PHILIPPINES BIDDING DOCUMENTS

Procurement of Works:

REPAIR AND REHABILITATION OF SCHOOL BUILDINGS IN KIMAYA ELEMENTARY SCHOOL, MAGSAYSAY, MISAMIS ORIENTAL UNDER THE CY 2015 BASIC EDUCATIONAL FACILITIES FUND BATCH 2

PROCURING ENTITY:
REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF EDUCATION
Region 10
Division of Misamis Oriental
A. Velez St. Cagayan de Oro City

Physical Facilities and Schools Engineering Division (PFSED)

October 2015

Project No.2015-BEFF-08

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SECTION I

INVITATION TO BID

Republic of the Philippines
Department of Education
Region 10
Division of Misamis Oriental
A. Velez St. Cagayan de Oro City

INVITATION TO BID

REPAIR AND REHABILITATION OF SCHOOL BUILDINGS IN KIMAYA ELEMENTARY SCHOOL, MAGSAYSAY, MISAMIS ORIENTAL UNDER THE CY 2015 BASIC EDUCATIONAL FACILITIES FUND BATCH 2
Project 2015-BEFF-08

The Department of Education (DepED) Division of Misamis Oriental, through the 2015 Government Appropriations Act (GAA), intends to apply the sum of ONE MILLION SEVEN HUNDRED NINETY TWO THOUSAND EIGHT HUNDRED NINETY (PhP 1,792,890.00), being the Approved Budget for the Contract (ABC), to eligible payments under the contract for the ***Repair and Rehabilitation of School Buildings in Kimaya Elementary School, Magsaysay, Misamis Oriental*** under the ***CY 2015 Basic Educational Facilities Fund***. Bids received that exceed the ABC per lot shall be rejected at bid opening.

Lot No.	Project Description/ Intended Completion Date	Location	ABC (PhP)	Contract Duration
1	Repair and Rehabilitation of School Buildings in Kimaya ES, Magsaysay, Misamis Oriental under the CY 2015 BEFF/ Effectivity date of NTP plus Contract Duration	Division of Mis. Or. *Kimaya Elementary School, Magsaysay, Misamis Oriental*	Php 1,792,890.00	75 calendar days

he DepEd Division of Misamis Oriental, through its Bids and Awards Committee (BAC), now invites bids for the above-mentioned works. Prospective bidders must have an experience of having completed at least one (1) contract that is similar to the contract to be bid, and whose value, adjusted to current prices using the NSO consumer price indices, must be at least fifty percent (50%) of the ABC to be bid. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II, Instructions to Bidders.

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

Bidding is restricted to Filipino citizens/sole proprietorships/partnerships, or organizations with at least seventy five percent (75%) interests or outstanding capital stocks belonging to citizens of the Philippines.

A complete set of Bidding Documents may be inspected or purchased at the DepEd Division of Misamis Oriental, BAC Secretariat, located at Division Office, A. Velez St. Cagayan de Oro City upon accomplishing a bidder's information sheet and payment in cash of a non-refundable fee by interested bidders in the amount of Five Thousand Pesos (PhP 5,0000.00) to the DepED Division of Misamis Oriental Cashier. Only bidders who purchased the Bidding Documents will be allowed to submit bids (ITB 6.8).

It may be downloaded free of charge from the website of the Philippine Government Electronic Procurement System (PhilGEPS), **www.philgeps.net**, and the website of the Procuring Entity, ***www.depedmisor.net***, provided that bidders shall pay the fee for the Bidding Documents not later than the submission of their bids.

Activity	Date & Time	Venue
Issuance of Bidding Documents	From October 29, 2015 to November 19, 2015, 8:00am	Division BAC Secretariat DepED Division of Misamis Oriental Division Office, A. Velez Street Cagayan de Oro City
Pre-Bid Conference	November 4, 2015, 8:00am	Division Conference Hall DepED Division of Misamis Oriental Division Office, A. Velez Street Cagayan de Oro City
Submission and Opening of Bids	Submission of Bids-November 19, 2015, 8:15 a.m. and Opening of Bids-November 19, 2015, 8:30 a.m.	Division Conference Hall DepED Division of Misamis Oriental Division Office, A. Velez Street Cagayan de Oro City

Prospective Bidders are strongly encouraged to order or download the electronic copy of the Bidding Documents from the PhilGEPS website: **www.philgeps.net**, for them to be included in the Document Request List of the project. The Bidding Documents may be viewed also at the DepED Division Office website: *www.depedmisor.net.*

Bids must be delivered to the address and on the date and time stated herein. All bids must be accompanied by a bid security in any of the acceptable forms and in the amount stated in ITB Clause 18. A valid Bid Securing Declaration must accompany the bid(s) in lieu of the bid security.

Bids will be opened in the presence of the bidders' representatives who choose to attend the opening of bids at the address stated herein. Late bids shall not be accepted.

The DepED Division of Misamis Oriental reserves the right to reject any and all bids, declare a failure of bidding, not award the contract(s), or annul the bidding process without thereby incurring any liability to the affected bidder or bidders.

For further information, please refer to:

Jean G. Veloso
Assistant Schools Division of Misamis Oriental
Chairman, Bids and Awards Committee
DepEd, Division of Misamis Oriental
A. Velez Street, Cagayan de Oro City
Tel. No. 08822-724615 or 088-856445

JEAN G. VELOSO
Assistant Schools Division Superintendent
Chairman, Bids and Awards Committee

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 the construction of Works, as described in Section VI, Specifications. The name and identification number of the Contract is provided in the **BDS**.

1.2. The successful bidder will be expected to complete the Works by the intended completion date specified in **SCC** Clause 1.16.

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 for the Works.

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

3.1. Unless otherwise specified in the BDS, the Procuring Entity, as well as bidders and contractors, shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the Funding Source:

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

(i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Procuring Entity, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019(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; and

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

(v) “obstructive practice” is

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

relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

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

(b) will reject a proposal for award if it determines that the bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract**(refer to Section III, BDS 3.1(b) for clarification)**; and

(c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded Contract funded by the Funding Source if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing a Contract funded by the Funding Source.**(refer to Section III, BDS 3.1(c) for clarification)**.

