative/s.
- 20.4. All envelopes shall:
  - (a) contain the name of the contract to be bid in capital letters;
  - (b) bear the name and address of the Bidder in capital letters;
  - (c) be addressed to the Procuring Entity's BAC identified in **ITB** Clause 10.1;
  - (d) bear the specific identification of this bidding process indicated in the **ITB** Clause 1.2; and
  - (e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with **ITB** Clause 21.
- 20.5. If bids are not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the bid. **(Refer to Section III, BDS 20.5 for clarification)**

**D. Submission and Opening of Bids**

**21. Deadline for Submission of Bids**

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

**22. Late Bids**

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

**23. Modification and Withdrawal of Bids**

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

23.2. A Bidder may, through a Letter of Withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason; provided that the Letter of Withdrawal is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of bids.

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

23.4. No bid may be modified after the deadline for submission of bids. No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Financial Bid Form. Withdrawal of a bid during this interval shall result in the forfeiture of the Bidder's bid security, pursuant to **ITB** Clause 18.5, and the imposition of administrative, civil, and criminal sanctions as prescribed by RA 9184 and its IRR.

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

24.1. The BAC shall open the first bid envelopes of Bidders in public as specified in the **BDS** to determine each Bidder's compliance with the documents prescribed in **ITB** Clause 12. For this purpose, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a non-discretionary "pass/fail" criterion. If a bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as "failed". Otherwise, the BAC shall rate the said first bid envelope as "passed".

24.2. Unless otherwise specified in the **BDS**, immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible bidder whose first bid envelope was rated "passed". The second envelope of each complying bidder shall be opened within the same day. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC unless otherwise provided in **ITB** Clause 13.1(b), 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 II. Instructions to Bidders

- 24.3. Letters of withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Bidder unopened. If the withdrawing Bidder's representative is in attendance, the original bid and all copies thereof shall be returned to the representative during the bid opening. If the representative is not in attendance, the Bid shall be returned unopened by registered mail. The Bidder may withdraw its bid prior to the deadline for the submission and receipt of bids, provided that the corresponding letter of withdrawal contains a valid authorization requesting for such withdrawal, subject to appropriate administrative sanctions.
- 24.4. If a Bidder has previously secured a certification from the Procuring Entity to the effect that it has previously submitted the above-enumerated Class "A" Documents, the said certification may be submitted in lieu of the requirements enumerated in **ITB** Clause 12.1(a), items (i) to (vi).
- 24.5. In the case of an eligible foreign Bidder as described in **ITB** Clause 5, the Class "A" Documents enumerated in **ITB** Clause 12.1(a) may be substituted with the appropriate equivalent documents, if any, issued by the country of the foreign Bidder concerned.
- 24.6. Each partner of a joint venture agreement shall likewise submit the documents required in **ITB** Clauses 12.1(a)(i) and 12.1(a)(ii). Submission of documents required under **ITB** Clauses 12.1(a)(iii) to 12.1(a)(vi) by any of the joint venture partners constitutes compliance.
- 24.7. The Procuring Entity shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price, bid security, findings of preliminary examination; and (b) attendance sheet. The BAC members shall sign the abstract of bids as read.

### **E. Evaluation and Comparison of Bids**

#### **25. Process to be Confidential**

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

#### **26. Clarification of Bids**

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

#### **27. Domestic Preference**

- 27.1 Unless otherwise stated in the BDS, the Procuring Entity will grant a margin of preference for the purpose of comparison of bids in accordance with the following:
  - (a) The preference shall be applied when (i) the lowest Foreign Bid is lower than the lowest bid offered by a Domestic Bidder, or (ii) the lowest bid offered by a non-Philippine national is lower than the lowest bid offered by a Domestic Entity.
  - (b) For evaluation purposes, the lowest Foreign Bid or the bid offered by a non-Philippine national shall be increased by fifteen percent (15%).

## Section II. Instructions to Bidders

- (c) In the event that (i) the lowest bid offered by a Domestic entity does not exceed the lowest Foreign Bid as increased, or (ii) the lowest bid offered by a non-Philippine national as increased, then the Procuring Entity shall award the contract to the Domestic Bidder/Entity at the amount of the lowest Foreign Bid or the bid offered by a non-Philippine national, as the case may be.
  - (d) If the Domestic Entity/Bidder refuses to accept the award of contract at the amount of the Foreign Bid or bid offered by a non-Philippine national within two (2) calendar days from receipt of written advice from the BAC, the Procuring Entity shall award to the bidder offering the Foreign Bid or the non-Philippine national, as the case may be, subject to post-qualification and submission of all the documentary requirements under these Bidding Documents.
- 27.2. A Bidder may be granted preference as a Domestic Entity subject to the certification from the DTI (in case of sole proprietorships), SEC (in case of partnerships and corporations), or CDA (in case of cooperatives) that the (a) sole proprietor is a citizen of the Philippines or the partnership, corporation, cooperative, or association is duly organized under the laws of the Philippines with at least seventy five percent (75%) of its interest or outstanding capital stock belonging to citizen of the Philippines, (b) habitually established in business and habitually engaged in the manufacture or sale of the merchandise covered by his bid, and (c) the business has been in existence for at least five(5) consecutive years prior to the advertisement and/or posting of the Invitation to Bid for this Project.
- 27.3. A Bidder may be granted preference as a Domestic Bidder subject to the certification from the DTI that the Bidder is offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials. Or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.

### 28. Detailed Evaluation and Comparison of Bids

- 28.1. The Procuring Entity will undertake the detailed evaluation and comparison of Bids which have passed the opening and preliminary examination of Bids, pursuant to **ITB** Clause 24, in order to determine the Lowest Calculated Bid.
- 28.2. In evaluating the Bids to get the Lowest Calculated Bid, the Procuring Entity shall undertake the following:
- (a) The detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and
  - (b) The ranking of the total bid prices as so calculated from the lowest to highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.
- 28.3. The Procuring Entity's BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary "pass/fail" criterion. Unless otherwise specified in the **BDS**, the BAC shall consider the following in the evaluation of bids:
- (a) Completeness of the bid. Unless the **ITB** specifically allows partial bids, bids not addressing or providing all of the required items in the Schedule of Requirements including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) for the said item would mean that it is being offered for free to the Procuring Entity [**refer to Section III, BDS 28.3(a) for clarification**]; and
  - (b) Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications, if expressly allowed in the **BDS**. Any adjustment shall be calculated in monetary terms to determine the calculated prices.

## Section II. Instructions to Bidders

- 28.4. Based on the detailed evaluation of bids, those that comply with the above-mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, to identify the Lowest Calculated Bid. Total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, which exceed the ABC shall not be considered, unless otherwise indicated in the **BDS**.
- 28.5. The Procuring Entity's evaluation of bids shall only be based on the bid price quoted in the Financial Bid Form. (**Refer to Section III, BDS 28.5 for clarification**)
- 28.6. Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all bidders shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.

### 29. Post Qualification

- 29.1. The Procuring Entity shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid (LCB) complies with and is responsive to all the requirements and conditions specified in **ITB** Clauses 5, 12, and 13.
- 29.2. Within a non-extendible period of three (3) calendar days from receipt by the Bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements (**Refer to Section III, BDS 29.2 for clarification**):
  - (a) Latest income and business tax returns in the form specified in the **BDS**;
  - (b) Certificate of PhilGEPS Registration; and
  - (c) Other appropriate licenses and permits required by law and stated in the **BDS**.Failure of the Bidder declared as LCB to duly submit the requirements under this Clause or a finding against the veracity of such, shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.
- 29.3. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted pursuant to **ITB** Clauses 12 and 13, as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion.
- 29.4. If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the Lowest Calculated Responsive Bid, and recommend to the Head of the Procuring Entity the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower, subject to **ITB** Clause 30.3. (**Refer to Section III, BDS 29.4 for clarification**)
- 29.5. A negative determination shall result in rejection of the Bidder's Bid, in which event the Procuring Entity shall proceed to the next Lowest Calculated Bid to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next Lowest Calculated Bid, and so on until the Lowest Calculated and Responsive Bid is determined for contract award.
- 29.6. Within a period not exceeding seven (7) calendar days from the date of receipt of the recommendation of the BAC, the Head of the Procuring Entity shall approve or disapprove the said recommendation. In the case of government owned and government-owned and/or -controlled corporations (GOCCs) and government financial institutions (GFIs), the period provided herein shall be fifteen (15) calendar days.

## Section II. Instructions to Bidders

### 30. Reservation Clause

- 30.1. Notwithstanding the eligibility or post-qualification of a bidder, the Procuring Entity concerned reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said bidder, or that there has been a change in the Bidder's capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid evaluation criteria, the Procuring Entity shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.
- 30.2. Based on the following grounds, the Procuring Entity reserves the right to reject any and all Bids, declare a Failure of Bidding or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:
- (a) if there is *prima facie* evidence of collusion between appropriate public officers or employees of the Procuring Entity, or between the BAC and any of the Bidders, or if the collusion is between or among the bidders themselves, or between a Bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
  - (b) if the Procuring Entity's BAC is found to have failed in following the prescribed bidding procedures; or
  - (c) for any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the Government of the Philippines (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.
- 30.3. In addition, the Procuring Entity may likewise declare a failure of bidding when:
- (a) No bids are received;
  - (b) All prospective bidders are declared ineligible;
  - (c) All bids fail to comply with all the bid requirements or fail post-qualification; or
  - (d) The bidder with the Lowest Calculated and Responsive Bid refuses, without justifiable cause to accept the award of contract, and no award is made.