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

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

4. Conflict of Interest

4.1. All bidders found to have conflicting interests shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described in paragraphs (a) through (c) and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (g) below:

(a) A Bidder has controlling shareholders in common with another Bidder;

(b) A Bidder receives or has received any direct or indirect subsidy from any other Bidder;

(c) A Bidder has the same legal representative as that of another Bidder for purposes of this Bid;

(d) A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder or influence the decisions of the Procuring Entity regarding this bidding process. This will include a firm or an organization who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project if the personnel would be involved in any capacity on the same project;

(e) A Bidder submits more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one bid;

(f) A Bidder who participated as a consultant in the preparation of the design or technical specifications of the goods and related services that are the subject of the bid; or

(g) A Bidder who lends, or temporary seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project.

4.2. In accordance with Section 47 of the IRR of RA 9184, all Bidding Documents shall be accompanied by a Sworn Affidavit of the Bidder that it is not related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), members of the Technical Working Group (TWG), members of the BAC Secretariat, the head of the Project Management Office (PMO) or the end-user unit, and the project consultants, by consanguinity or affinity up to the third civil degree. On the part of the bidder, this Clause shall apply to the following persons:

(a) If the Bidder is an individual or a sole proprietorship, to the Bidder himself;

(b) If the Bidder is a partnership, to all its officers and members;

(c) If the Bidder is a corporation, to all its officers, directors, and controlling stockholders; and

(d) If the Bidder is a joint venture (JV), the provisions of items (a), (b), or (c) of this Clause shall correspondingly apply to each of the members of the said JV, as may be appropriate.

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

5. Eligible Bidders

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

(a) Duly licensed Filipino citizens/sole proprietorships;

(b) Partnerships duly organized under the laws of the Philippines and of which at least seventy five percent (75%) of the interest belongs to citizens of the Philippines;

(c) Corporations duly organized under the laws of the Philippines, and of which at least seventy five percent (75%) of the outstanding capital stock belongs to citizens of the Philippines;

(d) Cooperatives duly organized under the laws of the Philippines, and of which at least seventy five percent (75%) of the interest belongs to citizens of the Philippines; and

(e) Persons/entities forming themselves into a JV, i.e., a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, that, in accordance with Letter of Instructions No. 630, Filipino ownership or interest of the joint venture concerned shall be at least seventy five percent (75%): Provided, further, that joint ventures in which Filipino ownership or interest is less than seventy five percent (75%) may be eligible where the structures to be built require the application of techniques and/or technologies which are not adequately possessed by a person/entity meeting the seventy five percent (75%) Filipino ownership requirement: Provided, finally, that in the latter case, Filipino ownership or interest shall not be less than twenty five percent (25%). For this purpose Filipino ownership or interest shall be based on the contributions of each of the members of the joint venture as specified in their JVA.

5.2. The Procuring Entity may also invite foreign bidders when provided for under any Treaty or International or Executive Agreement as specified in the **BDS**.

5.3. Government 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.

5.4. (a) Unless otherwise provided in the **BDS**, the Bidder must have an experience of having completed at least one (1) contract that is similar to the **project or contract to be bid**, equivalent to at least fifty percent (50%) of the ABC adjusted to current prices using the National Statistics Office consumer price index. However, contractors under Small A and Small B categories without similar experience on the contract to be bid may be allowed to bid if the cost of such contract is not more than fifty (50%) of the Allowable Range of Contract Cost (ARCC) of their registration based on the guidelines as prescribed by the PCAB. [Revised thru GPPB Res. No. 11-2012 and No. 25-2012]

(b) For Foreign-funded Procurement, the Procuring Entity and the foreign government/foreign or international financing institution may agree on another track record requirement, as specified in the **BDS**.

For this purpose, contracts similar to the Project shall be those described in the**BDS**, and completed within the 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)(K)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract for this Project.

Where:

K = 10 for a contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.

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

6.3. The Bidder, by the act of submitting its bid, shall be deemed to have inspected the site, determined the general characteristics of the contract works and the conditions for this Project and examine all instructions, forms, terms, and project requirements in the Bidding Documents.

6.4. It shall be the sole responsibility of the prospective bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to this Project, including: (a) the location and the nature of the contract, project, or work; (b) climatic conditions; (c) transportation facilities; (c) nature and condition of the terrain, geological conditions at the site communication facilities, requirements, location and availability of construction aggregates and other materials, labor, water, electric power and access roads; and (d) other factors that may affect the cost, duration and execution or implementation of the contract, project, or work.

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. Before submitting their bids, the Bidders are deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect the contract in any way.

6.7. The Bidder shall bear all costs associated with the preparation and submission of his bid, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

6.8. Bidders 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

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

8. Subcontracts

8.1. Unless otherwise specified in the **BDS**, the Bidder may subcontract portions of the Works to an extent as may be approved by the Procuring Entity and stated in the **BDS**. However, subcontracting of any portion shall not relieve the Bidder from any liability or obligation that may arise from the contract for this Project.

8.2. Subcontractors must submit the documentary requirements under **ITB** Clause 12 and comply with the eligibility criteria specified in the **BDS**. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Works shall be disallowed.

8.3. The Bidder may identify the subcontractor to whom a portion of the Works will be subcontracted at any stage of the bidding process or during contract implementation. If the Bidder opts to disclose the name of the subcontractor during bid submission, the Bidder shall include the required documents as part of the technical component of its bid.

B. Contents of Bidding Documents

9. Pre-Bid Conference

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

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

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

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 a request must be in writing and submitted to the Procuring Entity at the address indicated in the **BDS** at least ten (10) calendar days before the deadline set for the submission and receipt of Bids.

10.2. 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**;

(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 ten (10) years from the submission of bids, including contracts awarded but not yet started, if any. The statement shall include, for each contract, the following:[**Refer toSection III, BDS 12.1(a)(iii)**for clarification on the statement ofall ongoing contracts and the statement identifying the similar single largest completed contract]

(iii.1) name of the contract;

(iii.2) date of the contract;

(iii.3) contract duration;

(iii.4) owner's name and address;

(iii.5) nature of work;

(iii.6) contractor's role (whether sole contractor, subcontractor, or partner in a JV) and percentage of participation;

(iii.7) total contract value at award;

(iii.8) date of completion or estimated completion time;

(iii.9) total contract value at completion, if applicable;

(iii.10) percentages of planned and actual accomplishments, if applicable;

(iii.11) value of outstanding works, if applicable;

(iii.12) the statement shall be supported by the notices of award and/or notices to proceed issued by the owners; and

(iii.13) the statement shall be supported by the Owner's Certificate of Final Acceptance **or** the Certificate of Completion and, whenever applicable, the Constructors Performance

Evaluation Summary (CPES) Final Rating, which must be satisfactory;

(iv) Unless otherwise provided in the **BDS**, valid Philippine Contractors Accreditation Board **(PCAB)** license and registration for the type and cost of the contract for this Project;

(v) 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;

(vi) NFCC computation in accordance with ITB Clause 5.5; and

(vii) Tax clearance per Executive Order 398, series of 2005, as finally reviewed and approved by the BIR;*[GPPB Res. 21-2013 Annex B]*

Class "B" Document:

(viii) 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 shall be included in the bid.

(b) Technical Documents –

(i) Bid security as prescribed in **ITBClause 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) Project Requirements, which shall include the following:

(ii.1) Organizational chart for the contract to be bid;

(ii.2) List of contractor's personnel (*viz*, Project Manager, Project Engineers, Materials Engineers, and Foremen), to be assigned to the contract to be bid, with their complete qualification and experience data; and

(ii.3) List of contractor's equipment units, which are owned, leased, and/or under purchase agreements, supported by certification of availability of equipment from the equipment lessor/vendor for the duration of the project; 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 IX, Bidding Forms**. (Refer to Section III, BDS 12.1(b)(iii) for clarification)**

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 in accordance with the form prescribed in Section IX, Bidding Forms; and

(b) Any other document related to the financial component of the bid as stated in the **BDS**.

13.2. (a) Unless indicated in the **BDS,** all Bids that exceed the ABC shall not be accepted.

(b) Unless otherwise indicated in the **BDS**, for foreign-funded procurement, a ceiling may be applied to bid prices provided the following conditions are met:

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

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

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

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

(v) The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of goods and works.

14. Alternative Bids

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

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

14.3. Each Bidder shall submit only one Bid, either individually or as a partner in a JV. A Bidder who submits or participates in more than one bid (other than as a subcontractor if a subcontractor is permitted to participate in more than one bid) will cause all the proposals with the Bidder's participation to be disqualified. This shall be without prejudice to any applicable criminal, civil and administrative penalties that may be imposed upon the persons and entities concerned.

15. Bid Prices

15.1. The contract shall be for the whole Works, as described in **ITB** Clause 1.1, based on the priced Bill of Quantities submitted by the Bidder.

15.2. The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Bids not addressing or providing all of the required items in the Bidding

Documents including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) for the said item would mean that it is being offered for free to the Government.

15.3. All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, prior to the deadline for submission of bids, shall be included in the rates, prices, and total bid price submitted by the Bidder.

15.4. All bid prices for the given scope of work in the contract as awarded shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances as specified in **GCC** Clause **Error! Reference source not found.**. Price escalation may be allowed in extraordinary circumstances as may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon the recommendation of the Procuring Entity. Furthermore, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the GOP, promulgated after the date of bid opening, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

16. Bid Currencies

16.1. All bid prices shall be quoted in Philippine Pesos unless otherwise provided in the **BDS**. However, for purposes of bid evaluation, bids denominated in foreign currencies shall be converted to Philippine currency based on the exchange rate prevailing on the day of the Bid opening.

16.2. If so allowed in accordance with **ITB** Clause 16.1, the Procuring Entity for purposes of bid evaluation and comparing the bid prices will convert the amounts in various currencies in which the bid price is expressed to Philippine Pesos at the exchange rate as published in the BSP reference rate bulletin on the day of the bid opening.

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

17. Bid Validity

17.1. Bids shall remain valid for the period specified in the **BDS**which shall not exceed one hundred twenty (120) calendar days from the date of the opening of bids.

17.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. The bid security described in **ITB** Clause 18 should also be extended corresponding to the extension of the bid validity period at the least. A Bidder may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

18. Bid Security

18.1. The 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** and at least one (1) other form, 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)***[GPPB Res. No. 25-2013 Annex B]*

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) Any combination of items (a) to (c) above.	Proportionate to share of form with respect to total amount of security
(e) Bid Securing Declaration	No percentage required

For biddings conducted by LGUs, the procuring entity may also require bidders to submit bid securities in the form of cashier's/manager's check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the BSP as authorized to issue such financial statement.

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.

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 31, and the posting of the performance security, pursuant to **ITB** Clause 32, the successful Bidder's Bid security will be discharged, but in no case later than the Bid security validity period as indicated in **ITB** Clause 18.2.

18.5. The bid security may be forfeited:

(a) if a Bidder:

(i) withdraws its bid during the period of bid validity specified in **ITB** Clause 17;

(ii) does not accept the correction of errors pursuant to **ITB** Clause 27.3(b);

(iii) fails to submit the requirements within the prescribed period, or a finding against their veracity, as stated in ITB Clause 28.2;

(iv) submission of eligibility requirements containing false information or falsified documents;

(v) submission of bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding;

(vi) allowing the use of one's name, or using the name of another for purposes of public bidding;

(vii) withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, 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 31;

(ii) fails to furnish performance security in accordance with **ITB** Clause 32.

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 IX, 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 20.1for clarification** and **refer also to theEnvelope Sealing Illustration**on last page)

20.2. Each copy of the first and second envelopes shall be similarly sealed duly marking the inner envelopes as "COPY NO. ___ - TECHNICAL COMPONENT" and "COPY NO. ___ – FINANCIAL COMPONENT" and the outer envelope as "COPY NO. ___", respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope. (**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 Invitation to Bid; 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.

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.

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 n the case of **ITB** Clause 26.

25.2. Any effort by a bidder to influence the Procuring Entity in the Procuring Entity's decision in respect of Bid evaluation, Bid comparison or contract award will result in the rejection of the Bidder's Bid.

26. Clarification of Bids

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

27. Detailed Evaluation and Comparison of Bids

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

27.2. 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.

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

(a) Completeness of the bid. Unless the **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 27.3(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.

27.4. Based on the detailed evaluation of bids, those that comply with the above-mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, to identify the Lowest Calculated Bid. Total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, which exceed the ABC shall not be considered, unless otherwise indicated in the **BDS**.