### F. Award of Contract

### 31. Contract Award

- 31.1. Subject to **ITB** Clause 28, the Procuring Entity shall award the contract to the Bidder whose Bid has been determined to be the Lowest Calculated and Responsive Bid (LCRB).
- 31.2. Prior to the expiration of the period of Bid validity, the Procuring Entity shall notify the successful Bidder in writing that its Bid has been accepted, through a **Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days** by the LCRB and **submitted personally or sent by registered mail or electronically** to the Procuring Entity.



## Section II. Instructions to Bidders

- 31.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:
- (a) Submission of the following documents within the prescribed period from receipt by the Bidder of the **notice** that it has the **Lowest Calculated and Responsive Bid**:
    - (i) Valid JVA, if applicable, within ten (10) calendar days;
    - (b) Posting of the performance security in accordance with **ITB** Clause 33;
    - (c) Signing of the contract as provided in **ITB** Clause 32; and
    - (d) Approval by higher authority, if required.
  - 31.4. At the time of contract award, the Procuring Entity shall not increase or decrease the quantity of goods originally specified in Section VI, Schedule of Requirements and Specifications.

### 32. Signing of the Contract

- 32.1. **At the same time** as the Procuring Entity **notifies the successful Bidder** that its Bid has been accepted, **the Procuring Entity shall send the Contract Form to the Bidder**, which Contract has been provided in the Bidding Documents, incorporating therein all agreements between the parties.
- 32.2. Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security, sign and date the contract and return it to the Procuring Entity.
- 32.3. The Procuring Entity shall enter into contract with the successful Bidder within the same ten (10) calendar day period provided that all the documentary requirements are complied with.
- 32.4. The following documents shall form part of the contract:
- (a) Contract Agreement;
  - (b) Bidding Documents;
  - (c) Winning Bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted;
  - (d) Performance Security;
  - (e) Credit line in accordance with **ITB** Clause 5.5, if applicable;
  - (f) Notice of Award of Contract; and
  - (g) Other contract documents that may be required by existing laws and/or specified in the **BDS**.

### 33. Performance Security

- 33.1. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than the signing of the contract.
- 33.2. The procuring entity shall prescribe at least two (2) acceptable forms of performance security taken from two (2) categories below that bidders may opt to use, denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount equal to the percentage of the total contract price in accordance with the following schedule: **(refer to Section III, BDS 33.2 for clarification) [GPPB Res. No. 25-2013 Annex B]**

Section II. Instructions to Bidders

Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five percent (5%)
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty percent (30%)

33.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the Procuring Entity shall initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until the Lowest Calculated and Responsive Bid is identified and selected for contract award. However, if no Bidder passed post-qualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement.

**34. Notice to Proceed**

34.1. Within three (3) calendar days from the date of approval of the Contract by the appropriate government approving authority, the Procuring Entity shall issue its Notice to Proceed to the Bidder **[refer to Section III, BDS 34.1 for clarification]**.

34.2. The contract effectivity date shall be provided in the Notice to Proceed by the Procuring Entity, which date shall not be later than seven (7) calendar days from the issuance of the Notice to Proceed.

**35. Protest Mechanism**

Decision of the procuring entity at any stage of the procurement process may be questioned in accordance with Section 55 of the revised Implementing Rules and Regulations of Republic Act No. 9184 **(Refer to Section III, BDS 35 for clarification)**.

# **SECTION III**

# **BID DATA SHEET**

## SECTION III - BID DATA SHEET

This Section III, Bid Data Sheet amends and/or supplements Section II, Instructions to Bidders. In case of discrepancy between Section III and Section II of the Bidding Documents, the provisions of Section III shall prevail.

ITB Clause	Description
1.1	<p><b>Scope of Bid</b></p> <p>The PROCURING ENTITY is the: <b>Philippine High School for the Arts</b></p> <p>The name of the Contract/Project is: <b>ACQUISITION OF WINDOW TYPE INVERTER AIR CONDITIONERS UNDER THE 2017 GENERAL FUND</b></p> <p>The identification number of the Project is: <b>PROJECT NO. 2017-10-005</b></p>
2	<p><b>Source of Funds</b></p> <p>The Funding Source is:</p> <p><b>The Government of the Philippines (GOP) through General Appropriations Act of 2017 under R.A. 10924 in the amount of One Million Five Hundred Thousand Pesos Only (Php 1,500,000.00)</b></p>
3.1 (b)	<p><b>Corrupt, Fraudulent, Collusive, Coercive, and Obstructive Practices</b></p> <p>3.1(b) The Procuring Entity and/or the Funding Source will reject a proposal for award if it determines that the bidder recommended for award has engaged in corrupt, fraudulent, collusive, coercive, and/or obstructive practice(s) in competing for the Contract.</p>
5.1	<p><b>Eligible Bidders</b></p> <p>No further instruction.</p>
8.1	<p><b>Subcontracts</b></p> <p>Subcontracting is not allowed.</p>
8.2	<p><b>Subcontracts</b></p> <p>Not applicable.</p>
9.1	<p><b>Pre-Bid Conference</b></p> <p>The Procuring Entity will hold a pre-bid conference for this Project open to all interested bidders on <b>December 01, 2017 (Friday); 10:00a.m. at PHSA Conference Room, NAC, Mt. Makiling, Los Baños, Laguna.</b></p>

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<p>9.1 Continuation</p>	<p>In case the procuring entity was not able to conduct the pre-bid conference on the date of the pre-bid conference because of cancellation of office work(s), by the government or its instrumentality, due to fortuitous event or force majeure, e.g., typhoon, flood, etc., the procuring entity shall issue a bid bulletin to all prospective bidders who bought the bidding documents to set the new date of the pre-bid conference. The time and venue of the pre-bid conference shall be indicated in said bid bulletin. The date for submission and opening of bids shall be moved if appropriate to comply with the "12-calendar-day-period" prescribed under Sec. 22.2 of the revised IRR of RA 9184.</p> <p>In case the government or its instrumentality declared a date a non-working day without a fortuitous event or force majeure, when such date is also the date of the pre-bid conference, the procuring entity shall likewise issue a bid bulletin mentioned in the paragraph above to set the new date of the pre-bid conference. The date for submission and opening of bids shall be moved if appropriate to comply with the "12-calendar-day-period" prescribed under Sec. 22.2 of the revised IRR of RA 9184.</p> <p>In above-mentioned premises, Sec. 38.2 of the revised IRR of RA 9184, as quoted below, shall not be applicable due to its different context.</p> <p>"Sec. 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 <u>deadline</u> for each activity falls on a non-working day (i.e. Saturday and Sunday), legal holiday, or special non-working holiday, <u>the deadline</u> shall be the <u>next working day</u>."</p>
<p>10.1</p>	<p><b>Addressee for Clarification on any part of the Bidding Documents for Interpretation</b></p> <p>The Procuring Entity's address is:</p> <p><b>RONALDO A. ABUAN</b> Chairperson Bids and Awards Committee Philippine High School for the Arts National Arts Center, Mt. Makiling, Los Baños, Laguna Tel. No. 049-576-4100 Telefax No.: 049-536-5973 Email address: phsa@laguna.net</p>
<p>12.1(a)(i)</p>	<p><b>Documents Comprising the Bid: Eligibility and Technical Components Class "A" Documents, other proof of registration:</b> No other acceptable proof of registration is recognized.</p>

12.1(a)(iii)	<p><b>Documents Comprising the Bid: Eligibility and Technical Components Class “A” Documents</b></p> <p>To be submitted inside the “Technical Component” Envelope</p> <p>I. Pursuant to GPPB Res. No. 29-2012 dated Nov. 23, 2012, ITB 12.(a)(iii) is hereby revised and the following requirements shall be submitted, <b>otherwise, the bid(s) shall be rejected or disqualified:</b></p> <ol style="list-style-type: none"> <li>1. Statement of <b>all its ongoing government and private contracts</b> within ten (10) years from the submission of bids, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid; the definition of ongoing contract(s) shall include all contracts/projects for which Notices of Award have been issued by the procuring entity/ies and duly received by the bidder but no contracts yet have been signed or issued by the procuring entity/ies; <b>and</b></li> <li>2. <b>Statement identifying the bidder’s single largest completed contract (SLCC) similar to the contract to be bid</b>, except under conditions provided for in Section 23.5.1.3 of the IRR of RA No. 9184. The value of the SLCC herein mentioned must be at least 50% of the ABC to be bid adjusted to current prices using NSO consumer price index.</li> </ol> <p>All of the above statements shall include all information required in ITB 12.1(a)(iii).</p> <p>Bidder’s failure to include an immaterial ongoing contract or failure to disclose complete information in the above-mentioned statements of contract(s) shall result in the following:</p> <ol style="list-style-type: none"> <li>a. Disqualification of the bidder for non-compliance with the eligibility requirement under Sections 23.1 or 24.1 of the revised IRR of R.A. 9184.</li> <li>b. Blacklisting under Section 65.3(a) or 65.3(b) of the revised IRR of R.A. 9184.</li> </ol> <p>II. <b>In case the bidder has no ongoing contract</b>, the bidder shall submit a duly signed statement of all its ongoing government and private contracts provided in <b>Section VII, Bidding Forms</b> and indicate <b>“No ongoing contract”</b> in said form, <b>otherwise, the bid(s) shall be rated “failed” or disqualified.</b></p>
12.1(b)(ii)	<p><b>To be submitted inside the Eligibility and Technical Component Envelope:</b></p> <p>Conformity with the Technical Specifications:</p> <ol style="list-style-type: none"> <li>1. Duly accomplished and signed Technical Specifications with Bidder’s Statement of Compliance (Refer to Section VII, Bidding Forms, “Bidder’s Technical Specifications/Statement of Compliance Form”)</li> </ol>
12.1(b)(iii)	<p><b>Documents Comprising the Bid: Eligibility and Technical Components</b></p> <p><b>Original Omnibus Sworn Statement</b> shall be submitted inside the “Technical Component” Envelope, otherwise, the bid(s) shall be rejected or disqualified.</p>
13.1	<p><b>Documents Comprising the Bid: Financial Component</b></p> <p>To be submitted inside the “Financial Component” Envelope</p> <p><b>Mandatory requirement in compliance with this BDS-ITB 13.1(a):</b></p> <ol style="list-style-type: none"> <li>1. <b>Original</b> duly signed and priced Financial Bid Form in accordance with the form prescribed in Section VII, Bidding Forms.</li> </ol>