27.5. The Procuring Entity's evaluation of bids shall only be based on the bid price quoted in the Financial Bid Form. (**Refer to Section III, BDS 27.5 for clarification**)

27.6. Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all bidders shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.

28. Post Qualification

28.1. 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.

28.2. 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 28.2 for clarification)**:*[GPPB Res. No. 21-2013 Annex B]*

(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 thisClause or a finding against the veracity of such, shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.

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

28.4. If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the 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 28.4** for clarification)

28.5. A negative determination shall result in rejection of the Bidder's Bid, in which event the Procuring Entity shall proceed to the next Lowest Calculated Bid 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.

28.6. 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.

29. Reservation Clause

29.1. Notwithstanding the eligibility or post-qualification of a bidder, the Procuring Entity concerned reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said bidder, or that there has been a change in the Bidder's capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid evaluation criteria, the Procuring Entity shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.

29.2. Based on the following grounds, the Procuring Entity reserves the right to reject any and all Bids, declare a Failure of Bidding 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 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.

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

(a) No bids are received;

(b) All prospective bidders are declared ineligible;

(c) All bids fail to comply with all the bid requirements or fail post-qualification; or

(d) The bidder with the Lowest Calculated Responsive Bid refuses, without justifiable cause to accept the award of contract, and no award is made.

F. Award of Contract

30. Contract Award

30.1. 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). (**Refer to Section III, BDS 30.1 for clarification**)

30.2. Prior to the expiration of the period of Bid validity, the Procuring Entity shall notify the successful Bidder in writing that its Bid has been accepted, through a **Notice of Award 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.

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

(a) Submission of the following documents within 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;

(ii) Valid PCAB license and registration for the type and cost of the contract to be bid for foreign bidders, within thirty (30) calendar days, if allowed under a Treaty or International or Executive Agreement mentioned in **ITB** Clause 12.1(a)(iv);

(b) Posting of the performance security in accordance with **ITB** Clause 32;

(c) Signing of the contract as provided in **ITB** Clause 31; and

(d) Approval by higher authority, if required.

31. Signing of the Contract

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

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

31.3. The Procuring Entity shall enter into contract with the successful Bidder within the same ten (10) calendar day period provided that all the documentary requirements are complied with.**(refer to Section III, BDS 31.3 for clarification)**

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

(a) Contract Agreement;

(b) Bidding Documents;

(c) Winning bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted;

(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**.

32. Performance Security

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

32.2. The 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 32.2 for clarification)***[GPPB Res. No. 25-2013 Annex B]*

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.	Ten percent (10%)
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; and/or	Thirty percent (30%)
(d) Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security

32.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the Procuring Entity shall 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.

33. Notice to Proceed

33.1. 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 33.1 for clarification]**.

33.2. 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.

34. 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 34 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.

<table>
<tr><th>ITB Clause</th><th>Description</th></tr>
<tr><td>1.1</td><td>

Scope of Bid

The PROCURING ENTITY is the: **Department of Education**
Division of Misamis Oriental

The name of the Contract/Project is: ***Repair and Rehabilitation of School Buildings in Kimaya Elementary School, Magsaysay, Misamis Oriental under the CY 2015 Basic Educational Facilities Fund***

The identification number of the Project is: **PROJECT NO. 2015-BEFF-08**

The identification of lot(s) are:

<table>
<tr><th>Lot No.</th><th>Location</th><th>ABC in PhP</th></tr>
<tr><td>1</td><td>***Repair and Rehabilitation of School Buildings in Kimaya Elementary School, Magsaysay, Misamis Oriental***
Total Physical Target –8 classrooms</td><td>*Php 1,792,890.00*</td></tr>
</table>

The Procuring Entity hereby invites bids for this/these infrastructure project/s, as described in Section VI. Specifications, Section VII. Drawings, and Section VIII. Bill of Quantities, and Program of Works/Detailed Estimates, altogether.

</td></tr>
<tr><td>2</td><td>

Source of Funds

The Funding Source is:

CY 2015 Basic Educational Facilities Fund (BEFF) of the Department of Education in the amount of One Million Seven Hundred Ninety Two Thousand Eight Hundred Ninety (PhP 1,792,890.00).

</td></tr>
<tr><td>3.1 (b); and 3.1.(c)</td><td>

Corrupt, Fraudulent, Collusive, Coercive, and Obstructive Practices

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; and

3.1(c) The Procuring Entity and/or the Funding Source will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded Contract funded by the Funding Source if it at any time determines that the firm has engaged in corrupt, fraudulent, collusive, coercive and/or obstructive practice(s) in competing for, or in executing, a Contract funded by the Funding Source.

</td></tr>
<tr><td>5.1</td><td>

Eligible Bidders

No further instruction.

</td></tr>
<tr><td>5.2</td><td>

Eligible Bidders

No further instruction.

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</table>

5.4(a)	**Similar Contract** Contractors under Small A and Small B PCAB-categories without similar experience on the contract to be bid **will not be allowed to bid**. The bidder must have an experience of having completed at least one (1) contract, that is similar to the contract to be bid, and whose value adjusted to current prices using the NSO consumer price index must be at least fifty percent 50% of the ABC to be bid. Pursuant to IRR 23.5.2.5 of R.A. 9184, a contract shall be considered "similar" to the contract to be bid if it has the same major categories of work.
8.1	**Subcontracts** Subcontracting is not allowed.
8.2	**Subcontracts** Not applicable.
9.1	**Pre-Bid Conference** The Procuring Entity will hold a pre-bid conference for this Project open to all interested constructors on *November 4, 2015; 8:00 a.m.* at *Division Conference Hall DepED Division of Misamis Oriental, Division Office, A. Velez St. Cagayan de Oro City; Tel. No. 08822-724615* 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, 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. In case the government or its instrumentality declared a date a non-working day without a fortuitous event, 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. 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. "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>." [Underscoring ours]

10.1	**Addressee for Clarification on any part of the Bidding Documents for Interpretation** The Procuring Entity's address is: *Jean G. Veloso* Chairperson Bids and Awards Committee DepEd Division of Misamis Oriental A.*Velez St., Cagayan de Oro City* Tel. No. : 08822724615
12.1(a)(i)	**Documents Comprising the Bid: Eligibility and Technical Components Class "A" Documents, other proof of registration:** No other acceptable proof of registration is recognized.
12.1(a)(iii)	**Documents Comprising the Bid: Eligibility and Technical Components Class "A" Documents** To be submitted inside the "Technical Component" Envelope 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, **otherwise, the bid(s) shall be rejected or disqualified**: 1. Statement of **all its ongoing government and private contracts** 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;**and** 2. **Statement identifying the bidder's single largest completed contract (SLCC) similar to the contract to be bid**, 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. All of the above statements shall include all information required in ITB 12.1(a)(iii). 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: 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. b. Blacklisting under Section 65.3(a) or 65.3(b) of the revised IRR of R.A. 9184. II. **In case the bidder has no ongoing contract**, the bidder shall submit a duly signed statement of all its ongoing government and private contracts provided in **Section IX, Bidding Forms** and indicate "**No ongoing contract**" in said form, **otherwise, the bid(s) shall be rated "failed" and disqualified**.