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	<p>2. <b>Original</b> duly signed and priced Detailed Estimates</p> <p>Failure to submit any of the mandatory requirements in compliance with these BDS-ITB 13.1 stated herein shall be a ground for rejection or disqualification of bid(s).</p>
13.2(a)	<p><b>Documents Comprising the Bid: Financial Component</b></p> <p>Bid prices “as read” which exceed the ABC <b>per lot</b> shall not be rejected outright during opening of bids. The BAC or its authorized representative(s) shall conduct an evaluation and calculation of said bid prices during the opening of bids. If a bid price, as evaluated and calculated is higher than the ABC <b>per lot</b>, the bidder submitting the same shall be automatically disqualified in accordance with Section 31.1 of the IRR of R.A. 9184.</p>
14.2	<p><b>Alternative Bids</b></p> <p>No further instruction.</p>
15.4	<p><b>Bid Prices</b></p> <p>No further instruction.</p>
16.1	<p><b>Bid Currencies</b></p> <p>The bid prices shall be quoted in Philippine Pesos.</p>
17.1	<p><b>Bid Validity</b></p> <p>Bids shall be valid for 120 calendar days from date of bid opening. Bids valid for a shorter period shall be rejected outright as non-responsive.</p>
18.1	<p><b>Bid Security</b></p> <p>The bid security shall be in the form of a Bid Securing Declaration, or any of the following forms and amounts:</p> <ol style="list-style-type: none"> <li>1. The amount of not less than <b>Thirty Thousand Pesos Only (Php 30,000.00) [2% of ABC]</b>, if bid security is in cash, cashier’s/manager’s check, bank draft/guarantee or irrevocable letter of credit; or</li> <li>2. The amount of not less than <b>Seventy Five Thousand Pesos Only (Php 75,000.00) [5% of ABC]</b> if bid security is in Surety Bond.</li> </ol> <p>Bid security in the amount exceeding the required amount of the appropriate bid security stated herein is not a ground for rejection or disqualification of the corresponding bid(s).</p> <p>Bid security in the amount lesser by a maximum of fifty centavos than the required amount of bid security shall not be considered as “patently insufficient,” therefore, shall not be a ground for rejection or disqualification of the corresponding submitted bid(s).</p> <p>Bid security that is not in the form and amount considered herein shall be ground for rejection of the corresponding bid(s).</p> <p>Bid Security in the form of <b>cashier’s/manager check</b> shall be payable to PHSA Cashier.</p>

<p>18.1</p>	<p><b>Grounds for Enforcement of Bid Securing Declaration (GPPB Res. No. 15-2014)</b></p> <p>The Bid Securing Declaration shall be enforced when the bidder commits any act resulting to the forfeiture of bid security under <b>Sections 23.1(b), 34.2, 40.1 and 69.1, except 69.1(f)</b>, of the revised IRR of RA 9184; and/or bidder commits any act enumerated in ITB Clause 18.5 of Section II, Instructions to Bidders of the Bidding Documents.</p> <p><b>Commission of any of the acts mentioned herein shall merit the following sanctions:</b></p> <ul style="list-style-type: none"> <li>a) Penalty of automatic blacklisting for two (2) years in all government procurement activities;</li> <li>b) Payment of fine equivalent to the amount subject to the following rules: <ul style="list-style-type: none"> <li>i) In case of multiple bidders: <p>Two Percent (2%) of the Approved Budget for the Contract (ABC) or the Difference between the evaluated bid prices of the bidder with the Lowest Calculated/Highest Rated Bid and the bidder with the next Lowest Calculated/Highest Rated Bid, and so on, whichever is HIGHER;</p> <p>As regards the bidder with the Highest Calculated/Lowest Rated Bid, the amount shall be Two Percent (2%) of the ABC or the Difference between the evaluated bid price and the ABC, whichever is HIGHER;</p> </li> <li>ii) In case of a single bidder: <p>Two Percent (2%) of the ABC or the Difference between the evaluated bid price and the Approved Budget for the Contract, whichever is HIGHER.</p> </li> <li>iii) Violations committed prior to opening of financial envelope: <p>A fix amount equivalent to two percent (2%) of the ABC.</p> </li> <li>iv) The bidder shall pay the above-mentioned fine within fifteen (15) days from receipt of the written demand by the procuring entity as a result of the violation of the conditions in the Bid Securing Declaration.</li> <li>v) The imposition of the foregoing fine is without prejudice to other legal action the government may undertake against the erring bidder.</li> </ul> </li> </ul>
<p>18.2</p>	<p><b>Bid Security</b></p> <p>The bid security shall be valid for 120 calendar days reckoned from the date of opening of bids. Bids with bid security valid for a shorter period shall be rejected outright as non-responsive.</p> <p>The bid security shall be turned-over by the BAC to the PHSA Cashier for custody or deposit, whichever is appropriate.</p>
<p>19.4</p>	<p><b>Format and Signing of Bids</b></p> <p>Each and every page of the bid may have not been initialed, however, the bid must have been signed by the authorized representative of the Bidder on the appropriate page or pages provided for the signature of said authorized representative, hence, binding the Bidder to its bid, the bidding rules, and the contract in case of an award.</p>



<p>20.1</p>	<p><b>Sealing and Marking of Bids</b></p> <ol style="list-style-type: none"> <li>1. Bidders shall enclose their original eligibility and technical documents described in ITB Clause 12 in <b>one</b> (1) sealed envelope marked “ORIGINAL – TECHNICAL COMPONENT,” and the original of their financial component described in ITB Clause 13 in <b>another</b> sealed envelope marked “ORIGINAL – FINANCIAL COMPONENT.” [Refer to <b>Envelope Sealing Illustration</b> on last page of the bidding documents].</li> <li>2. In addition, the Bidders shall submit <b>a copy</b> of each of the Technical Component and the Financial Component of their bids in separate envelopes, respectively. Then, the bidders shall seal and mark the original and the copy of their bids in accordance with BDS 20.2. <i>[The Procuring Entity may require submission of maximum of 3 copies if necessary]</i></li> </ol> <p>In the event of any discrepancy between the original and the copy, the original shall prevail.</p> <p>Original Class “A” Eligibility Documents, such as the SEC, DTI, or the CDA registration certificate and the Mayor’s Permit, may not be submitted on the date and time of bid submission. However, the bidder must be able to present such original documents during post-qualification on demand by the BAC or its authorized representative(s).</p>
<p>20.2</p>	<p><b>Sealing and Marking of Bids</b> [Refer to <b>Envelope Sealing Illustration</b> on last page of the bidding documents]</p> <ol style="list-style-type: none"> <li>1. <b>Each copy</b> of the Technical Component and the Financial Component of the bid shall be similarly sealed in separate envelopes duly marking each envelope as “ELIGIBILITY-TECHNICAL COMPONENT” and “FINANCIAL COMPONENT”</li> <li>2. The “ORIGINAL ELIGIBILITY - TECHNICAL COMPONENT” envelope and the “COPY NO. <u>1</u> – ELIGIBILITY-TECHNICAL COMPONENT” envelope(s) shall be sealed in one outer envelope marked “ELIGIBILITY-TECHNICAL COMPONENT”</li> <li>3. The “ORIGINAL – FINANCIAL COMPONENT” envelope and the “COPY NO. <u>1</u> – FINANCIAL COMPONENT” envelope(s) shall be sealed in one outer envelope marked “FINANCIAL COMPONENT”</li> <li>4. All envelopes shall be marked in accordance with ITB Clause 20.4.</li> </ol>
<p>20.3</p>	<p><b>Sealing and Marking of Bids</b></p> <p><b>Number of copies of the bid to be submitted</b></p> <p>Each Bidder shall submit one (1) original and one (1) copy of the Technical Component and one (1) original and one (1) copy of the Financial Component of its bid. <i>[The Procuring Entity may require submission of maximum of 3 copies if necessary]</i></p> <p>Failure to submit the required original Technical Component documents and the required original Financial Component documents <b>is a ground for rejections or disqualification of the bid(s).</b></p> <p>Failure to submit copies of the Technical Component and the Financial Component documents mentioned above <b>is not a ground for rejection or disqualification of the bid(s).</b> The BAC shall use the original Technical Component and the original Financial Component to examine and evaluate the bid(s). Nonetheless, bidders are strongly encouraged to submit the additional copies to facilitate objective and efficient examination of their bids.</p>

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	<p>The original and the number of copies of the Bid as indicated in the BDS shall be typed or written in indelible ink and shall be signed, when appropriate, by the bidder or its duly authorized representative/s.</p>
20.5	<p><b>Sealing and Marking of Bids</b></p> <p>Sealing and Marking of bids are not grounds for rejection or disqualification of bid(s).</p>
21	<p><b>The Address and Deadline for Submission of Bids:</b></p> <p>The address for submission of bids is:</p> <p><b>Supply and Procurement Office, PHSA, NAC, Mt. Makiling, Los Baños, Laguna.</b></p> <p>The <b>deadline</b> for submission of bids is: <b>December 12, 2017 (Tuesday) at 1:30p.m.</b></p>
24	<p><b>Opening and Preliminary Examination of Bids:</b></p> <p>In case the procuring entity was not able to receive and open the bid(s) on the deadline for submission and opening of bid(s) because of cancellation of office work(s), by the government or its instrumentality, due to fortuitous event or force majeure, e.g., typhoon, flood, etc., the procuring entity shall issue a notice to all prospective bidders who bought the bidding documents to set the new date for the submission and opening of bids. The time and venue for the submission and opening of bid(s) shall be indicated in said notice. Late bid(s) shall not be accepted pursuant to Section I, Instruction to Bidders, ITB Clause 22.</p> <p>In case the government or its instrumentality declared a non-working day without a fortuitous event or force majeure, when such date is also the deadline (date) for submission and opening of bids, the procuring entity shall likewise issue a notice mentioned in the paragraph above. Late bid(s) shall not be accepted pursuant to Section I, Instruction to Bidders, ITB Clause 22.</p> <p>In above-mentioned premises, Sec. 38.2, as quoted below, of the revised IRR of RA 9184, shall not be applicable due to its different context.</p> <p>“Sec. 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 <u>deadline</u> for each activity falls on a non-working day (i.e. Saturday and Sunday), legal holiday, or special non-working holiday, <u>the deadline</u> shall be the <u>next working day</u>.”</p>
24.1	<p><b>Opening and Preliminary Examination of Bids:</b></p> <p>The place of bid opening is:</p> <p><b>PHSA Conference Room, NAC, Mt. Makiling, Los Baños, Laguna.</b></p> <p>The date and time of <b>bid opening</b> is: <b>December 12, 2017 (Tuesday) at 2:00p.m.</b></p>
24.2	<p><b>Opening and Preliminary Examination of Bids:</b></p> <p>No further instruction.</p>

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28.3(a)	<p><b>Detailed Evaluation and Comparison of Bids</b></p> <p><u>Completeness of the bid.</u> Unless the <b>ITB</b> specifically allows partial bids, bids not addressing or providing all of the required items in the Schedule of Requirements including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) or “-“ (<b>dash</b>) for the said item would mean that it is being offered for free to the Procuring Entity;</p>
28.3(b)	<p><b>Detailed Evaluation and Comparison of Bids</b> <b>Arithmetical Corrections</b></p> <p>Bid modification shall be allowed only in accordance with ITB Clause 23.</p>
28.4	<p><b>Detailed Evaluation and Comparison of Bids</b></p> <p>No further instruction.</p>
28.5	<p><b>Detailed Evaluation and Comparison of Bids</b></p> <p>The Procuring Entity’s evaluation of bids shall only be based on the bid price/s quoted in the Financial Bid Form and Detailed Estimates. In case the Bidder submitted the Bill of Quantities, Procuring Entity’s evaluation of bids shall be based on the bid price/s quoted in the Financial Bid Form/s, Price Schedule/s and the Bill of Quantities.</p> <p>In case of discrepancies between:</p> <ul style="list-style-type: none"> <li>(a) bid prices in figures and in words, the latter shall prevail;</li> <li>(b) total price per item and unit price for the item as extended or multiplied by the quantity of that item, the latter shall prevail;</li> <li>(c) stated total price and the actual sum of prices of component items, the latter shall prevail;</li> <li>(d) unit cost in the detailed estimate and unit cost in the bill of quantities, the latter shall prevail.</li> </ul>
29.2	<p><b>Post-Qualification, Submission of Documentary Requirements</b></p> <p>To facilitate post-qualification, the bidder <b>at its option</b> may submit in advance, i.e. on the deadline for submission and receipt of bids, the documents required in Section II. ITB 29.2, in a separate sealed envelope as follows:</p> <ol style="list-style-type: none"> <li>1. Latest income and business tax returns: Printed copies of the <b>Electronically filed and paid</b> Income Tax / Business Tax Returns with copies of their respective Payment Confirmation Forms for the immediately preceding calendar / tax year from the authorized agent bank;</li> <li>2. Valid Certificate of PhilGEPS Registration</li> </ol> <p>The envelope shall be marked:</p> <ul style="list-style-type: none"> <li>• ITB 29.2 Documents</li> <li>• Name of Project: _____</li> <li>• Bid Opening Date: _____</li> <li>• Name of Bidder: _____</li> </ul>

29.2(a)	<p><b>Post-Qualification, form of latest ITR</b></p> <p><b><u>Only tax returns filed and taxes paid through the BIR Electronic Filing and Payment System (EFPS) shall be accepted. (As amended by GPPB Res. No. 11-2013)</u></b></p> <p>2. Printed copies of the Electronically filed and paid Income Tax and Business Tax Returns with copies of their respective Payment Confirmation Forms for the immediate preceding calendar/tax year from the authorized agent bank.</p> <p><i>NOTE: The latest income and business tax returns are those within the last six months preceding the date of bid submission.</i></p>							
29.2(c)	<p><b>Post-Qualification, other appropriate licenses and permits</b></p> <p>No further instruction.</p>							
29.4	<p><b>Post-Qualification, Method of breaking a tie between or among Equal Bids</b></p> <p>In accordance with GPPB Circular No. 06-2005 dated August 5, 2005, Procuring Entities are required to identify, at the onset of the bidding process, a ready and clear measure to break a tie to be used in the event of a tie between two or more bidders that have been post-qualified and whose bids have been determined as Lowest Calculated Responsive Bids (LCRB).</p> <p>In case of a tie or equal bids having been post-qualified, the measure determined by the procuring entity to break the tie shall be non-discretionary and non-discriminatory such that the same is based on sheer luck or chance. The procuring entity shall use “draw lots” or similar methods of chance.</p>							
32	<p><b>Signing of the Contract</b></p> <p>Notarization fee of the contract shall be paid by the supplier (winning bidder).</p>							
33.2	<p><b>Performance Security</b></p> <p>Pursuant to Section II, ITB 33.2, any of the following forms of performance securities is prescribed by the procuring entity as acceptable, to wit:</p> <table border="1" data-bbox="438 1265 1437 1794"> <thead> <tr> <th data-bbox="438 1265 1034 1391">Form of Performance Security</th> <th data-bbox="1034 1265 1437 1391">Amount of Performance Security (Equal to Percentage of the Total Contract Price)</th> </tr> </thead> <tbody> <tr> <td data-bbox="438 1391 1034 1464">(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.</td> <td data-bbox="1034 1391 1437 1464" rowspan="2" style="text-align: center; vertical-align: middle;">Five percent (5%)</td> </tr> <tr> <td data-bbox="438 1464 1034 1659">(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.</td> </tr> <tr> <td data-bbox="438 1659 1034 1794">(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; and/or</td> <td data-bbox="1034 1659 1437 1794" style="text-align: center; vertical-align: middle;">Thirty percent (30%)</td> </tr> </tbody> </table> <p>Performance Security submitted not in any of the forms herein-mentioned shall be ground for cancellation of the award of contract and forfeiture of the bid security without prejudice to procuring entity's any other courses of actions provided in the bidding documents, laws, rules and regulations.</p>	Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)	(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five percent (5%)	(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; and/or	Thirty percent (30%)
Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)							
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five percent (5%)							
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.								
(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; and/or	Thirty percent (30%)							

<p>34.1 and 34.2</p>	<p><b>Notice to Proceed</b></p> <p>The procuring entity shall <b>issue</b> the Notice to Proceed together with a copy of the approved contract to the successful bidder within three (3) calendar days from the date of approval of the contract by the appropriate government approving authority. The <b>contract effectivity</b> date shall commence from the date of issuance by Procuring Entity to the successful bidder of the Notice to proceed (NTP) or the date provided for such purpose indicated in the NTP, which date shall <b>not be later</b> than seven (7) calendar days <b>from its issuance</b>.</p> <p>The Procuring Entity at its option may conduct a “pre-contract implementation meeting” to discuss procedures and schedules of contract implementation such as monitoring of deliveries, inspection and acceptance of deliveries, payment and its required documents, validity and release of performance security and retention money or special bank guarantee, exchange of contact persons and numbers, among others. This meeting shall be attended by the supplier and/or its authorized representative/s.</p>																
<p>35</p>	<p><b>Protest Mechanism</b></p> <p><b>Section 55 of the IRR of RA No. 9184</b></p> <p>55.1. Decisions of the BAC at any stage of the procurement process may be <b>questioned</b> by <b>filing a request for reconsideration</b> 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.</p> <p>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 <b>unopened and/or duly sealed</b> until such time that the request for reconsideration has been resolved.</p> <p>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.</p> <p>55.3. The protest must be filed within seven (7) calendar days <b>from receipt</b> by the party concerned of the <b>resolution of the BAC denying its request</b> 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 as follows:</p> <table border="1" data-bbox="438 1579 1428 1892"> <thead> <tr> <th>ABC RANGE</th> <th>PROTEST FEE</th> </tr> </thead> <tbody> <tr> <td>50 million pesos and below</td> <td>0.75% of the ABC</td> </tr> <tr> <td>More than 50 million pesos to 100 million pesos</td> <td>PhP 500,000.00</td> </tr> <tr> <td>More than 100 million pesos to 500 million pesos</td> <td>0.5% of the ABC</td> </tr> <tr> <td>More than 500 million pesos to 1 billion pesos</td> <td>PhP 2,500,000.00</td> </tr> <tr> <td>More than 1 billion pesos to 2 billion pesos</td> <td>0.25% of the ABC</td> </tr> <tr> <td>More than 2 billion pesos to 5 billion pesos</td> <td>PhP 5,000,000.00</td> </tr> <tr> <td>More than 5 billion pesos</td> <td>0.1 % of the ABC</td> </tr> </tbody> </table>	ABC RANGE	PROTEST FEE	50 million pesos and below	0.75% of the ABC	More than 50 million pesos to 100 million pesos	PhP 500,000.00	More than 100 million pesos to 500 million pesos	0.5% of the ABC	More than 500 million pesos to 1 billion pesos	PhP 2,500,000.00	More than 1 billion pesos to 2 billion pesos	0.25% of the ABC	More than 2 billion pesos to 5 billion pesos	PhP 5,000,000.00	More than 5 billion pesos	0.1 % of the ABC
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	<p>55.4. The verified position paper shall contain the following information:</p> <ul style="list-style-type: none"><li>a) The name of bidder;</li><li>b) The office address of the bidder;</li><li>c) The name of project/contract;</li><li>d) The implementing office/agency or procuring entity;</li><li>e) A brief statement of facts;</li><li>f) The issue to be resolved; and</li><li>g) Such other matters and information pertinent and relevant to the proper resolution of the protest.</li></ul> <p>The position paper must be 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.</p> <p><b>In addition, the bidder shall likewise certify under oath that:</b></p> <ul style="list-style-type: none"><li>a) he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein;</li><li>b) if there is such other pending action or claim, he is including a complete statement of the present status thereof; and</li><li>c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the Head of Procuring Entity wherein his protest is filed.</li></ul> <p>Failure to comply with the foregoing requirements shall not be curable by mere amendment of the verified position paper.</p>
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**SECTION IV**