12.1(a)(iii.12) and 12.1(a)(iii.13)	**Documents Comprising the Bid: Eligibility and Technical Components** **Class "A" Documents** To be submitted inside the Technical Component Envelope The bidder shall submit the following in support of its/his/her **statement of all ongoing contracts**: 1. Copies of notices of award or notices to proceed issued by the owners in accordance with ITB 12.1(a)(iii.12); The Bidder shall submit the following in support of its/his/her **statement identifying its/his/her similar single largest completed contract**: 1. Copy of notice of award or notice to proceed issued by the owner in accordance with ITB 12.1(a)(iii.12); and 2. Copy of owner's certificate of final acceptance or certificate of completion and, whenever applicable, the CPES summary final rating, which must be satisfactory, in accordance with ITB 12.1(a)(iii.13).[GPPB Res. No. 25-2012]
12.1(a.iv)	**Documents Comprising the Bid: Eligibility and Technical Components** **Class "A" Documents** To be submitted inside the "Technical Component" Envelope For joint venture(s) or contractors who intend to form a joint venture and jointly submit bid(s) for this procurement of works: 1. Valid PCAB license and registration for the Joint Venture required in Section 38 of RA 4566, i.e., "Contractor's License Law." Failure to submit this requirement shall be a ground for rejection or disqualification of the bid(s).
12.1(b)(iii)	**Documents Comprising the Bid: Eligibility and Technical Components** **Original Omnibus Sworn Statement** shall be submitted inside the "Technical Component" Envelope, otherwise, the bid(s) shall be rejected or disqualified.
13.1	**Documents Comprising the Bid: Financial Component** To be submitted inside the "Financial Component" Envelope **Mandatory requirement in compliance with this BDS-ITB 13.1(a):** 1. **Original** duly signed and priced Financial Bid Form in accordance with the form prescribed in Section IX, Bidding Forms. **Mandatory requirements in compliance with this BDS-ITB 13.1(b):** 1. **Original** duly signed and priced Program of Works/Detailed Estimates 2. **Original** duly signed and priced Bill of Quantities Failure to submit any of the mandatory requirements in compliance with these BDS-ITB 13.1(a) and 13.1(b) stated herein shall be a ground for rejection or disqualification of bid(s). **Optional requirement** to facilitate bid evaluation: 1. Soft copy in compact disc (CD) or flash drive of the duly priced Bill of Quantities and the Program(s) of Works/Detailed Estimates using Microsoft Excel. Bidder's failure to submit the **optional requirement** stated herein **shall not be a ground for rejection of the bid(s).**

13.2(a)	**Documents Comprising the Bid: Financial Component** Bid prices "as read" which exceed the ABC **per lot** 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 **per lot**, the bidder submitting the same shall be automatically disqualified in accordance with Section 31.1 of the IRR of R.A. 9184.
14.2	**Alternative Bids** No further instruction.
15.4	**Bid Prices** No further instruction.
16.1	**Bid Currencies** The bid prices shall be quoted in Philippine Pesos.
17.1	**Bid Validity** 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.

18.1	**Bid Security** The bidder shall submit a bid security in the form of a **Bid Securing Declaration or** any of the forms of bid securities described below:***[Basis: GPPB Cir. No. 01-2014]*** Form and amount of Bid Security (Equal to Percentage of the ABC) 1. The amount of Thirty Five Thousand Eight Hundred Fifty Seven and 80/100 (Php 35,857.80) *(2% of ABC),* in a form of **cashier's check or manager's check** issued by a Universal or Commercial Bank. If issued by a foreign Universal or Commercial bank, it shall be issued by its branch located or conducting business in the Philippines authorized to encash the check. 2. The amount of EIGHTY NINE THOUSAND SIX HUNDRED FORTY FOUR and 50/100 (Php 89,644.50) Pesos (5% *of ABC)* if bid security is in Surety Bond. 3. Any combination of the herein-mentioned acceptable forms of bid securities proportionate to the share of form with respect to the total amount of bid security, if applicable. 1. **Original** Bid Security shall be submitted inside the "Technical Component" Envelope, **otherwise, the bid(s) shall be rejected or disqualified**; or 2. **Original** and valid **Bid Securing Declaration** (BSD) must be submitted inside the "Technical Component" Envelope in lieu of the bid security, **otherwise, the bid(s) shall be rejected or disqualified**. The prescribed BSD form is provided in Section VIII, Bidding Forms. 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). 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). Bid security that is not in the form and amount considered herein shall be ground for rejection of the corresponding bid(s). Bid Security in the form of **cashier's/manager check** shall be payable to ***DepEd Division of Misamis Oriental.***

18.1	**Grounds for Enforcement of Bid Securing Declaration** ***[GPPB Res. No. 15-2014]*** The Bid Securing Declaration shall be enforced when the bidder commits any act resulting to the forfeiture of bid security under **Sections 23.1(b)**, **34.2, 40.1** and **69.1**, **except 69.1(f)**, 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. **Commission of any of the acts mentioned herein shall merit the following sanctions:** a) Penalty of automatic blacklisting for two (2) years in all government procurement activities; b) Payment of fine equivalent to the amount subject to the following rules: i) In case of multiple bidders: 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; As regards the bidder with the Highest Calculated/Lowest Rated Bid, the mount shall be Two Percent (2%) of the ABC or the Difference between the evaluated bid price and the ABC, whichever is HIGHER; ii) In case of a single bidder: Two Percent (2%) of the ABC or the Difference between the evaluated bid price and the Approved Budget for the Contract, whichever is HIGHER. iii) Violations committed prior to opening of financial envelope: A fix amount equivalent to two percent (2%) of the ABC. 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. v) The imposition of the foregoing fine is without prejudice to other legal action the government may undertake against the erring bidder.