**GENERAL CONDITIONS OF  
CONTRACT**

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## SECTION IV – GENERAL CONDITIONS OF CONTRACT

### 1. Definitions

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

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

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

2.1. Unless otherwise provided in the SCC, the PROCURING ENTTY as well as the bidders, contractors, manufacturers, suppliers, or distributors shall observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the PROCURING ENTITY:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:

- (a.1) “corrupt practice” means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar as provided in Republic Act 3019.
- (a.2) “fraudulent practice” means misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the PROCURING ENTITY, and includes collusive practices among Bidders (prior to or after Bid submission) designed to establish Bid prices at artificial, non-competitive levels and to deprive the PROCURING ENTITY of the benefits of free and open competition.
- (a.3) “collusive practices” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the PROCURING ENTITY, designed to establish Bid prices at artificial, non-competitive levels.
- (a.4) “coercive practices” means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
- (a.5) “obstructive practice” is
  - (a.5.a) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the PROCURING ENTITY or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or
  - (a.5.b) acts intended to materially impede the exercise of the inspection and audit rights of the PROCURING ENTITY or any foreign government/foreign or international financing institution herein.
- (b) The PROCURING ENTITY will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

2.2. Further the Funding Source, Borrower or PROCURING ENTITY, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with any of the practices mentioned in GCC Clause 2.1(a).

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

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

3.2. Governing Law and Language

This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.

- 3.3. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and other documents pertaining to this Contract exchanged by the parties shall be written in English.

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

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

#### **5. Notices**

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

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

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

#### **7. Subcontracting**

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

#### **8. PROCURING ENTITY's Responsibilities**

- 8.1. Whenever the performance of the obligations in this Contract requires that the supplier obtain permits, approvals, imports, and other licenses from local public authorities, the PROCURING ENTITY shall, if so needed by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 8.2. The PROCURING ENTITY shall pay all cost involved in the performance of its responsibilities in accordance with GCC Clause 6.

## **9. Prices**

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

## **10. Payment**

- 10.1. Unless otherwise specified in the SCC, payments shall be made only upon a certification by the Head of the PROCURING ENTITY to the effect that the GOODS have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this contract. Ten percent (10%) of the amount of each payment shall be retained by the PROCURING ENTITY to cover the Supplier's warranty obligations under this Contract as described in GCC Clause 17.
- 10.2. The Supplier's request(s) for payment shall be made to the PROCURING ENTITY in writing, accompanied by an invoice describing, as appropriate, the GOODS delivered and/or Services performed, and by documents submitted pursuant to the SCC provision for GCC Clause 6.2, and upon fulfillment of other obligations stipulated in this Contract.
- 10.3. Pursuant to GCC Clause 10.2, payments shall be made promptly by the PROCURING ENTITY, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier.
- 10.4. Unless otherwise specified in the SCC, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.

## **11. Advance Payment and Terms of Payment**

- 11.1. Advance payment shall be made only after prior approval of the PROCURING ENTITY, and shall not exceed fifteen percent (15%) of the Contract amount, unless otherwise allowed under Annex "D" of RA 9184.
- 11.2. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.

## **12. Taxes and Duties**

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

## **13. Performance Security**

- 13.1. Unless otherwise specified in the SCC, within ten (10) calendar days from receipt of the Notice of Award from the PROCURING ENTITY but in no case later than the signing of the contract by both parties, the successful Bidder shall furnish the performance security prescribed by the PROCURING ENTITY in any of the forms prescribed in the ITB Clause 33.2.
- 13.2. The performance security posted in favor of the PROCURING ENTITY shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the Contract.

- 13.3. The performance security shall remain valid until the issuance by the PROCURING ENTITY of the Certificate of Final Acceptance.
- 13.4. The performance security will be released by the PROCURING ENTITY and returned to the Supplier not later than thirty (30) days following the date of completion of the Supplier's performance obligations under the Contract and the issuance of the Certificate of Final Acceptance.
- 13.5. In case of a reduction of the contract value, the PROCURING ENTITY shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.

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

- 14.1. The Supplier shall not, except for purposes of performing the obligations in this Contract, without the PROCURING ENTITY's prior written consent, disclose this Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the PROCURING ENTITY. Any such disclosure shall be made for purposes of such performance.
- 14.2. Any document, other than this Contract itself, enumerated in GCC Clause 14.1 shall remain the property of the PROCURING ENTITY and shall be returned (all copies) to the PROCURING ENTITY on completion of the Supplier's performance under this Contract if so required by the PROCURING ENTITY.

#### **15. Standards**

The GOODS provided under this Contract shall conform to the standards mentioned in Section VI, Schedule of Requirements and Specifications; and, when no applicable standard is mentioned, to the authoritative standards appropriate to the GOODS' country of origin. Such standards shall be the latest issued by the institution concerned.

#### **16. Inspection and Test**

- 16.1. The PROCURING ENTITY or its representative shall have the right to inspect or to confirm their conformity to the Contract specifications at no extra cost to the PROCURING ENTITY. The SCC and Section VII. Technical Specifications shall specify what inspection and/or tests the PROCURING ENTITY requires and where they are to be conducted. The PROCURING ENTITY shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 16.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier or its subcontractor(S), at point of delivery, and/or at the GOODS' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the PROCURING ENTITY. The Supplier shall provide the PROCURING ENTITY with results of such inspections and tests.
- 16.3. The PROCURING ENTITY or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the PROCURING ENTITY shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 16.4. The PROCURING ENTITY may reject any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected GOODS or parts thereof or make alterations necessary to meet the specifications at no cost to the PROCURING ENTITY, and shall repeat the test and/or inspection, at no cost to the PROCURING ENTITY, upon giving a notice pursuant to GCC Clause 5.

- 16.5. The Supplier agrees that neither the execution of a test and/or inspection of the GOODS or any part thereof, nor the attendance by the PROCURING ENTITY or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

## **17. Warranty**

- 17.1. The Supplier warrants the GOODS supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials except when the design and/or material required by the PROCURING ENTITY provides otherwise.
- 17.2. The Supplier further warrants that all GOODS supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier, which may develop under normal use of the supplied GOODS in the conditions prevailing in the country of final destination.
- 17.3. In order to assure that the manufacturing defects shall be corrected by the Supplier, manufacturer, or distributor, as the case may be, a warranty shall be required from the Supplier for a minimum period of three (3) months, in the case of Supplies, and one (1) year, in the case of Equipment, after performance of the contract or other such period as may be specified in the SCC. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least ten percent (10%) of every progress payment, or a special bank guarantee equivalent to at least ten percent (10%) of the total Contract Price or other such amount if so specified in the SCC. The said amounts shall only be released after the lapse of the warranty period: Provided, however, that the GOODS supplied are free from patent and latent defects and all conditions imposed under the Contract have been fully met.
- 17.4. The PROCURING ENTITY shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified in the SCC and with all reasonable speed, repair or replace the defective GOODS or parts thereof, without cost to the PROCURING ENTITY.
- 17.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in the SCC, the PROCURING ENTITY may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the PROCURING ENTITY may have against the Supplier under the Contract and under the applicable law.

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

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

## 19. Liquidated Damages

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

## 20. Settlement of Disputes

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

## 21. Liability of the Supplier

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

## 22. Force Majeure

- 22.1. The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.
- 22.2. For purposes of this Contract the terms "*force majeure*" and "fortuitous event" may be used interchangeably. In this regard, a fortuitous event or *force majeure* shall be interpreted to mean an event which the SUPPLIER could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the SUPPLIER. Such events may include, but not limited to, acts of the PROCURING ENTITY in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

22.3. If a *force majeure* situation arises, the SUPPLIER shall promptly notify the PROCURING ENTITY in writing of such condition and the cause thereof. Unless otherwise directed by the PROCURING ENTITY in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the *force majeure*.

### **23. Termination for Default**

23.1 The PROCURING ENTITY shall terminate this Contract for default when any of the following conditions attends its implementation:

- (a) Outside of *force majeure*, the Supplier fails to deliver or perform any or all of the GOODS within the period(s) specified in the contract, or within any extension thereof granted by the PROCURING ENTITY pursuant to a request made by the Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the Contract Price;
- (b) As a result of *force majeure*, the Supplier is unable to deliver or perform any or all of the GOODS, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the PROCURING ENTITY stating the circumstance of force majeure is deemed to have ceased; or
- (c) The Supplier fails to perform any other obligation under the Contract.