18.2	**Bid Security** 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. The bid security shall be turned-over by the BAC to the Cashier of the DepED Division of Misamis Oriental for custody or deposit, whichever is appropriate.
19.4	**Format and Signing of Bids** 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.
20.1	**Sealing and Marking of Bids** 1. Bidders shall enclose their original eligibility and technical documents described in ITB Clause 12 in **one** (1) sealed envelope marked "ORIGINAL – TECHNICAL COMPONENT," and the original of their financial component described in ITB Clause 13 in **another** sealed envelope marked "ORIGINAL – FINANCIAL COMPONENT." [Refer to **Envelope Sealing Illustration** on last page of the bidding documents]. *2.* In addition, the Bidders shall submit **a copy** 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. ***The Procuring Entity requires submission of 3 copies labeled as Original, Copy 1, and Copy 2.*** In the event of any discrepancy between the original and the copy, the original shall prevail. Original Class "A" Eligibility Documents, such as the SEC, DTI, or the CDA registration certificate, the Mayor's Permit and the PCAB License 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).
20.2	**Sealing and Marking of Bids**[Refer to **Envelope Sealing Illustration** on last page of the bidding documents] 1. **Each copy** of the Technical Component and the Financial Component of the bid shall be similarly sealed in separate envelopes duly marking each envelope as "Original, COPY 1 and COPY 2 – TECHNICAL COMPONENT" and "Original, COPY 1 and COPY 2 – FINANCIAL COMPONENT" 2. The "ORIGINAL – TECHNICAL COMPONENT" envelope and the "COPY NO. **1and2** – TECHNICAL COMPONENT" envelope(s) shall be sealed in one outer envelope marked "TECHNICAL COMPONENT" 3. The "ORIGINAL – FINANCIAL COMPONENT" envelope and the "COPY NO. **1and2**– FINANCIAL COMPONENT" envelope(s) shall be sealed in one outer envelope marked "FINANCIAL COMPONENT" 4. All envelopes shall be marked in accordance with ITB Clause 20.4.

20.3	**Sealing and Marking of Bids** **Number of copies of the bid to be submitted** Each Bidder shall submit one (1) original and two (2) copies of the Technical Component and one (1) original and two (2) copies of the Financial Component of its bid.*[The Procuring Entity may require submission of maximum of 3 copies if necessary]* Failure to submit the required original Technical Component and the required original Financial Component **is a ground for rejections or disqualification of the bid(s).** Failure to submit copies of the Technical Component and the Financial Component mentioned above **is not a ground for rejection or disqualification of the bid(s)**. 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.
20.5	**Sealing and Marking of Bids** Sealing and Marking of bids are not grounds for rejection of bid(s).
21	**The Address and Deadline for Submission of Bids:** The address for submission of bids is: *DepEd Division of Misamis Oriental* *Division Office, A. Velez St.* *Cagayan de Oro City* The **deadline** for submission of bids is: *November 19, 2015 ; 8:15 a.m.* *In the event that the proprietor/prospective bidder will not be able to attend, he/she shall send one (1) duly authorized representative who shall present to the Committee the Authority signed by the Proprietor/Prospective Bidder.*
24	**Opening and Preliminary Examination of Bids:** 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, 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. In case the government or its instrumentality declared a date a non-working day without a fortuitous event, 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. 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. "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 deadline for each activity falls on a non-working day (i.e. Saturday and Sunday), legal holiday,

	or special non-working holiday, the deadline shall be the next working day." [Underscoring ours]

24.1	**Opening and Preliminary Examination of Bids:** The place of bid opening is: *DepEd Division of Misamis Oriental* *Division Office, A. Velez St.* *Cagayan de Oro City* The date and time of **bid opening** is: *November 19, 2015 ; 8:30 a.m.*
24.2	**Opening and Preliminary Examination of Bids:** No further instruction.
27.3(a)	**Detailed Evaluation and Comparison of Bids** Completeness of the bid. Unless the **ITB** specifically allows partial bids, bids not addressing or providing all of the required items in the **bidding documents, program of works and detailed estimates** 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 "-" (dash)**for the said item would mean that it is being offered for free to the Procuring Entity;
27.3(b)	**Detailed Evaluation and Comparison of Bids** **Arithmetical Corrections** Bid modification shall be allowed only in accordance with ITB Clause 23.
27.4	**Detailed Evaluation and Comparison of Bids** No further instructions.
27.5	**Detailed Evaluation and Comparison of Bids** The Procuring Entity's evaluation of bids shall only be based on the bid price quoted in the Financial Bid Form, Bill of Quantities, and Program of Works/Detailed Estimates.
28.2	**Post-Qualification**, Submission of Documentary Requirements To facilitate post-qualification, the bidder **at its option** may submit in advance, i.e. on the deadline for submission and receipt of bids, the documents required in Section II. ITB 28.2, in a separate sealed envelope as follows: 1. Latest income and business tax returns: Printed copies of the Electronically filed 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; 2. Valid Certificate of PhilGEPS Registration The envelope shall be marked: • ITB 28.2 Documents • Name of Project: _____

	• Bid Opening Date: _____ • Name of Bidder: _____
28.2(b)	**Post-Qualification** **<u>Only tax returns filed and taxes paid through the BIR Electronic Filing and Payment System (EFPS) shall be accepted.</u>** 1. Printed copies of the Electronically filed 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. *NOTE: The latest income and business tax returns are those within the last six months preceding the date of bid submission.*
28.2(d)	**Post-Qualification** No further instruction.
28.4	**Post-Qualification, Method of breaking a tie between or among Equal Bids** 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). 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.
30.1	**Contract Award** Award of contract shall be made on a per lot basis.
31.3	**Signing of the Contract** Notarization fee of the contract shall be paid by the contractor.
31.4(g)	**Signing of the Contract** The following documents shall be submitted by the successful bidder within 10 calendar days from its receipt of Notice of Award: 1. Construction Schedule and S-Curve 2. PERT/CPM 3. Manpower Utilization Schedule 4. Construction Method 5. Equipment Utilization Schedule 6. Construction Safety and Health Program approved by the Department of Labor and Employment The Bid Security may be forfeited in case the successful bidder failed to submit any of the above documents within the ten (10) day prescribed period.

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Performance Security

Pursuant to Section II, ITB 32.2, any of the following forms of performance securities is prescribed by the procuring entity as acceptable, to wit:

<table>
<tr><th>Form of Performance Security</th><th>Amount of Performance Security
(Equal to Percentage of the Total Contract Price)</th></tr>
<tr><td>(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.</td><td rowspan="2">Ten percent (10%)</td></tr>
<tr><td>(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>
</table>

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.

The performance security shall be turned-over to the DepED Division of Misamis Oriental Cashier for custody or deposit, whichever is appropriate.

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<tr><td>33.1</td><td>

Notice to Proceed

The procuring entity shall **issue** 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. **However, for infrastructure projects with an ABC of Fifty Million Pesos (P50,000,000) and below, the maximum period is two (2) calendar days**. 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 its issuance**.

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34	**Protest Mechanism** **Section 55 of the IRR of RA No. 9184** 55.1. Decisions of the BAC at any stage of the procurement process may be **questioned** by **filing** a **request for reconsideration** within the three (3) calendar days upon receipt of written notice or upon verbal notification. The BAC shall decide on the request for reconsideration within seven (7) calendar days from receipt thereof. If a failed bidder signifies his intent to file a request for reconsideration, the BAC shall keep the bid envelopes of the said failed bidder **unopened and/or duly sealed** until such time that the request for reconsideration has been resolved. 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. 55.3. The protest must be filed within seven (7) calendar days **from receipt** by the party concerned of the **resolution of the BAC denying its request** for reconsideration. A protest may be made by filing a verified position paper with the Head of the Procuring Entity concerned, accompanied by the payment of a non-refundable protest fee. The non-refundable protest fee shall be as follows:

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

34	**Protest Mechanism (continued)** **Section 55 of the IRR of RA No. 9184** 55.4. The verified position paper shall contain the following information: a) The name of bidder; b) The office address of the bidder; c) The name of project/contract; d) The implementing office/agency or procuring entity; e) A brief statement of facts; f) The issue to be resolved; and g) Such other matters and information pertinent and relevant to the proper resolution of the protest. The position paper 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. In addition, the bidder shall likewise certify under oath that: 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; b) if there is such other pending action or claim, he is including a complete statement of the present status thereof; and 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. Failure to comply with the foregoing requirements shall not be curable by mere amendment of the verified position paper.

SECTION IV

GENERAL CONDITIONS OF CONTRACT

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SECTION IV – GENERAL CONDITIONS OF THE CONTRACT

1. Definitions

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

1.1. The **Arbiter** is the person appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in **GCC** Clause 21.

1.2. **Bill of Quantities** refers to a list of the specific items of the Work and their corresponding unit prices, lump sums, and/or provisional sums.

1.3. The **Completion Date** is the date of completion of the Works as certified by the Procuring Entity's Representative, in accordance with **GCC** Clause 49.

1.4. The **Contract** is the contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works.

1.5. The **Contract Price** is the price stated in the Letter of Acceptance and thereafter to be paid by the Procuring Entity to the Contractor for the execution of the Works in accordance with this Contract.

1.6. **Contract Time Extension** is the allowable period for the Contractor to complete the Works in addition to the original Completion Date stated in this Contract.

1.7. The **Contractor** is the juridical entity whose proposal has been accepted by the Procuring Entity and to whom the Contract to execute the Work was awarded.

1.8. The **Contractor's Bid** is the signed offer or proposal submitted by the Contractor to the Procuring Entity in response to the Bidding Documents.

1.9. **Days** are calendar days; months are calendar months.

1.10. **Dayworks** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.

1.11. A **Defect** is any part of the Works not completed in accordance with the Contract.

1.12. The **Defects Liability Certificate** is the certificate issued by Procuring Entity's Representative upon correction of defects by the Contractor.

1.13. The **Defects Liability Period** is the one year period between contract completion and final acceptance within which the Contractor assumes the responsibility to undertake the repair of any damage to the Works at his own expense.

1.14. **Drawings** are graphical presentations of the Works. They include all supplementary details, shop drawings,calculations, and other information provided or approved for the execution of this Contract.

1.15. **Equipment** refers to all facilities, supplies, appliances, materials or things required for the execution and completion of the Work provided by the Contractor and which shall not form or are not intended to form part of the Permanent Works.

1.16. The **Intended Completion Date** refers to the date specified in the **SCC**when the Contractor is expected to have completed the Works. The Intended Completion Date may be revised only by the Procuring Entity's Representative by issuing an extension of time or an acceleration order.

1.17. **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.

1.18. The **Notice to Proceed** is a written notice issued by the Procuring Entity or the Procuring Entity's Representative to the Contractor requiring the latter to begin the commencement of the work not later than a specified or determinable date.

1.19. **Permanent Works** all permanent structures and all other project features and facilities required to be constructed and completed in accordance with this Contract which shall be delivered to the Procuring Entity and which shall remain at the Site after the removal of all Temporary Works.

1.20. **Plant** refers to the machinery, apparatus, and the like intended to form an integral part of the Permanent Works.

1.21. The **Procuring Entity** is the party who employs the Contractor to carry out the Works stated in the **SCC**.

1.22. The **Procuring Entity's Representative** refers to the Head of the Procuring Entity or his duly authorized representative, identified in the **SCC**, who shall be responsible for supervising the execution of the Works and administering this Contract.

1.23. The **Site** is the place provided by the Procuring Entity where the Works shall be executed and any other place or places which may be designated in the **SCC**, or notified to the Contractor by the Procuring Entity's Representative as forming part of the Site.

1.24. **Site Investigation Reports** are those that were included in the Bidding Documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.

1.25. **Slippage** is a delay in work execution occurring when actual accomplishment falls below the target as measured by the difference between the scheduled and actual accomplishment of the Work by the Contractor as established from the work schedule. This is actually described as a percentage of the whole Works.

1.26. **Specifications**means the description of Works to be done and the qualities of materials to be used, the equipment to be installed and the mode of construction.

1.27. The **Start Date**, as specified in the **SCC**, is the date when the Contractor is obliged to commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.

1.28. A **Subcontractor** is any person or organization to whom a part of the Works has been subcontracted by the Contractor, as allowed by the Procuring Entity, but not any assignee of such person.