23.2. In the event the PROCURING ENTITY terminates this Contract in whole or in part, for any of the reasons provided under GCC Clauses 23 to 26, the PROCURING ENTITY may procure, upon such terms and in such manner as it deems appropriate, GOODS or Services similar to those undelivered, and the Supplier shall be liable to the PROCURING ENTITY for any excess costs for such similar GOODS or Services. However, the Supplier shall continue performance of this Contract to the extent not terminated.

23.3. In case the delay in the delivery of the GOODS and/or performance of the Services exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the Supplier, the PROCURING ENTITY may terminate this Contract, forfeit the Supplier's performance security and award the same to a qualified Supplier.

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

The PROCURING ENTITY shall terminate this Contract if the Supplier is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the PROCURING ENTITY and/or the Supplier.

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

25.1. The PROCURING ENTITY may terminate this Contract, in whole or in part, at any time for its convenience. The Head of the PROCURING ENTITY may terminate a contract for the convenience of the Government if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.

25.2. The GOODS that have been delivered and/or performed or are ready for delivery or performance within thirty (30) calendar days after the Supplier's receipt of Notice to Terminate shall be accepted by the PROCURING ENTITY at the contract terms and prices. For GOODS not yet performed and/or ready for delivery, the PROCURING ENTITY may elect:



- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
- (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed GOODS and for materials and parts previously procured by the Supplier.

25.3. If the Supplier suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for goods specially manufactured for the PROCURING ENTITY which cannot be sold in open market, it shall be allowed to recover partially from this Contract, on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the Supplier to the satisfaction of the PROCURING ENTITY before recovery may be made.

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

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

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

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

The following provisions shall govern the procedures for termination of this Contract;

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Implementing Unit shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Implementing Unit, the Head of the PROCURING ENTITY shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
  - (b.1) that this Contract is being terminated for any of the ground afore-mentioned and a statement of the acts that constitutes the ground(s) constituting the same;
  - (b.2) the extent of termination, whether in whole or in part;
  - (b.3) an instruction to the Supplier to show cause as to why this Contract should not be terminated; and
  - (b.4) special instructions of the PROCURING ENTITY, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the Head of the PROCURING ENTITY a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the Head of the PROCURING ENTITY shall issue an order terminating this Contract;

- (e) The PROCURING ENTITY may, at any time before receipt of the Supplier's verified position paper to withdraw the Notice to Terminate if its determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the Head of the PROCURING ENTITY shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
- (g) The Head of the PROCURING ENTITY may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the Head of the PROCURING ENTITY, and
- (h) The Supplier must serve a written notice to the PROCURING ENTITY of its intention to terminate the Contract at least thirty (30) calendar days before its intended termination. The contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the PROCURING ENTITY.

**28. Assignment of Rights**

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

**29. Contract Amendment**

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

**30. Application**

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

**SECTION V**

**SPECIAL CONDITIONS OF  
CONTRACT**

## SECTION V – SPECIAL CONDITIONS OF CONTRACT

This Section V, Special Conditions of the Contract amends and/or supplements Section IV, General Conditions of the Contract of these Bidding Documents. In case of discrepancy between Section V and IV, the provisions of Section V shall prevail.

GCC CLAUSE	Description
1.1 (g)	<p>The Procuring Entity is</p> <p><b>Philippine High School for the Arts</b>                      National Arts Center, Mt. Makiling, Los Baños, Laguna                      Tel. No. 049-5764100/Telefax No. 049-5365973</p>
1.1 (i)	The Supplier is [to be inserted at the time of contract award].
1.1 (j)	<p>The Funding Source is:</p> <p><b>The Government of the Philippines (GOP) through General Appropriations Act (GAA) of 2017 under R.A. 10924 in the amount of One Million Five Hundred Thousand Pesos Only (Php 1,500,000.00)</b></p>
5.1	<p>The Procuring Entity's address for Notices is:</p> <p><b>DR. VICTOR EMMANUEL CARMELO D. NADERA JR.</b>                      Director IV                      PHSA, National Arts Center, Mt. Makiling, Los Baños, Laguna                      Telephone No.: 049-576-4100                      Telefax No. :049-536-5973</p>

# **SECTION VI**

## **SCHEDULE OF REQUIREMENTS AND SPECIFICATIONS**

## SECTION VI – SCHEDULE OF REQUIREMENTS AND SPECIFICATIONS

### A. List/Description of Goods

The supplier shall supply and deliver the following items:

SPECIFICATIONS	QTY.	PHSA APPROVED BUDGET FOR THE CONTRACT (ABC)		BIDDER'S QUOTATIONS	
		UNIT COST	TOTAL COST	UNIT COST	TOTAL COST
1.5 HP Window Type Inverter Air Conditioner	25 units	40,000.00	1,000,000.00		
2 HP Window Type Inverter Air Conditioner	10 units	50,000.00	500,000.00		
<b>TOTAL ABC</b>			<b>1,500,000.00</b>		

### B. Delivery Schedule

Complete delivery shall be made within Thirty (30) calendar days from the date of receipt of the Notice to Proceed (NTP) by the Supplier or the date provided for such purpose indicated in the NTP.

### C. Project Site

Goods shall be delivered to the Philippine High School for the Arts, National Arts Center, Mt. Makiling, Los Baños, Laguna.

The Supplier shall observe the following instructions:

1. Goods as specified in this Schedule of Requirements and/or the Technical Specifications shall be delivered only to the address indicated herein;
2. The Supplier shall notify the indicated authorized receiving personnel at the Project site of the scheduled date of delivery at least three (3) working day in advance, and shall ensure that the authorized receiving personnel of the Procuring Entity is present during the date and time of delivery;
3. The supplier shall make the delivery/ies from 8:00 A.M. to 5:00 P.M. and on Mondays to Fridays only; the Supplier shall not make deliveries before 8:00 A.M., after 5:00 P.M., and on non-working days.
4. During delivery, delivery receipts must be signed by the Supply Officer or their authorized representatives.

# **SECTION VII**

## **BIDDING FORMS**

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Financial Bid Form

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Date: \_\_\_\_\_, 2016

Project No.: \_\_\_\_\_

DR. VICTOR EMMANUEL CARMELO D. NADERA JR.

Director IV

Philippine High School for the Arts

National Arts Center, Mt. Makiling,

Los Baños, Laguna

Attention: The Chairperson

Bids and Awards Committee

Gentlemen and/or Ladies:

We, the undersigned, declare that:

- a) We have examined and have no reservation to the Bidding Documents, including Bid Bulletin Numbers [state numbers], for the Contract [Insert name of Contract/Project];
- b) We offer to execute the Works for this Contract in accordance with the Bid and Bid Data Sheet, the General and Special Conditions of Contract, and the bidding documents accompanying this Bid;

The total price of our Bid, excluding any discount offered below is:

\_\_\_\_\_ (Php \_\_\_\_\_)

The discounts offered and the methodology for their application are: [insert information e.g., "No discount is being offered;" or "The amount of discount being offered by us is (state amount in words and in figures) to be deducted from the total price of our bid mentioned in this Financial Bid Form, the Bill of Quantities and/or the Program of Works. Therefore, the TOTAL PRICE of our bid less the discount is (state amount in words and in figures)"];

- c) Our Bid shall be valid for a period of [insert number] calendar days from the date fixed for the Bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- d) If our Bid is accepted, we commit to obtain a Performance Security in the amount of [insert percentage or number] percent of the Contract Price for the due performance of the Contract;
- e) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from the following eligible countries: [insert information];
- f) We are not participating, as Bidders, in more than one Bid in this bidding process, other than our offers tendered in accordance with the Bidding Documents;
- g) Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the Contract, has not been declared ineligible by the Funding Source;
- h) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed; and
- i) We understand that you are not bound to accept the Lowest Evaluated Bid or any other Bid that you may receive.

Name of authorized signatory: \_\_\_\_\_

Designation/In the capacity of: \_\_\_\_\_

Signature of authorized signatory: \_\_\_\_\_

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

[Registered Company/Business Name of Bidder]

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

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

Telefax No.: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Name of Bidder:

Address of the Bidder:

Statement of Ongoing, Completed or Awarded Government and Private Contracts within the Relevant Period

Name of the Contract	Date of the Contract	Kinds of Goods	Amount of Contract and Value of Outstanding Contract	Date of Delivery	End user's acceptance of Official receipt(s) issued for the contract, if completed
ONGOING					
1.					
2.					
3.					
COMPLETED					
1.					
2.					
3.					
AWARDED BUT NOT YET STARTED					
1.					
2.					
3.					

A. Summary of the Contractor's assets and liabilities on the basis of the attached audited financial statement, stamped "RECEIVED" by the Bureau of Internal Revenue or its duly accredited and authorized institutions [BIR authorized collecting agent], for the preceding calendar/tax year which should not be earlier than two (2) years from the date of bid submission.

		Year 20__
1	Total Assets	
2	Current Assets	
3	Total Liabilities	
4	Current Liabilities	
5	Net Worth (1-3)	
6	Net Working Capital (2-4)	

B. The Net Financial Contracting Capacity (NFCC) based on the above data is computed as follows:

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

Herewith attached is a true copy of the audited financial statement: stamped "RECEIVED" by the BIR or BIR authorized collecting agent for the preceding calendar/tax year which should not be earlier than two (2) years from the date of bid submission.

Submitted by:

\_\_\_\_\_  
Registered Business Name of Contractor

\_\_\_\_\_  
Name and signature of Authorized Representative

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

Encl.: as stated

Bid Security Form (Bank Guarantee)  
***[Bidders should refer to Section III, BDS 18.1 if applicable]***

---

WHEREAS, *[insert name of Bidder]* (hereinafter called the "Bidder") has submitted its bid dated *[insert date]* for the *[insert name of contract]* (hereinafter called the "Bid").

KNOW ALL MEN by these presents that We *[insert name of Bank]* of *[insert name of Country]* having our registered office at *[insert address]* (hereinafter called the "Bank" are bound unto PHILIPPINE HIGH SCHOOL FOR THE ARTS (hereinafter called the "Entity") in the sum of *[insert amount in words and in figures]* for which payment well and truly to be made to the said Entity; the Bank binds itself, its successors and assigns by these presents to this Guarantee.

SEALED with the Common Seal of the said Bank this \_\_\_\_ day of \_\_\_\_ 20\_\_

THE CONDITIONS of this obligation are:

1. If the Bidder:
  - (a) withdraws its/his/her Bid during the period of bid validity specified in its Financial Bid Form; or
  - (b) does not accept the correction of arithmetical errors of its bid price in accordance with the Instructions to Bidder; or
  - (c) fails to submit, within the prescribed period, any of these requirements, i.e., Tax Clearance per E.O. 398 s. of 2005, latest Income and Business tax returns, the Certificate of PhilGEPS Registration, appropriate licenses and permits required by law or the bidding documents, or a finding against the veracity of said documents; or
2. If the Bidder commits or committed any of the following acts:
  - (a) submission of eligibility requirements containing false information or falsified documents; or
  - (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; or
  - (c) allowing the use of one's name, or using the name of another for purposes of public bidding; or
  - (d) withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the Lowest Calculated and Responsive Bid; or
  - (e) refusal or failure to post the required performance security within the prescribed time; or
  - (f) 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; or
  - (g) any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor; or
  - (h) failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
  - (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; or
3. If the Bidder having been notified of the acceptance of its bid by the Procuring Entity during the period of bid validity:
  - (a) fails or refuses to execute the Contract in accordance with the Instructions to Bidders, if required; or
  - (b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders.

We undertake to pay to the Entity up to the above amount upon receipt of its first written demand, without the Entity having to substantiate its demand, provided that in its demand the Entity will note that the amount claimed by the Entity is due to the Entity owing to the occurrence of one or both of the two (2) conditions, specifying the occurred condition or conditions.

This Guarantee will remain in force up to and including the date *(insert no. of days)* calendar days after the deadline for submission of Bids as such deadline is stated in the Instructions to Bidders or as it may be extended by the Entity, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.

DATE : \_\_\_\_\_ SIGNATURE OF THE BANK \_\_\_\_\_

SEAL \_\_\_\_\_

WITNESS : \_\_\_\_\_

\_\_\_\_\_  
*(Signature, Name and Address)*

Bid Security Form (Irrevocable Letter of Credit)  
***[Bidders should refer to Section III, BDS 18.1 if applicable]***

---

Place and Date of Issue: *[Insert place and date]*

Issued to: PHILIPPINE HIGH SCHOOL FOR THE ARTS  
National Arts Center, Mt. Makiling,  
Los Baños, Laguna 4031

Dear Sir/Madam:

WHEREAS, ***[insert registered business name of Bidder]*** (hereinafter called the "Bidder") intends to submit its bid(s) for the public bidding of your ***[insert name of contract/project]***, submission and opening of bid(s) shall be conducted on ***[insert date of bid submission and opening]*** as indicated in your bidding documents for the contract/project;

WHEREAS, it has been stipulated by you in your bidding documents that the Bidder shall furnish you with an Irrevocable Letter of Credit issued by a recognized bank for the sum specified therein as bid security;

In consideration of the above-mentioned "Bidder" and its/his/her bid(s), we, hereinafter called the "Bank," hereby establish our Irrevocable Letter of Credit No. \_\_\_\_\_, in favor of the herein mentioned **Philippine High School for the Arts**, up to the aggregate amount of ***[Insert amount in words and in figures]***, available and payable by us in whole amount to said Philippine High School for the Arts upon your presentation to this "Bank" of:

1. Your first written demand, duly signed by your Director or your Bids and Awards Committee Chairperson, without the necessity on your part to substantiate your demand, provided that in your demand you will note that total amount of the bid security claimed by the Philippine High School for the Arts is due owing to the occurrence of one or any of the following conditions:
  - I. If the Bidder:
    - (a) withdraws his Bid during the period of bid validity specified in its Financial Bid Form; or
    - (b) does not accept the correction of arithmetical errors of its bid price in accordance with the Instructions to Bidder; or
    - (c) fails to submit, within the prescribed period, any of these requirements, i.e., Tax Clearance per E.O. 398 s. of 2005, latest Income and Business tax returns, the Certificate of PhilGEPS Registration, appropriate licenses and permits required by law or the bidding documents, or a finding against the veracity of any of said documents; or
  - II. If the Bidder commits or committed any of the following acts:
    - (a) submission of eligibility requirements containing false information or falsified documents; or
    - (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; or
    - (c) allowing the use of one's name, or using the name of another for purposes of public bidding; or
    - (d) withdrawal of a bid, or refusal to accept an award or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the Lowest Calculated and Responsive Bid; or
    - (e) refusal or failure to post the required performance security within the prescribed time; or

- (f) 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; or
  - (g) any documented attempt by a bidder to unduly influence the outcome of the bidding in its/his/her favor; or
  - (h) failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
  - (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.
- III. If the Bidder having been notified of the acceptance of its bid by the Procuring Entity during the period of bid validity:
- (a) fails or refuses to execute the Contract in accordance with the Instructions to Bidders, if required; or
  - (b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders.

This Irrevocable Letter of Credit will remain in force up to and including the date *(insert no. of days)* calendar days after the deadline for submission of Bids stated in the Bidding Documents or as said deadline is stated in the Instructions to Bidders or as it may be extended by the PHSA herein mentioned, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this Irrevocable Letter of Credit should reach the Bank not later than the above date.

DATE : \_\_\_\_\_ SIGNATURE OF THE BANK \_\_\_\_\_  
 SEAL \_\_\_\_\_

WITNESS :

\_\_\_\_\_  
*(Signature, Name and Address)*

**Bid Securing Declaration**

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

**BID SECURING DECLARATION**

**Project No.:** *[Insert project number]*  
**Name of the Project:** *[Insert name of project]*

To:     Dr. Victor Emmanuel Carmelo D. Nadera Jr.  
        Director IV  
        National Arts Center, Mt. Makiling,  
        Los Baños, Laguna

Attention:

The Chairperson  
Bids and Awards Committee (BAC)

I/We<sup>1</sup>, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Bid Security, which may be in the form of a Bid-Securing Declaration.
2. I/We accept that: (a) I/we will be automatically disqualified from bidding for any contract with any procuring entity for a period of two (2) years upon receipt of your Blacklisting Order; and, (b) I/we will pay the applicable fine provided under Section 6 of the Guidelines on the Use of Bid Securing Declaration, within fifteen (15) days from receipt of the written demand by the procuring entity for the commission of acts resulting to the enforcement of the bid securing declaration under Sections 23.1(b), 34.2, 40.1 and 69.1, except 69.1(f), of the IRR of RA 9184; without prejudice to other legal action the government may undertake. *[Revised thru GPPB Res. 15-2014 dated June 20, 2014]*
3. I/We understand that this Bid-Securing Declaration shall cease to be valid on the following circumstances:
  - (a) Upon expiration of the bid validity period, or any extension thereof pursuant to your request;
  - (b) I am/we are declared ineligible or post-disqualified upon receipt of your notice to such effect, and (i) I/we failed to timely file a request for reconsideration or (ii) I/we filed a waiver to avail of said right;
  - (c) I am/we are declared as the bidder with the Lowest Calculated and Responsive Bid, and I/we have furnished the performance security and signed the Contract.

<sup>1</sup> *Select one and delete the other. Adopt same instruction for similar terms throughout the document.*

<sup>2</sup> *Issued by the GPPB through GPPB Resolution 03-2012 on 27 January 2012.*

*-proceed to next page for continuation of the Bid Securing Declaration-*

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

***[Insert NAME OF BIDDER'S  
AUTHORIZED REPRESENTATIVE]  
[Insert signatory's legal capacity]***  
Affiant

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



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

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

**NAME OF NOTARY PUBLIC**

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

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

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

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

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

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

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

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

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

## Omnibus Sworn Statement

Republic of the Philippines)  
City/Municipality of \_\_\_\_\_ ) S.S.

### A F F I D A V I T

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

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

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

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

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

*If a sole proprietorship:* As the PHSA and sole proprietor of *[Name of Bidder]*, I have full power and authority to do, execute and perform any and all acts necessary to represent it in the bidding for *[Name of the Project]* of the *[Name of the Procuring Entity]*;

*If a partnership, corporation, cooperative, or joint venture:* I am granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the *[Name of Bidder]* in the bidding as shown in the attached *[state title of attached document showing proof of authorization (e.g., duly notarized Secretary's Certificate issued by the corporation or the members of the joint venture)]*;

3. *[Name of Bidder]* is not "blacklisted" or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board;

4. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;

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

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

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

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

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

7. *[Name of Bidder]* complies with existing labor laws and standards; and

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

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

\_\_\_\_\_  
Bidder's Representative/Authorized Signatory

SUBSCRIBED AND SWORN to before me this \_\_\_ day of \_\_\_\_\_ 20\_\_ in \_\_\_\_\_, Philippines. Affiance exhibiting to me his/her (passport, driver's license, Professional Regulations Commission ID, NBI clearance, police clearance, postal ID, voter's ID, Barangay certification, GSIS e-card, SSS card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, or seaman's book) No. \_\_\_\_\_ issued on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
Until December 31, 20\_\_

Doc. No.: \_\_\_\_\_  
Book No.: \_\_\_\_\_  
Page No. : \_\_\_\_\_  
Series of : \_\_\_\_\_

[LETTERHEAD OF ISSUING BANK]

FORM OF PERFORMANCE SECURITY

**BANK GUARANTEE**

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

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

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

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

NOW THEREFORE, we hereby affirm that we are the Guarantor and responsible to you, on behalf of the contractor, up to a total of *[insert amount of Guarantee in figures and in words]*<sup>1</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand declaring the Contractor in default under the Contract and without cavil or argument, any sum or sums within the limits of *[amount of Guarantee]* as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

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

This Guarantee shall be valid from \_\_\_\_\_ until issuance by you of the Certificate of Final Acceptance.

Signature and seal of the Guarantor : \_\_\_\_\_  
Name of Bank : \_\_\_\_\_  
Address : \_\_\_\_\_  
Date : \_\_\_\_\_

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

Performance Security Form (Irrevocable Letter of Credit)

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Place and Date of Issue: *[Insert place and date]*

Issued to: Philippine High School for the Arts  
NAC, Mt. Makiling, Los Baños, Laguna 4031

Dear Sir/Madam:

WHEREAS, ***[insert registered business name of contractor]*** (hereinafter called the "Contractor"), with office address at ***[insert office/business address of contractor]***, has undertaken, in pursuance of your Notice to Award (NOA) dated ***[insert date]*** to execute ***[insert name of contract/project indicated in the invitation to bid; and brief description of works, e.g. lot no., two-storey four-classroom school building, location or project site]*** (hereinafter called the "Contract");

WHEREAS, it has been stipulated by you in your bidding documents and said NOA that the Contractor shall furnish you with an Irrevocable Letter of Credit issued by a recognized bank for the sum specified therein as security of the Contractor to comply with its/his/her obligations stipulated in the bidding documents, the NOA and the Contract;

In consideration of the above-mentioned Contractor's request and the Contract, we, hereinafter called the "Bank," hereby establish our Irrevocable Letter of Credit No. \_\_\_\_\_, in favor of the herein mentioned Philippine High school for the Arts, up to the aggregate amount of ***[Insert amount in words and in figures]***, available and payable by us, without cavil or argument from the Bank's part, in whole amount to PHSA upon your presentation to this Bank of:

1. Your first written demand, duly signed by your Director, declaring the Contractor in default under the Contract, without the necessity on your part to substantiate your demand or prove or show grounds or reasons for your demand for the total sum specified herein.

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

This Irrevocable Letter of Credit will remain in force from ***[insert date]*** until issuance by you of the Certificate of Final Acceptance. Any demand in respect of this Irrevocable Letter of Credit should reach the "Bank" not later than the date of your issuance of said Certificate of Final Acceptance.

DATE : \_\_\_\_\_

SIGNATURE OF THE BANK \_\_\_\_\_

SEAL \_\_\_\_\_

WITNESS :

\_\_\_\_\_  
*(Signature, Name and Address)*

PHILGEPS REGISTRATION

Republic of the Philippines  
Department of Budget and Management  
**PROCUREMENT SERVICE**

**CERTIFICATE OF PHILGEPS REGISTRATION  
(Platinum Membership)**

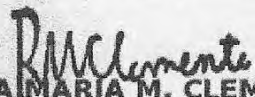
*THIS IS TO CERTIFY THAT*

*\_\_\_\_\_ is registered in the Philippine Government Electronic Procurement System (PhilGEPS) on 07-Dec-2009 pursuant to Section 8.5 of the Revised Implementing Rules and Regulations of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act.*

*This further certifies that \_\_\_\_\_ has submitted the required eligibility documents in the PhilGEPS Supplier Registry as indicated under Annex A hereof. The Procuring Entity reserves the right to verify, validate and ascertain the authenticity, completeness and truthfulness of all the submitted documents during the post-qualification process.*

*This Certificate is valid until 28-Dec-2017, unless any of the documents listed under Annex A expires before the said date, and/or, any violation of existing laws, rules and regulations is incurred. As such, this Certificate shall be automatically revoked, without prejudice to the filing of applicable administrative, civil or criminal action.*

Issued this 28th day of December, 2016.

  
**ROSALMARIA M. CLEMENTE**  
OIC, Deputy Executive Director V

Document Stamp Tax Paid Php 15.00

**Certificate No: PhilGEPS-2009-59581**  
**Certificate Reference No: 2017030009053**  
Amended Date as of April 27, 2017 6:35 PM

**NOTICE OF AWARD** [sample form]

\_\_\_\_\_, 20\_\_

Mr./Ms. \_\_\_\_\_  
 [Designation]  
 [Registered Business Name]  
 [Complete Address]  
 [Tel./Fax Nos.]

Project: [Insert name of Project]  
 [Insert Project no.]

Dear Mr./Ms. \_\_\_\_\_:

We are pleased to notify you that your bid(s) for the Project, is/are hereby accepted in the total amount of PHILIPPINE PESOS \_\_\_\_\_ (Php\_\_\_\_\_.00) ONLY with the following details:

Lot No.	Project Description	Location	Contract Duration	Contract Amount
	[e.g., Procurement of Goods and Services, etc.]	PHSA, NAC, Mt. Makiling, Los Baños, Laguna ( <i>Insert complete address of school sites</i> )	____ calendar days	PhP_____

Kindly affix your signature on the space provided below to indicate your acceptance of this notice and the bid price(s) after having been evaluated in accordance with the issued Bidding Documents.

In this regard, please post the required Performance Security in the form and amount specified in ITB 32.2 of the Bidding Documents and sign the contract within ten (10) calendar days from receipt hereof.

Failure to enter into a contract with us or submit the Performance Security shall constitute a sufficient ground for cancellation of this award, forfeiture of your bid security or enforcement of your Bid Securing Declaration, and imposition of appropriate sanctions.

Please return the receiving copy of this Notice to Philippine High School for the Arts through its BAC Secretariat located at NAC, Mt. Makiling, Los Baños, Laguna within two (2) days from date of your receipt hereof in accordance with ITB 31.2 of the Bidding Documents.

Very truly yours,

Very truly yours,

\_\_\_\_\_  
 [Insert Name and Designation of Head of the Procuring Entity]

**CONFORME:**

\_\_\_\_\_  
 (Signature Over Printed Name)

\_\_\_\_\_  
 (Designation and Name of Company)

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

Encl.: Contract

## Checklist of the Eligibility-Technical Component Documents for Bidders

Envelope 1

Name of Bidder		
Eligibility Documents	Passed	Failed
<b>a) Class "A" Documents</b>		
<b>Legal Documents</b>		
(i) Registration Certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or Cooperative Development Authority (CDA) for cooperatives, or any proof of such registration as required in the BDS.		
(ii) Mayor's/Business permit issued by the City or Municipality where the principal place of business of the prospective bidder is located.		
(iii) Tax Clearance per E.O. 398, s. 2005, as finally reviewed and approved by the Bureau of Internal revenue (BIR).		
<b>Technical Documents</b>		
(iv) Statement of all ongoing government and private contracts, including contracts awarded but not yet started, if any [refer to Section III, BDS 12.1 (a)(iii) in case of ongoing contract], whether similar or not similar in nature and complexity to the contract to be bid.		
(v) Statement of the bidder's Single Largest Completed Contract (SLCC) similar to the contract to be bid, except under conditions provided for in Sections 23.4.1.3 and 23.4.2.4 of the IRR of RA 9184, within the relevant period as provided in the Bidding Documents.		
<b>Financial Documents</b>		
(vi) Audited Financial Statements, showing, among others, total and current assets and liabilities, stamped "received" by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission.		
(vii) Computation of Net Financial Contracting Capacity (NFCC) which shall be at least equal to the ABC to be bid pursuant to ITB 5.5.		
<b>b) Class "B" Documents</b>		
Valid Joint Venture Agreement (JVA), in case the Joint Venture is already in existence. In the absence of JVA, a duly notarized statements from all the potential joint venture partners should be included in the bid, stating that they will enter into and abide by the provisions of the JVA in the event that the bid is successful pursuant to ITB Clause 12.1(a)(vii); members of the JVA or the intended JVA shall also submit the documents mentioned in ITB 24.6.		
<b>Technical Documents</b>		
(i) PhilGEPS Certificate of Registration and membership in accordance with Section 8.5.2 of the IRR of RA 9184.		
(ii) Original Bid Security or original Bid Securing Declaration in accordance with ITB Clause 18 and BDS 18.1.		
(iii) Original and duly signed Omnibus Sworn Statement (OSS) in accordance with Section 25.3 of the IRR of RA 9184 and Section VII, Bidding Forms.		
(iv) Company Profile		

**NOTE: In lieu of Class "A" Documents under Sec. 8.5.2 of RA 9184, bidders may opt to submit PhilGEPS Certificate of Registration and Membership**



## Checklist of the Financial Component Documents for Bidders

Envelope 2

Name of Bidder		
Financial Documents	Passed	Failed
1. Original duly signed and priced Financial Bid Form		
2. Original and duly signed Bidder's Quotation (Section VI, Schedule of Requirements and Specifications)		

*The Bidder is responsible to double check the full description of above requirements in the bidding documents issued by the Procuring Entity.*

*The Bidders are required to provide a Table of Contents and corresponding tab/label for each submitted technical and financial components to help ensure completeness of submission by the bidders and facilitate examination by the BAC.*

*Any missing document is a ground for outright rejection of the bid.*

### BIDS AND AWARDS COMMITTEE (BAC) MEMBERS

**RONALDO A. ABUAN**  
BAC, Chairperson

**JOEDY B. OCCEÑA**  
BAC, Co-Chair

**MARICON R. AMADA**  
BAC, Vice Chairperson

**CRISTINA L. NARVASA**  
BAC, Member

**RODRIGO M. ESTEPA**  
BAC, Member

**PRECY A. MONDEJAR**  
Head, BAC Secretariat

## Envelope Sealing Illustration

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(Two-Envelope System)