1.29. **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Permanent Works.

1.30. **Work(s)**refer to the Permanent Works and Temporary Works to be executed by the Contractor in accordance with this Contract, including (i) the furnishing of all labor, materials, equipment and others incidental, necessary or convenient to the complete execution of the Works; (ii) the passing of any tests before acceptance by the Procuring Entity's Representative; (iii) and the carrying out of all duties and obligations of the Contractor imposed by this Contract as described in the **SCC.**

2. Interpretation

2.1. In interpreting the Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of this Contract unless specifically defined. The Procuring Entity's Representative will provide instructions clarifying queries about the Conditions of Contract.

2.2. If sectional completion is specified in the**SCC**, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

3. Governing Language and Law

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

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

4. Communications

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

5. Possession of Site

5.1. On the date specified in the **SCC**, the Procuring Entity shall grant the Contractor possession of so much of the Site as may be required to enable it to proceed with the execution of the Works. If the Contractor suffers delay or incurs cost from failure on the part of the Procuring Entity to give possession in accordance with the terms of this clause, the Procuring Entity's Representative shall give the Contractor a Contract Time Extension and certify such sum as fair to cover the cost incurred, which sum shall be paid by Procuring Entity.

5.2. If possession of a portion is not given by the date stated in the**SCC** Clause 5.1, the Procuring Entity will be deemed to have delayed the start of the relevant activities. The resulting adjustments in contact time to address such delay shall be in accordance with **GCC** Clause 47.

5.3. The Contractor shall bear all costs and charges for special or temporary right-of-way required by it in connection with access to the Site. The Contractor shall also provide at his own cost any additional facilities outside the Site required by it for purposes of the Works.

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

6. The Contractor's Obligations

6.1. The Contractor shall carry out the Works properly and in accordance with this Contract. The Contractor shall provide all supervision, labor, Materials, Plant and Contractor's Equipment, which may be required. **All Materials and Plant on Site shall be deemed to be the property of the Procuring Entity.[Refer to SCC 6.1. for clarification].**

6.2. The Contractor shall commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program of Work submitted by the Contractor, as updated with the approval of the Procuring Entity's Representative, and complete them by the Intended Completion Date.

6.3. The Contractor shall be responsible for the safety of all activities on the Site.

6.4. **The Contractor shall carry out all instructions of the Procuring Entity's Representative** that comply with the applicable laws where the Site is located.

6.5. The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the **SCC**, to carry out the supervision of the Works. The Procuring Entity will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are equal to or better than those of the personnel listed in the Schedule.

6.6. **If the Procuring Entity's Representative asks the Contractor to remove a member of the Contractor's staff** or work force, for justifiable cause, **the Contractor shall ensure that the person leaves the Site within seven (7) days** and has no further connection with the Work in this Contract.

6.7. During Contract implementation, the Contractor and his subcontractors shall abide at all times by all labor laws, including child labor related enactments, and other relevant rules.

6.8. The **Contractor shall submit** to the Procuring Entity **for consentthe name** and particulars of the person **authorized to receive instructions on behalf of the Contractor**.

6.9. The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given in the schedule of other contractors particularly when they shall require access to the Site. The Contractor shall also provide facilities and services for them during this period. The Procuring Entity may modify the schedule of other contractors, and shall notify the Contractor of any such modification thereto.

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

7. Performance Security

7.1. Within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but **in no case later than the signing of the contract by both parties**, the Contractor shall furnish the performance security in any of the forms prescribed in **ITB** Clause 32.2**(refer to Section III, BDS 32.2 for clarification)**.

7.2. The performance security posted in favor of the Procuring Entity shall be **forfeited** in the event it is established that the Contractor is **in default in any of its obligations** under the Contract.

7.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.

7.4. The performance security may be released by the Procuring Entity and returned to the Contractor after the issuance of the Certificate of Final Acceptance subject to the following conditions:

(a) There are **no pending claims against the Contractor** or the surety company filed **by the Procuring Entity**;

(b) The Contractor has **no pending claims for labor and materials** filed against it; and

(c) Other terms specified in the **SCC**.

7.5. The Contractor shall post an **additional performance security** following the amount and form specified in **ITB** Clause 32.2 to cover any **cumulative increase of more than ten percent (10%)** over the original value of the contract as a result of amendments to order or change orders, extra work orders and supplemental agreements, as the case may be.

The Contractor shall cause the extension of the validity of the performance security to cover approved contract time extensions.

7.6. In case of a reduction in the contract value or for partially completed Works under the contract which are usable and accepted by the Procuring Entity the use of which, in the judgment of the implementing agency or the Procuring Entity, will not affect the structural integrity of the entire project, the Procuring Entity shall **allow a proportional reduction** in the original performance security, provided that **any such reduction is more than ten percent (10%)** and that the **aggregate of such reductions is not more than fifty percent (50%)** of the original performance security.

7.7. Unless otherwise indicated in the **SCC**, the Contractor, by entering into the Contract with the Procuring Entity, acknowledges the right of the Procuring Entity to institute action pursuant to Act 3688 against any subcontractor be they an individual, firm, partnership, corporation, or association supplying the Contractor with labor, materials and/or equipment for the performance of this Contract.

8. Subcontracting

8.1. Unless otherwise indicated in the**SCC**, the Contractor cannot subcontract Works more than the percentage specified in **ITB** Clause 8.1.

8.2. Subcontracting of any portion of the Works does not relieve the Contractor of any liability or obligation under this Contract. The Contractor will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Contractor's own acts, defaults, or negligence, or those of its agents, servants or workmen.

8.3. 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.

9. Liquidated Damages

9.1. The Contractor shall pay liquidated damages to the Procuring Entity for each day that the Completion Date is later than the Intended Completion Date. The applicable liquidated damages is at least one-tenth (1/10) of a percent of the cost of the unperformed portion for every day of delay. The total amount of liquidated damages shall not exceed ten percent (10%) of the amount of the contract. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of this Contract, the Procuring Entity shall rescind this Contract, without prejudice to other courses of action and remedies open to it.

9.2. If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer of the Procuring Entity shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in **GCC** Clause 40.3.

10. of the CPES rating sheet, the existing performance monitoring system of the procuring entity shall be applied. Any of the following acts by the Contractor shall be construed as poor performance: