

BIDDING DOCUMENTS FOR PROFESSIONAL SERVICE - NPC REGISTRATION SYSTEM (NPCRS)



Republic of the Philippines

NATIONAL PRIVACY COMMISSION

October 2021

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***Section I. Request for Expression of
Interest***



Republic of the Philippines

NATIONAL PRIVACY COMMISSION

REQUEST FOR EXPRESSION OF INTEREST FOR THE ENGAGEMENT OF PROFESSIONAL SERVICE - NPC REGISTRATION SYSTEM (NPCRS)

1. The *National Privacy Commission*, through the *General Appropriations Act FY2021* intends to apply the sum of *FIVE MILLION PESOS ONLY* (Php 5,000,000.00) being the Approved Budget for the Contract (ABC) to payments under the contract for *Professional Service - NPC Registration System (NPCRS)*. Bids received in excess of the ABC shall be automatically rejected at bid opening.

The *National Privacy Commission* now calls for the submission of eligibility documents for *Professional Service - NPC Registration System (NPCRS)*, the project involves not only the provision of the software development but also the associated hardware and support services that are necessary to achieve its objective. Eligibility documents of interested consultants must be duly received by the BAC Secretariat on or before *October 28, 2021, 10:00AM through electronic submission via electronic mail to bacsecretariat@privacy.gov.ph*. Applications for eligibility will be evaluated based on a non-discretionary “pass/fail” criterion.

Opening of the eligibility documents will be on the same day at 03:00PM, through video conferencing via Microsoft Teams which shall be open to prospective bidders. Applications for eligibility will be evaluated based on a non-discretionary “pass/fail” criterion.

2. Procedure for the conduct of electronic submission and receipt of eligibility documents and bids shall in accordance with the **NPC-BAC Guidelines on Electronic Submission and Receipt of Bids**, herein attached.

If you wish to join the eligibility check and short-listing, pre-bid conference and the bid opening through video conferencing via Microsoft Teams, please coordinate with the NPC-BAC Secretariat through the e-mail address given below.

3. Interested bidders may obtain further information from *the National Privacy Commission* and inspect the Bidding Documents at the address given below during *Monday to Friday, 9:00am to 4:00pm*. *Due to alternative work arrangement being adopted, please set an appointment first with the NPC-BAC Secretariat through the email address given below.*
4. A complete set of Bidding Documents may be acquired by interested Bidders on *October 21, 2021* from the address below *and upon payment of the applicable fee for the Bidding Documents, pursuant to the latest Guidelines issued by the GPPB, in the amount of Php5,000.00.*

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

For the processing of payment of the Bidding Documents, please be reminded to bring the following documents:

- a. *Copy of Invitation to Bid;*
- b. *Original or CTC of Letter of Intent;*
- c. *Copy of company ID; and*
- d. *If paying through check, it should be named to Bureau of Treasury*

5. The BAC shall draw up the short list of consultants from those who have submitted Expression of Interest, including the eligibility documents, and have been determined as eligible in accordance with the provisions of Republic Act 9184 (RA 9184), otherwise known as the “Government Procurement Reform Act”, and its Implementing Rules and Regulations (IRR). The short list shall consist of *three (3)* prospective bidders who will be entitled to submit bids. The criteria and rating system for short listing are:

Rating Factor (Hurdle Rate 70%)	Weight
A. Applicable experience of the consultant	30%
I. Overall experience of the firm	10%
II. Individual experiences of the principal and key staff	10%
III. Times when employed by other consultants	10%
B. Qualification of principal and key staff of the consultant who may be assigned to the job vis-à-vis extent and complexity of the undertaking	10%
I. Applicable Certifications (if any)	20%
II. Related Projects worked on or handled	20%
C. Current workload relative to job capacity	20%

6. Bidding will be conducted through open competitive bidding procedures using non-discretionary “pass/fail” criterion as specified in the IRR of RA 9184.

Bidding is restricted to Filipino citizens/sole proprietorships, cooperatives, and partnerships or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines.

7. *The Procuring Entity shall evaluate bids using the Quality-Cost Based Evaluation procedure at a weight ratio of 80% for the Technical Proposal and 20% for the Financial Proposal. The criteria and rating system for the evaluation of bids shall be provided in the Instructions to Bidders.*

8. *The contract shall be completed or NPCRS should be on a production level on or before 15 March 2022.*
9. *The National Privacy Commission reserves the right to reject any and all bids, declare a failure of bidding, or not award the contract at any time prior to contract award in accordance with Section 41 of RA 9184 and its IRR, without thereby incurring any liability to the affected bidder or bidders.*
10. *For further information, please refer to:*

ATTY. KRISHNA AIRA TANA-CAGUIA

*Bids and Awards Committee- Secretariat, Head
East Banquet Hall, 5th floor, Delegation Building
Philippine International Convention Center, Pasay City
(02) 8234-2228 local 127
bacsecretariat@privacy.gov.ph
www.privacy.gov.ph*

sgd

ATTY. MARIA THERESITA E. PATULA
BAC, Chairperson

October 20, 2021

Section II. Eligibility Documents

IMPORTANT NOTE: In compliance with the Government Procurement Policy Board (GPPB) Resolution Nos. 09-2020 and 12-2020 approving measures for the efficient conduct of procurement activities and prescribing the form of the certification required for the conduct of electronic submission and receipt of bids by a procuring entity, the NPC Bids and Awards Committee (NPC-BAC) in a Resolution dated 03 August 2021, approved and adopted the “Guidelines on Electronic Submission and Receipt of Bids”, herein attached, for the efficient execution of its procurement activities, particularly the competitive biddings lined up for the year.

Please refer to the said guidelines for instructions on the proper preparation and submission of documents electronically via e-mail to bacsecretariat@privacy.gov.ph.

1. Eligibility Criteria

- 1.1. The following persons/entities shall be allowed to participate in the bidding for Consulting Services:
 - (a) Duly licensed Filipino citizens/sole proprietorships;
 - (b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
 - (c) Corporations duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
 - (d) Cooperatives duly organized under the laws of the Philippines; or
 - (e) Persons/entities forming themselves into a joint venture, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, That Filipino ownership or interest thereof shall be at least sixty percent (60%). 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.
- 1.2. When the types and fields of Consulting Services involve the practice of professions regulated by law, those who will actually perform the services shall be Filipino citizens and registered professionals authorized by the appropriate regulatory body to practice those professions and allied professions specified in the **EDS**.
- 1.3. If the Request for Expression of Interest allows participation of foreign consultants, prospective foreign bidders may be eligible subject to the conditions stated in the **EDS**.
- 1.4. Government owned or –controlled corporations (GOCCs) 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 attached agencies of the Procuring Entity.

2. Eligibility Requirements

- 2.1. The following eligibility requirements, together with the Eligibility Documents Submission Form, shall be submitted on or before the date of the eligibility check specified in the Request for Expression of Interest and Clause 5 for purposes of determining eligibility of prospective bidders:
 - (a) Class “A” Documents –

Legal Documents

- (i) PhilGEPS Certificate of Registration and Membership in accordance with Section 8.5.2 of the IRR, except for foreign bidders participating in the procurement by a Philippine Foreign Service Office or Post, which shall submit their eligibility documents under Section 24.1 of the IRR, provided, that the winning Consultant shall register with PhilGEPS in accordance with Section 37.1.4 of the IRR;

Technical Documents

- (ii) Statement of the prospective bidder of all its ongoing and completed government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid, within the relevant period provided in the **EDS**. The statement shall include, for each contract, the following:
 - (ii.1) the name and location of the contract;
 - (ii.2) date of award of the contract;
 - (ii.3) type and brief description of consulting services;
 - (ii.4) consultant's role (whether main consultant, subconsultant, or partner in a JV)
 - (ii.5) amount of contract;
 - (ii.6) contract duration; and
 - (ii.7) certificate of satisfactory completion or equivalent document specified in the **EDS** issued by the client, in the case of a completed contract;
- (iii) Statement of the consultant specifying its nationality and confirming that those who will actually perform the service are registered professionals authorized by the appropriate regulatory body to practice those professions and allied professions in accordance with Clause 1.2, including their respective curriculum vitae.

- (b) Class "B" Document –

If applicable, the Joint Venture Agreement (JVA) in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners in accordance with Section 24.1(b) of the IRR of RA 9184.

- 2.2. The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation

of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines. The English translation shall govern, for purposes of interpretation of the bid.

- 2.3. Prospective bidders may obtain a full range of expertise by associating with individual consultant(s) and/or other consultants or entities through a JV or subcontracting arrangements, as appropriate. However, subconsultants may only participate in the bid of one short listed consultant. Foreign Consultants shall seek the participation of Filipino Consultants by entering into a JV with, or subcontracting part of the project to, Filipino Consultants.

3. Format and Signing of Eligibility Documents

- 3.1. Prospective bidders shall submit their eligibility documents through their duly authorized representative on or before the deadline specified in Clause 5.
- 3.2. Prospective bidders shall prepare an original and copies of the eligibility documents. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 3.3. The Eligibility Documents Submission Form shall be signed by the duly authorized representative/s of the Bidder. Failure to do so shall be a ground for the rejection of the eligibility documents.
- 3.4. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the prospective bidder.

4. Sealing and Marking of Eligibility Documents

IMPORTANT NOTE: In compliance with the Government Procurement Policy Board (GPPB) Resolution Nos. 09-2020 and 12-2020 approving measures for the efficient conduct of procurement activities and prescribing the form of the certification required for the conduct of electronic submission and receipt of bids by a procuring entity, the NPC Bids and Awards Committee (NPC-BAC) in a Resolution dated 03 August 2021, approved and adopted the "Guidelines on Electronic Submission and Receipt of Bids", herein attached, for the efficient execution of its procurement activities, particularly the competitive biddings lined up for the year.

Please refer to the said guidelines for instructions on the proper sealing and marking of your eligibility documents to be submitted electronically via e-mail to bacsecretariat@privacy.gov.ph.

Also note, that once declared eligible, you will still be required to submit hard copies of the eligibility documents, sealed and marked in accordance with the instructions below.

- 4.1. Prospective bidders shall enclose their original eligibility documents described in Clause 2.1, in a sealed envelope marked "ORIGINAL – ELIGIBILITY

DOCUMENTS”. Each copy thereof shall be similarly sealed duly marking the envelopes as “COPY NO. ___ - ELIGIBILITY DOCUMENTS”. These envelopes containing the original and the copies shall then be enclosed in one single envelope.

- 4.2. The original and the number of copies of the eligibility documents as indicated in the **EDS** shall be typed or written in ink and shall be signed by the prospective bidder or its duly authorized representative/s.
- 4.3. All envelopes shall:
 - (a) contain the name of the contract to be bid in capital letters;
 - (b) bear the name and address of the prospective bidder in capital letters;
 - (c) be addressed to the Procuring Entity’s BAC specified in the **EDS**;
 - (d) bear the specific identification of this Project indicated in the **EDS**; and
 - (e) bear a warning “DO NOT OPEN BEFORE...” the date and time for the opening of eligibility documents, in accordance with Clause 5.
- 4.4 Eligibility documents that are not properly sealed and marked, as required in the bidding documents, shall not be rejected, but the bidder or its duly authorized representative shall acknowledge such condition of the documents as submitted. The BAC shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked eligibility documents, or for its premature opening.

5. Deadline for Submission of Eligibility Documents

Eligibility documents must be received by the Procuring Entity’s BAC at the address and on or before the date and time indicated in the Request for Expression of Interest and the **EDS**.

6. Late Submission of Eligibility Documents

Any eligibility documents submitted after the deadline for submission and receipt prescribed in Clause 0 shall be declared “Late” and shall not be accepted by the Procuring Entity. The BAC shall record in the minutes of submission and opening of eligibility documents, the Bidder’s name, its representative and the time the eligibility documents were submitted late.

7. Modification and Withdrawal of Eligibility Documents

- 7.1. The prospective bidder may modify its eligibility documents after it has been submitted; provided that the modification is received by the Procuring Entity prior to the deadline specified in Clause 5. The prospective bidder shall not be allowed to retrieve its original eligibility documents, but shall be allowed to submit another set equally sealed, properly identified, linked to its original bid marked as “ELIGIBILITY MODIFICATION” and stamped “received” by the

BAC. Modifications received after the applicable deadline shall not be considered and shall be returned to the prospective bidder unopened.

- 7.2. A prospective bidder may, through a letter of withdrawal, withdraw its eligibility documents 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 eligibility documents.
- 7.3. Eligibility documents requested to be withdrawn in accordance with this Clause shall be returned unopened to the prospective bidder concerned. A prospective bidder that withdraws its eligibility documents shall not be permitted to submit another set, directly or indirectly, for the same project. A prospective bidder that acquired the eligibility documents may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of eligibility documents.

8. Opening and Preliminary Examination of Eligibility Documents

- 8.1. The BAC will open the envelopes containing the eligibility documents in the presence of the prospective bidders' representatives who choose to attend, at the time, on the date, and at the place specified in the **EDS**. The prospective bidders' representatives who are present shall sign a register evidencing their attendance.

In case the submitted eligibility envelopes cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the said envelopes and reschedule the opening on the next working day or at the soonest possible time through the issuance of a Notice of Postponement to be posted in the PhilGEPS website and the website of the Procuring Entity concerned.

- 8.2. Letters of withdrawal shall be read out and recorded during the opening of eligibility documents and the envelope containing the corresponding withdrawn eligibility documents shall be returned unopened to the withdrawing prospective bidder.
- 8.3. The eligibility documents envelopes and modifications, if any, shall be opened one at a time, and the following read out and recorded:
 - (a) the name of the prospective bidder;
 - (b) whether there is a modification or substitution; and
 - (c) the presence or absence of each document comprising the eligibility documents vis-à-vis a checklist of the required documents.
- 8.4. The eligibility of each prospective bidder shall be determined by examining each bidder's eligibility requirements or statements against a checklist of requirements, using non-discretionary "pass/fail" criterion, as stated in the Request for Expression of Interest, and shall be determined as either "eligible"

or “ineligible.” If a prospective bidder submits the specific eligibility document required, he shall be rated “passed” for that particular requirement. In this regard, failure to submit a requirement, or an incomplete or patently insufficient submission, shall be considered “failed” for the particular eligibility requirement concerned. If a prospective bidder is rated “passed” for all the eligibility requirements, he shall be considered eligible to participate in the bidding, and the BAC shall mark the set of eligibility documents of the prospective bidder concerned as “eligible.” If a prospective bidder is rated “failed” in any of the eligibility requirements, he shall be considered ineligible to participate in the bidding, and the BAC shall mark the set of eligibility documents of the prospective bidder concerned as “ineligible.” In either case, the BAC chairperson or his duly designated authority shall countersign the markings.

9. Short Listing of Consultants

- 9.1. Only prospective bidders whose submitted contracts are similar in nature and complexity to the contract to be bid as provided in the **EDS** shall be considered for short listing.
- 9.2. The BAC shall draw up the short list of prospective bidders from those declared eligible using the detailed set of criteria and rating system to be used specified in the **EDS**.
- 9.3. Short listed consultants shall be invited to participate in the bidding for this project through a Notice of Eligibility and Short Listing issued by the BAC.

10. Protest Mechanism

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

Section III. Eligibility Data Sheet

Eligibility Data Sheet

Eligibility Documents	
1.2	<i>Involves the provision of the software development, associated hardware and support services that are necessary to achieve its objective.</i>
1.3	No further instructions.
2.1(a)(ii)	The statement of all ongoing and completed government and private contracts shall include all such contracts within <i>three (3) years</i> prior to the deadline for the submission and receipt of eligibility documents.
2.1(a)(ii.7)	<i>Statement of complete projects attaching thereto the certification of completion of contract issued by the client.</i>
0	Each prospective bidder shall submit one (1) original and <i>one (1)</i> copy of its eligibility documents. Please refer to the attached NPC-BAC Guidelines on Electronic Submission and Receipt of Bids for further instructions.
(c)	<i>National Privacy Commission Bids and Awards Committee East Banquet Hall, 5th floor, Delegation Building Philippine International Convention Center, Pasay City</i>
(d)	<i>Professional Service - NPC Registration System (NPCRS) (APP Item No. 2021-0148)</i>
0	The eligibility documents shall be submitted electronically via e-mail at <u>bacsecretariat@privacy.gov.ph</u> . Please refer to the attached NPC-BAC Guidelines on Electronic Submission and Receipt of Bids for further instructions . The deadline for submission of eligibility documents is <i>October 28, 2021 at 10:00AM</i> .
0	The place of opening of eligibility documents shall be done online through videoconferencing via MS Teams. Please refer to the attached NPC-BAC Guidelines on Electronic Submission and Receipt of Bids for further instructions . The date and time of opening of eligibility documents <i>October 28, 2021 at 03:00PM</i> .
0	No further instructions.
0	<i>The minimum score required to be shortlisted is 70 points/100 point.</i>

	Rating Factor (Hurdle Rate 70%)	Weight
	A. Applicable experience of the consultant I. Overall experience of the firm II. Individual experiences of the principal and key staff III. Times when employed by other consultants	30% 10% 10%
	B. Qualification of principal and key staff of the consultant who may be assigned to the job vis-à-vis extent and complexity of the undertaking I. Applicable Certifications (if any) II. Related Projects worked on or handled	10% 20%
	C. Current workload relative to job capacity	20%

PART II

Section I. Notice of Eligibility and Short Listing

[Insert Date]

[Name and Address of Short Listed Consultant]

Dear *[Addressee]*:

1. The *National Privacy Commission* (hereinafter called “Procuring Entity” has received financing (hereinafter called “funds”) from *the General Appropriations Act FY2021* (hereinafter called the “Funding Source”) toward the cost of *engagement for Professional Service - NPC Registration System (NPCRS)*. The Procuring Entity intends to apply a portion of the funds in the amount of *Php5,000,000.00* to eligible payments under the contract for *Professional Service - NPC Registration System (NPCRS)* for which the Bidding Documents is issued.
2. The Procuring Entity now invites bids to provide the following Consulting Services: *provision of the software development, associated hardware and support services that are necessary to achieve its objective of achieving an efficient and secure registration process and to serve as a portal for Individual Professionals, PICs and PIPs to comply with the registration provisions stipulated in the Data Privacy Act (DPA), its implementing rules and regulations (IRR), and relevant NPC issuances.* More details on the services are provided in the Terms of Reference (TOR) for the project.
3. The Consultant shall be selected and employed in accordance with *Quality-Cost Based Evaluation* procedures as described in the Bidding Documents.
4. This notice has been addressed to the following short listed consultants:

[Insert list of short listed consultants]
5. It is not permissible for you to transfer this invitation to any other consultant.
6. The Bidding Documents may be acquired at *5th floor, Delegation Building, Philippine International Convention Center, Pasay City* during *9:00 a.m. to 4:00 p.m.* upon payment of an applicable fee for the Bidding Documents, pursuant to the latest Guidelines issued by the GPPB, in the amount of *Php5,000.00*.
7. The *National Privacy Commission* will hold a Pre-Bid Conference on *November 05, 2021 at 03:00PM* through videoconference via MS Teams, which shall be open to all short listed consultants.

Yours sincerely,

Sgd
ATTY. MARIA THERESITA E. PATULA
BAC, Chairperson

Bidding Documents

Republic of the Philippines

Professional Service - NPC Registration System (NPCRS)

Provision of the software development, associated hardware and support services

IMPORTANT NOTE: In compliance with the Government Procurement Policy Board (GPPB) Resolution Nos. 09-2020 and 12-2020 approving measures for the efficient conduct of procurement activities and prescribing the form of the certification required for the conduct of electronic submission and receipt of bids by a procuring entity, the NPC Bids and Awards Committee (NPC-BAC) in a Resolution dated 03 August 2021, approved and adopted the “Guidelines on Electronic Submission and Receipt of Bids”, herein attached, for the efficient execution of its procurement activities, particularly the competitive biddings lined up for the year.

Please refer to the said guidelines for instructions on the proper preparation and submission of documents electronically via e-mail to bacsecretariat@privacy.gov.ph.

Section II. Instructions to Bidders

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A. General

1. Introduction

- 1.1. The Procuring Entity named in the Bid Data Sheet (**BDS**) shall select an individual, sole proprietorship, cooperative, partnership, corporation, or a joint venture (JV) (hereinafter referred to as “Consultant”) from among those short listed, in accordance with the evaluation procedure specified in the **BDS**.
- 1.2. The Procuring Entity has received financing (hereinafter called “funds”) from the source indicated in the **BDS** (hereinafter called the “Funding Source”) toward the cost of the Project named in the **BDS**. The Procuring Entity intends to apply a portion or the whole of the funds to payments for this Project.
- 1.3. Consultants are invited to submit bids composed of a technical proposal and a financial proposal for Consulting Services required for this Project described in the **BDS**. Bids shall be the basis for contract negotiations and ultimately for a signed contract with the selected Consultant.
- 1.4. If the **BDS** indicates that the Project will be completed in phases, each phase must be completed to the Procuring Entity’s satisfaction prior to the commencement of the next phase.
- 1.5. Consultants must familiarize themselves with local conditions and take them into account in preparing their bids. To obtain firsthand information on the project and on the local conditions, Consultants are encouraged to visit the Procuring Entity before submitting a bid and to attend the pre-bid conference specified in **ITB** Clause 7.
- 1.6. The Consultants’ costs of preparing their bids and negotiating the contract, including a visit to the Procuring Entity, are not reimbursable as a direct cost of the project.
- 1.7. Consultants shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive, coercive or obstructive practices issued by the Funding Source or the Procuring Entity in accordance with **ITB** Clause 3.1.

2. Conflict of Interest

- 2.1. The Funding Source’s policy requires that Consultants provide professional, objective, and impartial advice and at all times hold the Procuring Entity’s interests paramount, without any consideration for future work, and strictly avoid situations where a conflict of interest shall arise with their other projects or their own interests. Consultants shall not be hired for any project that would be in conflict with their prior or current obligations to other entities, or that may place them in a position of not being able to carry out the Project in the best interest of the Procuring Entity. Without limitation on the generality of this rule, Consultants shall not be hired under the circumstances set forth below:

- (d) If a Consultant combines the function of consulting with those of contracting and/or supply of equipment for the same Project;
- (e) If a Consultant is associated with, affiliated to, or owned by a contractor or a manufacturing firm with departments or design offices offering services as consultants unless such Consultant includes relevant information on such relationships along with a statement in the Technical Proposal cover letter to the effect that the Consultant shall limit its role to that of a consultant and disqualify itself and its associates from work in any other capacity that may emerge from the Project (including bidding for any part of the future project). The contract with the Consultant selected to undertake the Project shall contain an appropriate provision to such effect; or
- (f) If there is a conflict among consulting projects, the Consultant (including its personnel and subconsultants) and any subsidiaries or entities controlled by such Consultant shall not be recruited for the relevant project. The duties of the Consultant depend on the circumstances of each case. While continuity of consulting services may be appropriate in particular situations where no conflict exists, a Consultant cannot be recruited to carry out a project that, by its nature, shall result in conflict with a prior or current project of such Consultant. Examples of the situations mentioned are when a Consultant engaged to prepare engineering design for an infrastructure project shall not be recruited to prepare an independent environmental assessment for the same project; similarly, a Consultant assisting a Procuring Entity in privatization of public assets shall not purchase, nor advise purchasers, of such assets; or a Consultant hired to prepare Terms of Reference (TOR) for a project shall not be recruited for the project in question.

2.2. Consultants shall not be related to the Head of the Procuring Entity (HoPE), members of the BAC, the TWG, and the BAC Secretariat, the head of the PMO or the end-user unit, and the project consultants, by consanguinity or affinity up to the third civil degree. The prohibition shall apply as follows:

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

Relationship of the nature described above or a failure to comply with the provisions of this clause will result in the rejection of the Consultant's bid.

- 2.3. Subject to the provisions of **ITB** Clause 2, any previous or ongoing participation by the Consultant, its professional staff, or its affiliates or associates under a contract with the Funding Source or the Procuring Entity in relation to this Project may result in the rejection of its bid. Consultants should clarify their situation in that respect with the Procuring Entity before preparing its bid.
- 2.4. Failure by a Consultant to fully disclose potential conflict of interest at the time of Bid submission, or at a later date in the event that the potential conflict arises after such date, shall result in the Procuring Entity and/or the Funding Source seeking the imposition of the maximum administrative, civil and criminal penalties up to and including imprisonment.
- 2.5. Consultants are discouraged to include officials and employees of the Government of the Philippines (GoP) as part of its personnel. Participation of officials and employees of the GoP in the Project shall be subject to existing rules and regulations of the Civil Service Commission.
- 2.6. Fairness and transparency in the selection process require that Consultants do not derive unfair competitive advantage from having provided consulting services related to the Project in question. To this end, the Procuring Entity shall make available to all the short listed consultants together with the Bidding Documents all information that would in that respect give each Consultant a competitive advantage.

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

- 3.1. The Procuring Entity as well as the Consultants shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the Procuring Entity:
 - (a) defines, for purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the GoP, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019.
 - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a

contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.

(iii) “collusive practices” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.

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

(v) “obstructive practice” is

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

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

(b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

3.2. Further, the Procuring Entity will seek to impose the maximum civil, administrative, and/or criminal penalties available under 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 Consultant in the bidding for and performance of a contract themselves or through independent auditors as reflected in the **GCC** Clause 51.

4. Consultant's Responsibilities

- 4.1. The Consultant or its duly authorized representative shall submit a sworn statement in the form prescribed in Section VII. Bidding Forms as required in **ITB** Clause 10.2(d).
- 4.2. The Consultant 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 this Project, if any;
 - (d) Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin/s as provided under **ITB** Clause 8.4.
 - (e) Ensuring that it is not "blacklisted" or barred from bidding by the GoP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
 - (f) Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
 - (g) Authorizing the Head of the Procuring Entity or its duly authorized representative/s to verify all the documents submitted;
 - (h) Ensuring that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract, accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary's Certificate, whichever is applicable;
 - (i) Complying with the disclosure provision under Section 47 of RA 9184 and its IRR in relation to other provisions of Republic Act 3019;
 - (j) Complying with existing labor laws and standards, in the case of procurement of services. Moreover, bidder undertakes to:
 - (i) Ensure the entitlement of workers to wages, hours of work, safety and health and other prevailing conditions of work as established by national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable.

In case there is a finding by the Procuring Entity or the DOLE of underpayment or non-payment of workers' wage and wage-related benefits, bidder agrees that the performance security or portion of the contract amount shall be withheld in favor of the complaining workers pursuant to appropriate provisions of Republic Act No. 9184 without prejudice to the institution of appropriate actions under the Labor Code, as amended, and other social legislations.

- (ii) Comply with occupational safety and health standards and to correct deficiencies, if any.

In case of imminent danger, injury or death of the worker, bidder undertakes to suspend contract implementation pending clearance to proceed from the DOLE Regional Office and to comply with Work Stoppage Order; and

- (iii) Inform the workers of their conditions of work, labor clauses under the contract specifying wages, hours of work and other benefits under prevailing national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable, through posting in two (2) conspicuous places in the establishment's premises; and

- (k) Ensuring that it did not give or pay, directly or indirectly, any commission, amount, fee, or any form of compensation, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

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

- 4.3. 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.
- 4.4. The Procuring Entity shall not assume any responsibility regarding erroneous interpretations or conclusions by the Consultant out of the data furnished by the Procuring Entity. However, the Procuring Entity shall ensure that all information in the Bidding Documents, including supplemental/bid bulletins issued are correct and consistent.
- 4.5. Before submitting their bids, the Consultants are deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the GoP which may affect the contract in any way.

- 4.6. The Consultant 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.
- 4.7. Consultants should note that the Procuring Entity will only accept bids from those that have paid the applicable fee for the Bidding Documents at the office indicated in the Request for Expression of Interest.

5. Origin of Associated Goods

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

6. Subcontracts

- 6.1. Unless otherwise specified in the **BDS**, the Consultant may subcontract portions of the Consulting Services 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 Consultant from any liability or obligation that may arise from the contract for this Project.
- 6.2. Subconsultant must comply with the eligibility criteria and the documentary requirements specified in the **BDS**. In the event that any subconsultant is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Consulting Services shall be disallowed.
- 6.3. The Consultant may identify the subconsultant to whom a portion of the Consulting Services will be subcontracted at any stage of the bidding process or during contract implementation. If the Consultant opts to disclose the name of the subconsultant during bid submission, the Consultant shall include the required documents as part of the technical component of its bid. A subconsultant that is identified by the Consultant during contract implementation must comply with the eligibility criteria and documentary requirements and secure approval of the Procuring Entity.

B. Contents of Bidding Documents

7. Pre-Bid Conference

- 7.1. 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 Consultants' questions on the technical and financial components of this Project.
- 7.2. The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of bids, but not earlier than seven (7) calendar days from the determination of the shortlisted consultants. 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.

- 7.3. Consultants are encouraged to attend the pre-bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-attendance of the Consultant will in no way prejudice its bid; however, the Consultant 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. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference. The minutes shall be made available to prospective bidders not later than five (5) days upon written request.
- 7.4. Decisions of the BAC amending any provision of the bidding documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.

8. Clarifications and Amendments to Bidding Documents

- 8.1. Shortlisted consultants may request for clarification(s) on and/or an interpretation of any part of the Bidding Documents. 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.
- 8.2. The BAC shall respond to the said request by issuing a Supplemental/Bid Bulletin to be made available to all those who have properly secured the Bidding Documents at least seven (7) calendar days before the deadline for the submission and receipt of Bids.
- 8.3. Supplemental/Bid Bulletins may also 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.
- 8.4. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted in the PhilGEPS and the website of the Procuring Entity concerned, if available and at any conspicuous place in the premises of the Procuring Entity concerned. It shall be the responsibility of all Consultants who have properly secured the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, Consultants 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 20.

C. Preparation of Bids

9. Language of Bids

The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines. The English translation shall govern, for purposes of interpretation of the bid.

10. Documents Comprising the Bid: Technical Proposal

10.1. While preparing the Technical Proposal, Consultants must give particular attention to the following:

- (a) The Technical Proposal shall not include any financial information. Any Technical Proposal containing financial information shall be declared non-responsive.
- (b) For projects on a staff-time basis, the estimated number of professional staff-months specified in the **BDS** shall be complied with. Bids shall, however, be based on the number of professional staff-months estimated by the Consultant.
- (c) Proposed professional staff must, at a minimum, have the experience indicated in the **BDS**, preferably working under conditions similar to those prevailing in the Republic of the Philippines.
- (d) No alternative professional staff shall be proposed, and only one Curriculum Vitae (CV) may be submitted for each position.

10.2. The Technical Proposal shall contain the following information/documents:

- (a) Technical Proposal Submission Form shall be the cover letter of the Technical Proposal, using the form prescribed in Section VII. Bidding Forms (TPF 1).
- (b) Bid security as prescribed in **ITB** Clause 15. If the bidder opts to submit the bid security in the form of:
 - (i) 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
 - (ii) a surety bond accompanied by a certification coming from the Insurance Commission that the surety or insurance company is authorized to issue such instrument.

- (c) Information indicated in the paragraphs below must be provided by the Consultant and each partner and/or subconsultant, if any, following the formats described in the Technical Proposal Forms:
- (i) A brief description of the organization and outline of recent experience of the Consultant and each partner and/or subconsultant on projects of a similar and related nature as required in form TPF 2. Consultant's References. For each project, the outline should indicate *inter alia*, the project, contract amount and the Consultant's involvement. Information should be provided only for those projects for which the Consultant was legally contracted by itself or as one of the major participating consultants within an association. Whenever applicable, the experience of individual experts from projects completed independently or when associated with consultants other than the one with whom the individual is currently associated with cannot be claimed as the experience of the current consultant or any one of its partners and/or subconsultants, but can be claimed by the individuals themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the Procuring Entity.
 - (ii) Comments, if any, on the TOR (TPF 3. Comments and Suggestions of Consultant on the Terms of Reference and on Data, Services, and Facilities to be Provided by the Procuring Entity) to improve performance in carrying out the Project. Innovativeness shall be appreciated, including workable suggestions that could improve the quality/effectiveness of the Project. In this regard, unless the Consultant clearly states otherwise, it shall be assumed by the Procuring Entity that work required to implement any such improvements, are included in the inputs shown on the Consultant's Staffing Schedule. It shall include a list of facilities requested by the Consultant to be provided by the Procuring Entity, if any, in addition to those shown on the Data Sheet that may include support facilities such as: counterpart staff, office space, local transportation, equipment, domestic administrative support, etc. that would be needed to carry out the project.
 - (iii) A concise, complete, and logical description of how the Consultant's team shall carry out the services to meet all requirements of the TOR using TPF 4. Description of the Methodology and Work Plan for Performing the Project.
 - (iv) An organization chart of the key and support staff indicating their tasks and relationships amongst the Consultant and any partner and/or subconsultant, the Procuring Entity, the Funding Source and the GoP, and other parties or stakeholders, if any, involved in the project using TPF 5. Team Composition and Task.

- (v) The name, age, nationality, background employment record, and professional experience of each nominated expert including ongoing projects, with particular reference to the type of experience required for the tasks assigned should be presented in the CV format shown in TPF 6. Format of Curriculum Vitae (CV) for Proposed Professional Staff. Only one duly notarized CV for each consultant involved in the Project may be submitted for each position.
- (vi) The Procuring Entity requires that each expert confirm that the content of his/her CV is correct and the experts themselves should sign the certification of the CV. In addition, the expert should submit a signed written commitment stating that the expert shall work for the Project once awarded the contract. A zero rating shall be given to a nominated expert if the expert:
 - (vi.1) is proposed for a domestic position but is not a Filipino citizen;
 - (vi.2) failed to state nationality on the CV; or
 - (vi.3) the CV is not signed in accordance with paragraph (v) above.
- (vii) A Time Schedule (TPF 7. Time Schedule for Professional Personnel) indicating clearly the estimated duration in terms of person-months (shown separately for work in the field and in the home office) and the proposed timing of each input for each nominated expert, including domestic experts, if required, using the format shown. The schedule shall also indicate when experts are working in the project office and when they are working at locations away from the project office.
- (viii) A work plan showing in graphical format (bar chart) the timing of major activities, anticipated coordination meetings, and deliverables such as reports required under the TOR using TPF 8. Activity (Work) Schedule.
- (d) Sworn statement in accordance with Section 25.3 of the IRR of RA 9184 and using the form prescribed in Section VII. Bidding Forms.

11. Documents Comprising the Bid: Financial Proposal

- 11.1. All information provided in a Consultant's Financial Proposal shall be treated as confidential. The Financial Proposal must be submitted in hard copy using the format shown in Financial Proposal Forms.
- 11.2. The Financial Proposal requires completion of six (6) forms, particularly, FPF 1, FPF 2, FPF 3, FPF 4, FPF 5, and FPF 6. FPF 1. Financial Proposal Submission Form should form the covering letter of the Financial Proposal. Form FPF 2. Summary of Costs FPF 3. Breakdown of Price per Activity,

FPF 4. Breakdown of Remuneration per Activity, FPF 5. Reimbursables per Activity, and FPF 6. Miscellaneous Expenses, relate to the costs of consulting services under two distinct categories, namely: (a) Remuneration; and (b) Reimbursable Expenditures.

- 11.3. Remuneration is divided into billing rate estimates for international and domestic consultants. Reimbursable Expenditures are divided into per diem rates for international and domestic consultants and costs for other reimbursable expenditure items required to perform the consulting services.
- 11.4. The list of experts, and their respective inputs, identified in Financial Proposal Forms, must match the list of experts and their respective inputs shown in Technical Proposal Forms.
- 11.5. The Consultant shall be subject to Philippine taxes on amounts payable by the Procuring Entity under the contract through mandated withholding by local tax authorities of specified percentages of such amounts or otherwise. The **BDS** details the taxes payable.
- 11.6. The Financial Proposal should clearly estimate, as a separate amount, the local taxes (including social security), duties, fees, levies, and other charges imposed under the applicable law, on the Consultants, the subconsultants, and its personnel (other than Philippine Nationals or permanent residents of the Philippines).
- 11.7. Unless otherwise provided in the **BDS**, total calculated bid prices, as evaluated and corrected for minor arithmetical corrections, such as computational errors, which exceed the approved budget for the contract (ABC) shall not be considered.

12. Alternative Bids

Consultants participating in more than one bid or associating with any other entity other than those already provided in its eligibility documents and allowed by the Procuring Entity shall be disqualified.

13. Bid Currencies

- 13.1. 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.
- 13.2. If so allowed in accordance with **ITB** Clause 13.1, 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 *Bangko Sentral ng Pilipinas* (BSP) reference rate bulletin on the day of the bid opening.
- 13.3. Unless otherwise specified in the **BDS**, payment of the contract price shall be made in Philippine Pesos.

14. Bid Validity

- 14.1. 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.
- 14.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Consultants 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 15 should also be extended corresponding to the extension of the bid validity period at the least. A Consultant may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Consultant granting the request shall not be required or permitted to modify its bid.

15. Bid Security

- 15.1. The Consultant shall submit a Bid Securing Declaration or any form of Bid Security in an amount stated in the **BDS**, which shall be not less than the percentage of the ABC in accordance with the following schedule:

Form of Bid Security	Amount of Bid Security (Not less than the Percentage of the ABC)
<p>a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.</p> <p><i>For biddings conducted by LGUs, the cashier's/manager's check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	
<p>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.</p> <p><i>For biddings conducted by LGUs, the Bank Draft/Guarantee, or irrevocable letter of credit may be issued by other banks certified by the BSP as authorized to issue such</i></p>	<p>Two percent (2%)</p>

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

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 31, within ten (10) calendar days from receipt of the Notice of Award, and commits to pay the corresponding amount as fine, and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as provided in the guidelines issued by the GPPB.

- 15.2. 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.
- 15.3. No bid securities shall be returned to the Consultants 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 request for reconsideration and/or protest or lapse of the reglementary period without having filed a request for reconsideration or protest. Without prejudice on its forfeiture, bid securities shall be returned only after the bidder with the Highest Rated Responsive Bid (HRRB) 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 15.2.
- 15.4. 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 Consultant's bid security will be discharged, but in no case later than the bid security validity period as indicated in **ITB** Clause 15.2.
- 15.5. The bid security may be forfeited:
 - (a) if a Consultant:
 - (i) withdraws its bid during the period of bid validity specified in **ITB** Clause 15.2;
 - (ii) does not accept the correction of errors pursuant to **ITB** Clause 11.7;

- (iii) has a finding against the veracity of the required documents submitted in accordance with **ITB** Clause 27.2;
 - (iv) submission of eligibility requirements containing false information or falsified documents;
 - (v) any 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 LCRB;
 - (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 Consultant:
- (i) fails to sign the contract in accordance with **ITB** Clause 31;
 - (ii) fails to furnish performance security in accordance with **ITB** Clause 32; or
 - (iii) any other reason stated in the **BDS**.

16. Format and Signing of Bids

16.1. Consultants shall submit their bids through their duly authorized representative using the appropriate forms provided in Section VII. Bidding Forms on or before the deadline specified in the **ITB** Clause 18 in two (2)

separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical proposal and the second shall contain the financial proposal.

- 16.2. Forms as mentioned in **ITB** Clause 16.1 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.
- 16.3. The Consultant shall prepare an original of the first and second envelopes as described in **ITB** Clauses 10 and 11. In addition, the Consultant 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.
- 16.4. Each and every page of the Technical Proposal Submission Form and the Financial Proposal Submission Form under Section VII hereof shall be signed by the duly authorized representative/s of the Consultant. Failure to do so shall be a ground for the rejection of the bid.
- 16.5. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Consultant.

17. Sealing and Marking of Bids

IMPORTANT NOTE: Please refer to the attached **Guidelines on Electronic Submission and Receipt of Bids** for instructions on the proper preparation and submission of documents electronically via e-mail to bacsecretariat@privacy.gov.ph.

Also note that once you are declared to be Single/Highest Rated Bidder, you will be required to manually submit 1 original and 1 hard copy of the technical and financial proposal in accordance with the instruction below.

- 17.1. Unless otherwise indicated in the **BDS**, Consultants shall enclose their original technical proposal described in **ITB** Clause 10, in one sealed envelope marked “ORIGINAL - TECHNICAL PROPOSAL”, and the original of their financial proposal in another sealed envelope marked “ORIGINAL - FINANCIAL PROPOSAL”, sealing them all in an outer envelope marked “ORIGINAL BID”.
- 17.2. Each copy of the first and second envelopes shall be similarly sealed duly marking the inner envelopes as “COPY NO. ___ - TECHNICAL PROPOSAL” and “COPY NO. ___ – FINANCIAL PROPOSAL” and the outer envelope as “COPY NO. ___”, respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 17.3. The original and the number of copies of the bid as indicated in the **BDS** shall be typed or written in ink and shall be signed by the bidder or its duly authorized representative/s.
- 17.4. All envelopes shall:
 - (a) contain the name of the contract to be bid in capital letters;

- (b) bear the name and address of the Consultant in capital letters;
 - (c) be addressed to the Procuring Entity's BAC in accordance with **ITB** Clause 18.1;
 - (d) bear the specific identification of this bidding process indicated in the **ITB** Clause 1.2; and
 - (e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with **ITB** Clause 18.
- 17.5. Bid envelopes that are not properly sealed and marked, as required in the bidding documents, shall not be rejected, but the bidder or its duly authorized representative shall acknowledge such condition of the Bid as submitted. The BAC or the Procuring Entity shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked Bid, or for its premature opening.

D. Submission and Opening of Bids

18. 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**.

19. Late Bids

Any bid submitted after the deadline for submission and receipt of bids prescribed by the Procuring Entity, pursuant to **ITB** Clause 18, shall be declared "Late" and shall not be accepted by the Procuring Entity. The BAC shall record in the minutes of Bid submission and opening, the Consultant's name, its representative and the time the late bid was submitted.

20. Modification and Withdrawal of Bids

- 20.1. The Consultant 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 Consultant shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed, properly identified in accordance with **ITB** Clause 17.4, linked to its original bid marked as "TECHNICAL MODIFICATION" or "FINANCIAL MODIFICATION" and stamped "received" by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Consultant unopened.
- 20.2. A Consultant 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. The letter of withdrawal must be executed by the authorized representative of the Bidder identified in the Omnibus Sworn Statement, a copy of which should be attached to the letter.

- 20.3 Bids requested to be withdrawn in accordance with **ITB** Clause 20.1 shall be returned unopened to the Bidders. A Consultant, who has acquired the bidding documents, may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of bids. A Consultant that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.
- 20.4 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 Consultant on the Financial Bid Form. Withdrawal of a bid during this interval shall result in the forfeiture of the Consultant's bid security, pursuant to **ITB** Clause 15.5, and the imposition of administrative, civil, and criminal sanctions as prescribed by R.A. 9184 and its IRR.

E. Evaluation and Comparison of Bids

21. Opening and Preliminary Examination of Bids

- 21.1 Only bids from short listed bidders shall be opened and considered for award of contract. These short listed bidders, whether single entities or JVs, should confirm in their Technical Proposal Submission Form that the information contained in the submitted eligibility documents remains correct as of the date of bid submission.
- 21.2 The BAC shall open the bids immediately after the deadline for the submission and receipt of bids in public, as specified in the **BDS**. In case the bids cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the bids submitted and reschedule the opening on the next working day or at the soonest possible time through the issuance of a Bulletin to be posted at the PhilGEPS website and the website of the Procuring Entity concerned.
- 21.3 To determine each bidder's compliance with the documents prescribed in **ITB** Clause 10, the BAC shall open the first envelope (Technical Proposal) and check the submitted documents of each bidder in accordance with **ITB** Clause 10.2 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".
- 21.4 Letters of withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Consultant unopened
- 21.5 All members of the BAC who are present during bid opening shall initial every page of the original copies of all bids received and opened.

- 21.6 All technical envelopes shall be resealed. Those rated “passed” shall be secured for the detailed technical bid evaluation, while those rated “failed” will be secured for purposes of possible filing of a request for reconsideration unless the bidder waives its right to file a request for reconsideration, in which case, the envelope shall be returned to the bidder immediately. .
- 21.7 The Procuring Entity shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price (per lot, if applicable, and/or including discount, if any), bid security, findings of preliminary examination, and whether there is a withdrawal or modification; and (b) attendance sheet. The BAC members shall sign the abstract of bids as read.

22. Process to be Confidential

- 22.1 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 Consultant regarding the evaluation of their bids until the approval by the HoPE of the ranking of shortlisted Consultants, unless otherwise allowed in the **BDS** or in the case of **ITB** Clause 23.
- 22.2 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 Consultant’s bid.

23. Clarification of Bids

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

24. Bid Evaluation

- 24.1 For the evaluation of bids, numerical ratings shall be used. In order to eliminate bias in evaluating the Bids, it is recommended that the highest and lowest scores for each Consultant for each criterion shall not be considered in determining the average scores of the Consultants, except when the evaluation is conducted in a collegial manner.
- 24.2 For complex or unique undertakings, such as those involving new concepts/technology or financial advisory services, participating short listed consultants may be required, at the option of the Procuring Entity concerned, to make an oral presentation to be presented by each Consultant, or its nominated Project Manager or head, in case of consulting firms, within fifteen (15) calendar days after the deadline for submission of Technical Proposals.
- 24.3 The entire evaluation process, including the submission of the results thereof to the HoPE for approval, shall be completed in not more than twenty-one (21) calendar days after the deadline for receipt of bids. The bid with the highest

rank shall be identified as the Highest Rated Bid. The HoPE shall approve or disapprove the recommendations of the BAC within two (2) calendar days after receipt of the results of the evaluation from the BAC.

- 24.4 All participating short listed consultants shall be furnished the results (ranking and total scores only) of the evaluation after the approval by the HoPE of the ranking. Said results shall also be posted in the PhilGEPS and the website of the Procuring Entity, if available, for a period of not less than seven (7) calendar days.

25 Evaluation of Technical Proposals

- 25.1 The BAC shall then conduct a detailed evaluation of technical bids following the procedures specified in the **BDS** depending on the evaluation procedure identified in the Request for Expression of Interest and **ITB** Clause 1.1.
- 25.2 The BAC evaluates the Technical Proposals on the basis of their compliance with the requirements under **ITB** Clause 10 and responsiveness to the TOR using the following criteria:
- (a) Quality of personnel to be assigned to the Project which covers suitability of key staff to perform the duties for the Project and general qualifications and competence including education and training of the key staff;
 - (b) Experience and capability of the Consultant which include records of previous engagement and quality of performance in similar and in other projects; relationship with previous and current clients; and, overall work commitments, geographical distribution of current/impending projects and attention to be given by the consultant. The suitability of the Consultant to the Project shall consider both the overall experiences of the firm and the individual experiences of the principal and key staff including the times when employed by other consultants; and
 - (c) Plan of approach and methodology with emphasis on the clarity, feasibility, innovativeness and comprehensiveness of the plan approach, and the quality of interpretation of project problems, risks, and suggested solutions.
- 25.3 The BAC shall assign numerical weights and the minimum required technical score to each of the above criteria which shall be indicated in the **BDS**. A Bid shall be rejected at this stage if it does not respond to important aspects of the TOR or if it fails to achieve the minimum Technical Score (St) indicated in the **BDS**.
- 25.4 Technical Proposals shall not be considered for evaluation in any of the following cases:
- (a) late submission, *i.e.*, after the deadline set in the **ITB** Clause 18;

- (b) failure to submit any of the technical requirements provided under this ITB and TOR;
- (c) the Consultant that submitted a Bid or any of its partner and/or subconsultant belongs to one of the conflict of interest cases as described in **ITB** Clauses 2.1(d) to (c) and failed to make a proper statement to that effect in the cover letter; or
- (d) the Technical Proposal included any cost of the services.

26 Opening and Evaluation of Financial Proposals

- 26.1 Financial Proposals shall be opened on the date indicated in the **BDS**.
- 26.2 The Financial Proposals opened shall be evaluated based on the evaluation procedure indicated in **ITB** Clause 1.1 using the corresponding procedure provided in the **BDS**.

27 Negotiations

- 27.1 Negotiations with the Consultant that submitted the Highest Rated Bid shall be held at the address indicated in the **BDS**. The aim is to reach agreement on all points.
- 27.2 Negotiations shall cover the following:
 - (a) Discussion and clarification of the TOR and Scope of Services;
 - (b) Discussion and finalization of the methodology and work program proposed by the Consultant;
 - (c) Consideration of appropriateness of qualifications and pertinent compensation, number of man-months and the personnel to be assigned to the job, taking note of over-qualified personnel to be commensurate with the compensation of personnel with the appropriate qualifications, number of man-months and schedule of activities (manning schedule);
 - (d) Discussion on the services, facilities and data, if any, to be provided by Procuring Entity concerned;
 - (e) Unless otherwise indicated in the **BDS**, discussion on the Financial Proposal submitted by the Consultant; and
 - (f) Provisions of the contract.
- 27.3 Having selected the Consultant on the basis of, among other things, an evaluation of the proposed key professional staff, the Procuring Entity expects to negotiate a contract on the basis of the experts named in the bid. Before contract negotiations, the Procuring Entity shall require assurances that the experts shall be actually available. The Procuring Entity shall not consider substitutions during contract negotiations except for justifiable reason as may be determined by the Procuring Entity, such as illness, death, or resignation,

unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the Project. If this is not the case and if it is established that key staff were offered in the bid without confirming their availability, the Consultant may be disqualified. Once the contract has been awarded, no replacement shall be allowed until after fifty percent (50%) of the personnel's man-months have been served, except for justifiable reasons as may be determined by the Procuring Entity. Violators shall be fined an amount equal to the refund of the replaced personnel's basic rate, which should be at least fifty percent (50%) of the total basic rate for the duration of the engagement.

- 27.4 Negotiations shall include a discussion of the technical proposal, the proposed methodology (work plan), staffing and any suggestions made by the Consultant to improve the TOR. The Procuring Entity and Consultant shall then work out the final TOR, staffing, and bar charts indicating activities, staff, periods in the field and in the home office, staff-months, logistics, and reporting. The agreed work plan and final TOR shall then be incorporated in Appendix I and form part of the contract. Special attention shall be paid to getting the most the Consultant can offer within the available budget and to clearly defining the inputs required from the Procuring Entity to ensure satisfactory implementation of the Project.
- 27.5 The financial negotiations shall include a clarification of the Consultant's tax liability in the Philippines, if any, and the manner in which it shall be reflected in the contract; and shall reflect the agreed technical modifications in the cost of the services. The negotiations shall conclude with a review of the draft form of the contract. To complete negotiations, the Procuring Entity and the Consultant shall initial the agreed contract. If negotiations fail, the Procuring Entity shall invite the Consultant whose Bid received the second highest score to negotiate a contract. If negotiations still fail, the Procuring Entity shall repeat the process for the next-in-rank Consultant until the negotiation is successfully completed.

28 Post Qualification

- 28.1 The BAC shall determine to its satisfaction whether the Consultant that is evaluated as having submitted the Highest Rated Bid (HRB) complies with and is responsive to all the requirements and conditions specified in the Eligibility Documents and **ITB** Clauses 10 and 11.
- 28.2 Within a non-extendible period of five (5) calendar days from receipt by the Consultant of the notice from the BAC that it submitted the Highest Rated Bid, the Consultant shall submit its latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (EFPS) and other appropriate licenses and permits required by law and stated in the **BDS**.

Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the bidder for award. Provided, in the event that a finding against the veracity of any of the documents submitted is made, it shall cause the forfeiture of the bid security in accordance with Section 69 of the IRR of RA 9184.

- 28.3 The determination shall be based upon an examination of the documentary evidence of the Consultant's qualifications submitted pursuant to **ITB** Clauses 10 and 11, as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion, which shall be completed within a period of twelve (12) calendar days.
- 28.4 If the BAC determines that the Consultant with the Highest Rated Bid passes all the criteria for post-qualification, it shall declare the said bid as the Consultant with the HRRB, and recommend to the HoPE the award of contract to the said Consultant at its submitted price or its calculated bid price, whichever is lower, subject to **ITB** Clause 30.3.
- 28.5 A negative determination shall result in rejection of the Consultant's bid, in which event the BAC shall proceed to the next Highest Rated Bid with a fresh period to make a similar determination of that Consultant's capabilities to perform satisfactorily. If the second Consultant, however, fails the post qualification, the procedure for post qualification shall be repeated for the Consultant with the next Highest Rated Bid, and so on until the HRRB is determined for recommendation of contract award.
- 28.6 Within a period not exceeding fifteen (15) calendar days from the determination by the BAC of the HRRB and the recommendation to award the contract, the HoPE or his duly authorized representative shall approve or disapprove the said recommendation.
- 28.7 In the event of disapproval, which shall be based on valid, reasonable, and justifiable grounds as provided for under Section 41 of the IRR of RA 9184, the HoPE shall notify the BAC and the Consultant in writing of such decision and the grounds for it. When applicable, the BAC shall conduct negotiations, and if successful, post-qualification of the Consultant with the next Highest Rated Bid. A request for reconsideration may be filed by the bidder with the HoPE in accordance with Section 37.1.3 of the IRR of RA 9184.

29 Reservation Clause

- 29.1 Notwithstanding the eligibility, short listing, or post-qualification of a Consultant, 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 Consultant, or that there has been a change in the Consultant's capability to undertake this 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 Consultant 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 Consultant 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 at any time prior to the contract award, or not to award the contract, without thereby incurring any

liability, and make no assurance that a contract shall be entered into as a result of the bidding:

- (a) If there is *prima facie* evidence of collusion between appropriate public officers or employees of the 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 GoP as follows:
 - (i) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the HoPE;
 - (ii) If the project is no longer necessary as determined by the HoPE; 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 there is no successful negotiation, or fail post-qualification; or
- (d) The bidder with the HRRB refuses, without justifiable cause to accept the award of contract, and no award is made in accordance with Section 40 of the IRR of RA 9184.

F. Award of Contract

30. Contract Award

- 30.1 Subject to **ITB** Clause 28, the HoPE or its authorized representative shall award the contract to the Bidder whose bid has been determined to be the HRRB.
- 30.2 Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Consultant in writing that its bid has been accepted, through a Notice of Award duly received by the Consultant or its authorized

representative personally or by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Consultant with the HRRB 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 (10) calendar days from receipt of the Notice of Award:
 - (i) Valid JVA, if applicable;
 - (ii) In the case of procurement by a Philippine Foreign Service Office or Post, the PhilGEPS Registration Number of the winning foreign consultant; and/or
 - (iii) SEC Certificate of Registration of the foreign consulting firm, and/or the authorization or license issued by the appropriate GoP professional regulatory body of the foreign professionals engaging in the practice of regulated professions and allied professions, where applicable.
 - (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, as provided in Section 37.3 of the IRR of RA 9184.

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 and 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.
- 31.4 The following documents shall form part of the contract:
- (1) Contract Agreement;
 - (2) Bidding Documents;

- (3) Winning bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted (e.g., bidder's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity's bid evaluation;
- (4) Performance Security;
- (5) Notice of Award of Contract; and
- (6) Other contract documents that may be required by existing laws and/or specified in the **BDS**.

32. Performance Security

- 32.1 Unless otherwise provided in the **BDS**, to guarantee the faithful performance by the winning Consultant 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 performance security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount not less than the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Not less than the Percentage of the Total Contract Price)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank; <i>For biddings conducted by the LGUs, the Cashier's/Manager's Check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i>	Five percent (5%)
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank; and/or <i>For biddings conducted by the LGUs, the Bank Draft/</i>	

<p><i>Guarantee or Irrevocable Letter of Credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	
<p>(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.</p>	<p>Thirty percent (30%)</p>

32.3 Failure of the successful Consultant 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 have a fresh period to initiate negotiation and if successful, complete post-qualification of the second Highest Rated Bid. The procedure shall be repeated until the HRRB is identified and selected for recommendation of contract award. However if no Consultant had a successful negotiation or passed post-qualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement, if necessary.

33. Notice to Proceed

33.1 Within seven (7) calendar days from the date of approval of the contract by the appropriate government approving authority, the Procuring Entity shall issue the Notice to Proceed together with copies of the approved contract to the successful Consultant. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the successful Consultant.

33.2 The contract effectivity date shall be the date of contract signing. The Consultant shall commence performance of its obligations only upon receipt 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 IRR of RA 9184.

Section III. Bid Data Sheet

Bid Data Sheet

ITB Clause									
1.1	<p>The Procuring Entity is <i>National Privacy Commission</i></p> <p>The evaluation procedure is Quality Cost Based Evaluation/Selection (QCBE/QCBS)</p> <p><i>QCBE/QCBS – (GoP and WB) Technical and Financial Scores are combined to determine the winner. ABC is stated and Financial Proposal above this amount are rejected except in the case of WB, no ABC or cost estimate is included in the Bidding Documents except for an estimate of the staff months required to complete the Project.</i></p>								
1.2	<p>The Funding Source is:</p> <p>The Government of the Philippines (GoP) through <i>General Appropriations Act FY2021</i>.</p> <p>The name of the project is <i>Professional Service - NPC Registration System (NPCRS)(APP Item No. 2021-0148)</i></p>								
1.3	<p><i>This project involves not only the provision of the software development but also the associated hardware and support services that are necessary to achieve its objective of achieving an efficient and secure registration process and to serve as a portal for Individual Professionals, PICs and PIPs to comply with the registration provisions stipulated in the Data Privacy Act (DPA), its implementing rules and regulations (IRR), and relevant NPC issuances.</i></p>								
1.4	<p><i>* Indicative delivery dates may be adjusted after receipt of written request from NPC. The contract shall be completed or NPCRS should be on a production level on or before 15 March 2022.</i></p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">% of Contract Cost</th> <th style="text-align: center;">Deliverable and Indicative Delivery Date*</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">10%</td> <td>Upon approval of the Inception Report from the issuance of the Notice to Proceed (NTP)</td> </tr> <tr> <td style="text-align: center;">30%</td> <td>Project is 35% completed and the CONSULTANT/PROVIDER has conducted a quality, security (VAPT), and performance testing with the required documentation submitted</td> </tr> <tr> <td style="text-align: center;">30%</td> <td>Project is 70% completed and the CONSULTANT/PROVIDER has conducted a quality, security (VAPT), and performance testing with the required documentation submitted</td> </tr> </tbody> </table>	% of Contract Cost	Deliverable and Indicative Delivery Date*	10%	Upon approval of the Inception Report from the issuance of the Notice to Proceed (NTP)	30%	Project is 35% completed and the CONSULTANT/PROVIDER has conducted a quality, security (VAPT), and performance testing with the required documentation submitted	30%	Project is 70% completed and the CONSULTANT/PROVIDER has conducted a quality, security (VAPT), and performance testing with the required documentation submitted
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100%	TOTAL				
5	No further instructions.				
6.1	Subcontracting is not allowed.				
6.2	Not applicable.				
7.1	The Procuring Entity will hold a pre-bid conference for this Project on <i>November 05, 2021 (03:00PM) through videoconferencing/web casting via Microsoft Teams.</i>				
8.1	<p>The Procuring Entity's address is:</p> <p><i>5th floor, Delegation Building, Philippine International Convention Center, Pasay City</i></p> <p>ATTY. KRISHNA AIRA TANA-CAGUIA <i>BAC-Secretariat, Head</i> <i>(02) 8234-2228 local 127</i> <u>bacsecretariat@privacy.gov.ph</u></p>				
10.1(b)	Not applicable				
10.1(c)	<i>For minimum required experience of proposed professional staff, please refer to the Terms of Reference (Section V – Manpower Requirements).</i>				
11.5	<i>The Consultant shall be subject to Philippine taxes on amounts payable by the NPC under the contract through mandated withholding of tax. The NPC shall withhold the applicable withholding taxes as stated in the contract and as implemented under existing revenue regulations.</i>				
11.7	The ABC is <i>Php5,000,000.00</i> . Any bid with a financial component exceeding this amount shall not be accepted.				
13.1	The bid prices shall be quoted in Philippine Pesos.				
13.3	No further instructions.				
14.1	Bids will be valid until one hundred twenty (120) calendar days from the date of the opening of bids.				
15.1	The bid security shall be limited to a Bid Securing Declaration or any of				

	<p>the following forms and amounts:</p> <ol style="list-style-type: none"> 1. The amount of not less than <i>Php100,000.00</i>, if bid security is in cash, cashier's/manager's check, bank draft/guarantee or irrevocable letter of credit; or 2. The amount of not less than <i>Php250,000.00</i>, if bid security is in Surety Bond.
15.2	The proposal/bid security shall be valid <i>until 120 calendar days from the date of opening of proposals, which is on November 18, 2021.</i>
15.5(b)(iii)	No further instructions.
17.1	No further instructions.
17.3	<p>Each Bidder shall submit <i>one (1)</i> original and <i>one (1)</i> copy of the first and second components of its bid.</p> <p>IMPORTANT NOTE: In compliance with the Government Procurement Policy Board (GPPB) Resolution Nos. 09-2020 and 12-2020 approving measures for the efficient conduct of procurement activities and prescribing the form of the certification required for the conduct of electronic submission and receipt of bids by a procuring entity, the NPC Bids and Awards Committee (NPC-BAC) in a Resolution dated 03 August 2021, approved and adopted the “Guidelines on Electronic Submission and Receipt of Bids”, herein attached, for the efficient execution of its procurement activities, particularly the competitive biddings lined up for the year.</p> <p>Please refer to the said guidelines for instructions on the proper preparation and submission of documents electronically via e-mail to <u>bacsecretariat@privacy.gov.ph</u>.</p>
18	<p>The submission shall be done electronically via e-mail at <u>bacsecretariat@privacy.gov.ph</u>. Please refer to the attached NPC-BAC Guidelines on Electronic Submission and Receipt of Bids for instructions on the proper preparation and submission of documents electronically.</p> <p>The deadline for submission of bids is <i>on November 18, 2021 at 10:00AM</i></p>
21.2	<p>The opening of the bids shall be done through <i>videoconferencing via MS Teams</i>. Please refer to the attached NPC-BAC Guidelines on Electronic Submission and Receipt of Bids for instructions.</p> <p>The date and time for opening of bids is <i>on November 18, 2021 at 03:00PM</i></p>
22.1	No further instructions.
	The opening of the bids shall be done through <i>videoconferencing via MS Teams</i> . Please refer to the attached NPC-BAC Guidelines on Electronic Submission and Receipt of Bids for instructions.

	<p>The date and time for opening of bids is <i>on November 18, 2021 at 03:00PM</i></p>																								
25.1	<p>The following processes for the opening and evaluation of bids shall be adopted:</p> <ul style="list-style-type: none"> a) The technical proposal together with the financial proposal shall be considered in the ranking of consultants. The technical proposals shall be evaluated first using the criteria in ITB Clause 25.2. The financial proposals of the consultants who meet the minimum technical score shall then be opened. b) The financial and technical proposals shall be given 20% and 80% weights respectively. The BAC shall rank the consultants in descending order based on the combined numerical ratings of their technical and financial proposals and identify the Highest Rated Bid. c) The HoPE shall approve or disapprove the recommendations of the BAC within two (2) calendar days after receipt of the results of the evaluation from the BAC. d) After approval by the HoPE of the Highest Rated Bid, the BAC shall, within three (3) calendar days, notify and invite the consultant with the Highest Rated Bid for negotiation in accordance with ITB Clause 27. 																								
25.3	<p>The numerical weight and the minimum required St for each criterion are as follows:</p> <table border="1" data-bbox="461 1256 1353 1973"> <thead> <tr> <th data-bbox="461 1256 1182 1335">Criteria for Technical Proposal</th> <th data-bbox="1182 1256 1353 1335">Max Pts</th> </tr> </thead> <tbody> <tr> <td data-bbox="461 1335 1182 1406">Qualification of Personnel to be Assigned to the Project</td> <td data-bbox="1182 1335 1353 1406">15pts</td> </tr> <tr> <td data-bbox="461 1406 1182 1473">i. Suitability of key staff</td> <td data-bbox="1182 1406 1353 1473">30pts</td> </tr> <tr> <td data-bbox="461 1473 1182 1541">ii. General qualifications and competence</td> <td data-bbox="1182 1473 1353 1541">5pts</td> </tr> <tr> <td data-bbox="461 1541 1182 1608">iii. Education and training of key staff</td> <td data-bbox="1182 1541 1353 1608">5pts</td> </tr> <tr> <td data-bbox="461 1608 1182 1675">Plan of Approach and Methodology</td> <td data-bbox="1182 1608 1353 1675">10pts</td> </tr> <tr> <td data-bbox="461 1675 1182 1742">i. Clarity, feasibility, innovativeness, and comprehensiveness of the planned approach</td> <td data-bbox="1182 1675 1353 1742">10pts</td> </tr> <tr> <td data-bbox="461 1742 1182 1809">ii. Quality of interpretation of project problems, risks, and suggested solutions</td> <td data-bbox="1182 1742 1353 1809">10pts</td> </tr> <tr> <td data-bbox="461 1809 1182 1877">Experience and Capacity of the Consultant</td> <td data-bbox="1182 1809 1353 1877">6pts</td> </tr> <tr> <td data-bbox="461 1877 1182 1944">i. Records of previous engagement and quality of performance in similar projects</td> <td data-bbox="1182 1877 1353 1944">6pts</td> </tr> <tr> <td data-bbox="461 1944 1182 2011">ii. Relationship with previous and current clients</td> <td data-bbox="1182 1944 1353 2011">6pts</td> </tr> <tr> <td data-bbox="461 2011 1182 1973">iii. Overall work commitments</td> <td data-bbox="1182 2011 1353 1973">6pts</td> </tr> </tbody> </table>	Criteria for Technical Proposal	Max Pts	Qualification of Personnel to be Assigned to the Project	15pts	i. Suitability of key staff	30pts	ii. General qualifications and competence	5pts	iii. Education and training of key staff	5pts	Plan of Approach and Methodology	10pts	i. Clarity, feasibility, innovativeness, and comprehensiveness of the planned approach	10pts	ii. Quality of interpretation of project problems, risks, and suggested solutions	10pts	Experience and Capacity of the Consultant	6pts	i. Records of previous engagement and quality of performance in similar projects	6pts	ii. Relationship with previous and current clients	6pts	iii. Overall work commitments	6pts
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26.1	<p>The opening of Financial Proposals shall be on <i>November 24, 2021 at 03:00PM online through videoconference via MS Teams.</i></p> <p>Financial Proposals shall be opened in public.</p> <p><i>For instructions on how to attend the videoconference meeting, please e-mail bacsecretariat@privacy.gov.ph.</i></p> <p><i>Financial Proposals shall be opened in the presence of Consultants which opted to send representative/s provided that they submit with them a written authority from their authorized official (e.g., president, governing boards if Corporation) to be e-mailed to the NPC BAC-Secretariat at bacsecretariat@privacy.gov.ph upon the meeting registration before the opening of the financial proposal stating that said representative is an authorized person to speak for and in behalf of their office/company. Representative/s with no such authorization shall not be allowed to attend the opening of financial proposals</i></p>						
26.2	<p>After the evaluation of quality is completed, the Procuring Entity shall notify those Consultants whose Bids did not meet the minimum qualifying mark or were considered non-responsive to the Bidding Documents and TOR, indicating that their Financial Proposals shall be returned unopened after completing the selection process. The Procuring Entity shall simultaneously notify the Consultants that have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals. The opening date shall not be sooner than two weeks after the notification date unless otherwise specified in ITB Clause 26.1. The notification may be sent by registered letter, facsimile, or electronic mail.</p> <p>The Financial Proposals shall be opened publicly in the presence of the Consultants’ representatives who choose to attend. The name of the Consultant, the quality scores, and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Procuring Entity shall prepare minutes of the public opening.</p> <p>The BAC shall determine whether the Financial Proposals are complete, <i>i.e.</i>, whether all the documents mentioned in ITB Clause 11 are present</p>						

	<p>and all items of the corresponding Technical Proposals that are required to be priced are so priced. If not, the Procuring Entity shall reject the proposal. The BAC shall correct any computational errors, and convert prices in various currencies to the Philippine Peso at the rate indicated in ITB Clause 13. The Financial Proposal shall not exceed the ABC and shall be deemed to include the cost of all taxes, duties, fees, levies, and other charges imposed under the applicable laws. The evaluation shall include all such taxes, duties, fees, levies, and other charges imposed under the applicable laws; where special tax privileges are granted to a particular class or nationality of Consultant by virtue of the GoP's international commitments, the amount of such tax privileges shall be included in the Financial Proposal for purposes of comparative evaluation of Bids.</p> <p>The lowest Financial Proposal (Fl) shall be given a Financial Score (Sf) of 100 points. The Sf of other Financial Proposals shall be computed based on the formula indicated below:</p> $Sf = 100 \times Fl/F$ <p>Where:</p> <p>Sf is the financial score of the Financial Proposal under consideration,</p> <p>Fl is the lowest Financial Proposal, and</p> <p>F is the Financial Proposal under consideration.</p> <p>Using the formula $S = St \times T\% + Sf \times F\%$, the Bids shall then be ranked according to their combined St and Sf using the weights (St is the technical score of the Technical Proposal under consideration; T = the weight given to the Technical Proposal; F = the weight given to the Financial Proposal; T + F = 1) indicated below:</p> <p>T 0.8; and</p> <p>F 0.2;</p> <p>provided that the total weights given to the Technical and Financial Proposals shall add up to 1.0.</p>
27.1	The negotiations shall be conducted online through videoconference meeting via MS Teams.
27.2(e)	No negotiations pertaining to the Financial Proposal shall be undertaken.
28.2	<i>No additional requirement.</i>
31.4.6	<ol style="list-style-type: none"> 1. <i>Notice to Proceed;</i> 2. <i>Confidentiality/Non-Disclosure Agreements; and</i>

	<i>3. Other contract documents that may be required by existing laws</i>
32.1	No further instructions.
33.2	The effective date of the contract is <i>on the 3rd week of December or as will be stated in the said contract.</i>

Section IV. General Conditions of Contract

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1. Definitions

1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Applicable Law” means the laws and any other instruments having the force of law in the Philippines as they may be issued and enforced from time to time.
- (b) “Consultant” refers to the short listed consultant with the HRRB determined by the Procuring Entity as such in accordance with the ITB.
- (c) “Consulting Services” refer to services for Infrastructure Projects and other types of projects or activities of the Government of the Philippines (GoP) requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the Procuring Entity to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies.
- (d) “Contract” means the agreement signed by the Parties, to which these General Conditions of Contract (GCC) and other sections of the Bidding Documents are attached.
- (e) “Effective Date” means the date on which this Contract comes into full force and effect.
- (f) “Foreign Currency” means any currency other than the currency of the Philippines.
- (g) “Funding Source” means the entity indicated in the **SCC**.
- (h) “GCC” means these General Conditions of Contract.
- (i) “Government” means the Government of the Philippines (GoP).
- (j) “Local Currency” means the Philippine Peso (Php).
- (k) “Member,” in case the Consultant is a Joint Venture (JV) of two (2) or more entities, means any of these entities; and “Members” means all these entities.
- (l) “Party” means the Procuring Entity or the Consultant, as the case may be, and “Parties” means both of them.
- (m) “Personnel” means persons hired by the Consultant or by any Subconsultant as employees and assigned to the performance of the Services or any part thereof; “Foreign Personnel” means such persons who at the time of being so hired had their domicile outside the Government’s country; “Local Personnel” means such persons who at

the time of being so hired had their domicile inside the Philippines; and “Key Personnel” means the Personnel referred to in GCC Clause 39.

- (n) “Procuring Entity” refers to any branch, constitutional commission or office, agency, department, bureau, office or instrumentality of the Government, including GOCC, GFI, SUC, LGU, and autonomous regional government procuring Goods, Consulting Services, and Infrastructure Projects.
- (o) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- (p) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix I.
- (q) “Subconsultant” means any person or entity to whom/which the Consultant subcontracts any part of the Services in accordance with the provisions of GCC Clause 50.
- (r) “Third Party” means any person or entity other than the Government, the Procuring Entity, the Consultant or a Subconsultant.

2. Headings

The headings shall not limit, alter or affect the meaning of this Contract.

3. Location

The Services shall be performed at such locations as are specified in Appendix I and, where the location of a particular task is not so specified, at such locations, whether in the Philippines or elsewhere, as the Procuring Entity may approve.

4. Law Governing Contract and Services

- 4.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
- 4.2 The Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Subconsultant, as well as the Personnel of the Consultant and any Subconsultant, complies with the Applicable Law. The Procuring Entity shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.
- 4.3 If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased on a no loss-no gain basis, and corresponding adjustments shall be made to the ceiling amounts specified in GCC Clause 52, provided that the cost is within the Approved Budget for the Contract (ABC).

5. Language

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.

6. Consultants and Affiliates Not to Engage in Certain Activities

6.1 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Subconsultant and any entity affiliated with such Subconsultant, shall be disqualified from providing goods, works, or consulting services for any project resulting from or closely related to this Contract other than the Services and any continuation thereof provided there is no current or future conflict.

6.2 The Consultant shall not engage, and shall cause their Personnel as well as their Subconsultants and their Personnel not to engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in the Government's country which would conflict with the activities assigned to them under this Contract; and
- (b) after the termination of this Contract, such other activities as may be specified in the SCC.

7. Authority of Member in Charge

In case the Consultant is a JV, the Members hereby authorize the entity specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring Entity under this Contract, including without limitation the receiving of instructions and payments from the Procuring Entity.

8. Resident Project Manager

If required by the SCC, the Consultant shall ensure that at all times during the Consultant's performance of the Services in the Government's country, a resident project manager, acceptable to the Procuring Entity, shall take charge of the performance of such Services.

9. Entire Agreement

This Contract, including the documents specified in Section 37.2.3 of the IRR of RA 9184, contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make any statement, representation, promise, or agreement not set forth herein of which the Parties shall not be bound by or be liable for.

10. Modification

Unless otherwise specified in the SCC, no modification of the terms and conditions of this Contract, including any modification of the scope of the Services shall be allowed. Pursuant to **GCC** Clause 14 hereof, however, each Party shall give due consideration to any proposal for modification made by the other Party.

11. Relationship of Parties

11.1 Nothing contained herein shall be construed as establishing a relation of employer and employee or of principal and agent as between the Procuring Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of its Personnel and Subconsultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

11.2 The Consultant shall during the performance of the Services be an independent contractor, retaining complete control over its Personnel, conforming to all statutory requirements with respect to all its employees, and providing all appropriate employee benefits.

12. Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Procuring Entity or the Consultant may be taken or executed by the officials specified in the SCC.

13. Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

14. Operation of the Contract

The Parties recognize that it is impractical for this Contract to provide for every contingency which may arise during the life of this Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them; and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties shall use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with **GCC** Clause 34 hereof.

15. Notices

15.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when received by the concerned party, either in person or through an authorized representative of the Party to whom the communication is addressed, or when sent by registered

mail, telex, telegram or facsimile to such Party at the address specified in the SCC.

15.2 Notice shall be deemed to be effective as specified in the SCC.

15.3 A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the SCC with respect to **GCC** Clause 15.2.

16. Warranty as to Eligibility

16.1 The Consultant represents, warrants, and confirms that it, as well as its Subconsultant, if any, is eligible, *i.e.*, has the legal personality to act as a consultant in accordance with Part I,

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16.12 Section II. Eligibility Documents issued for this project.

16.13 The Consultant shall fulfill its obligations under this Contract by using knowledge according to the best accepted professional standards. The Consultant shall exercise all reasonable skill, care and diligence in the

discharge of duties agreed to be performed and shall work in the best interest of the GoP.

17. Confidentiality

Except with the prior written consent of the Procuring Entity, the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services. For purposes of this clause, “confidential information” means any information or knowledge acquired by the Consultant and/or its Personnel arising out of, or in connection with, the performance of the Services under this Contract that is not otherwise available to the public.

18. Payment

18.1 In consideration of the Services performed by the Consultant under this Contract, the Procuring Entity shall make to the Consultant such payments and in such manner as is provided by **GCC** Clause 53 of this Contract. However, the Procuring Entity may refuse to make payments when the terms and conditions of the contract are not satisfactorily performed by the Consultant.

18.2 Subject to the ceilings specified in **GCC** Clause 52 hereof, the Procuring Entity shall pay to the Consultant: (i) remuneration as set forth in **GCC** Clause 53.2; and (ii) reimbursable expenditures as set forth in **GCC** Clause 53.4. Said remuneration shall not be subject to price adjustment.

18.3 All payments under this Contract shall be made to the account of the Consultant specified in the **SCC**.

19. Currency of Payment

Unless otherwise specified in the **SCC**, all payments shall be made in Philippine Pesos.

20. Liability of the Consultant

Subject to additional provisions, if any, set forth in the **SCC**, the Consultant’s liability under this Contract shall be as provided by the laws of the Republic of the Philippines.

21. Insurance to be Taken Out by the Consultant

21.1 The Consultant, at its own cost, shall be responsible for taking out or maintaining any insurance policy against any risk related to the project.

21.2 The Procuring Entity undertakes no responsibility in respect of life, health, accident, travel or any other insurance coverage for the Personnel or for the dependents of any such Personnel.

22. Effectivity of Contract

The contract effectivity date shall be the date of contract signing, provided that the effectiveness of the conditions, if any, listed in the SCC have been met.

23. Commencement of Services

The Consultant shall begin carrying out the Services starting from the effectivity date of this Contract, as mentioned in **GCC** Clause 22.

24. Expiration of Contract

Unless sooner terminated pursuant to **GCC** Clauses 27 or 28 hereof, this Contract shall terminate at the end of such time period after the effectivity date as shall be specified in the SCC.

25. Force Majeure

25.1 For purposes of this Contract the terms “force majeure” and “fortuitous event” may be used interchangeably. In this regard, a fortuitous event or force majeure shall be interpreted to mean an event which the Consultant could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Consultant.

25.2 The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of force majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

25.3 Unless otherwise agreed herein, force majeure shall not include:

- (a) any event which is caused by the negligence or intentional action of a Party or such Party’s Subconsultants or agents or employees;
- (b) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations hereunder;
- (c) insufficiency of funds or failure to make any payment required hereunder; or
- (d) the Procuring Entity’s failure to review, approve or reject the outputs of the Consultant beyond a reasonable time period.

25.4 A Party affected by an event of force majeure shall take all reasonable measures to remove such Party’s inability to fulfill its obligations hereunder immediately or within a reasonable time.

- 25.5 A Party affected by an event of force majeure shall notify the other Party of such event as soon as possible, and in any event not later than fifteen (15) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- 25.6 The Parties shall take all reasonable measures to minimize the consequences of any event of force majeure.
- 25.7 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a direct and proximate result of force majeure.
- 25.8 During the period of their inability to perform the Services as a direct and proximate result of an event of force majeure, the Consultant shall be entitled to continue receiving payment under the terms of this Contract as well as to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period, provided that such costs are still within the total contract price. However, the foregoing provision shall not apply if the Procuring Entity suspends or terminates this Contract in writing, notice thereof duly received by the Consultant, pursuant to GCC Clauses 26 and 27 hereof with the exception of the direct and proximate result of force majeure.
- 25.9 Not later than fifteen (15) days after the Consultant, as the direct and proximate result of an event of force majeure, has become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures considering the circumstances.
- 25.10 In the case of disagreement between the parties as to the existence, or extent of force majeure, the matter shall be submitted to arbitration in accordance with GCC Clause 34 hereof.

26. Suspension

- 26.1 The Procuring Entity shall, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fail to perform any of their obligations due to their own fault or due to force majeure or other circumstances beyond the control of either party (*e.g.* suspension of civil works being supervised by the consultant) under this Contract, including the carrying out of the Services, provided that such notice of suspension:
- (a) shall specify the nature of the failure; and
 - (b) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.
- 26.2 The Consultant may, without prejudice to its right to terminate this Contract pursuant to GCC Clause 28, by written notice of suspension, suspend the

Services if the Procuring Entity fails to perform any of its obligations which are critical to the delivery of the Consultant's services such as, non-payment of any money due the Consultant within forty-five (45) days after receiving notice from the Consultant that such payment is overdue.

27. Termination by the Procuring Entity

- 27.1 The Procuring Entity shall terminate this Contract when any of the following conditions attends its implementation:
- (a) Outside of force majeure, the Consultant fails to deliver or perform the Outputs and Deliverables within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to a request made by the Consultant prior to the delay;
 - (b) As a result of force majeure, the Consultant is unable to deliver or perform a material portion of the Outputs and Deliverables for a period of not less than sixty (60) calendar days after the Consultant's receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased;
 - (c) In whole or in part, at any time for its convenience, the HoPE may terminate the Contract for its convenience if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and National Government policies;
 - (d) If the Consultant is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction; in which event, termination will be without compensation to the Consultant, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Consultant;
 - (e) In case it is determined prima facie that the Consultant has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation, such as, but not limited to, the following: corrupt, fraudulent, collusive, coercive, and obstructive practices; drawing up or using forged documents; using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and any other act analogous to the foregoing. For purposes of this clause, corrupt, fraudulent, collusive, coercive, and obstructive practices shall have the same meaning as that provided in **ITB** Clause 3.1(a):
 - (f) The Consultant fails to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to GCC Clause 15.2 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Procuring Entity may have subsequently approved in writing;

- (g) The Consultant's failure to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 34 hereof; or
- (h) The Consultant fails to perform any other obligation under the Contract.

27.2 In case of termination, written notice shall be understood to mean fifteen (15) days for short term contracts, *i.e.*, four (4) months or less, and thirty (30) days for long term contracts.

28. Termination by the Consultant

The Consultant must serve a written notice to the Procuring Entity of its intention to terminate this Contract at least thirty (30) calendar days before its intended termination. This Contract is deemed terminated if no action has been taken by the Procuring Entity with regard to such written notice within thirty (30) calendar days after the receipt thereof by the Procuring Entity. The Consultant may terminate this Contract through any of the following events:

- (a) The Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same within sixty (60) calendar days following its receipt of the Consultant's notice specifying such breach;
- (b) The Procuring Entity's failure to comply with any final decision reached as a result of arbitration pursuant to **GCC** Clause 34 hereof
- (c) As the direct and proximate result of force majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) The Procuring Entity fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to **GCC** Clause 32 hereof within eighty four (84) days after receiving written notice from the Consultant that such payment is overdue.

29. Procedures for Termination of Contracts

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

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Procuring Entity shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Procuring Entity, the HoPE shall terminate this Contract only by a written notice to the Consultant conveying such termination. The notice shall state:

- (i) that the contract is being terminated for any of the ground(s) aforementioned, and a statement of the acts that constitute the ground(s) constituting the same;
- (ii) the extent of termination, whether in whole or in part;
- (iii) an instruction to the Consultant to show cause as to why the contract should not be terminated; and
- (iv) special instructions of the Procuring Entity, if any.

The Notice to Terminate shall be accompanied by a copy of the Verified Report;

- (c) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Consultant shall submit to the HoPE a verified position paper stating why this Contract should not be terminated. If the Consultant fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the HoPE shall issue an order terminating this Contract;
- (d) The Procuring Entity may, at anytime before receipt of the Consultant's verified position paper to withdraw the Notice to Terminate if it is determined that certain services subject of the notice had been completed or performed before the Consultant's receipt of the notice;
- (e) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the HoPE shall decide whether or not to terminate this Contract. It shall serve a written notice to the Consultant of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Consultant of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate; and
- (f) The HoPE may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the HoPE.

30. Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to GCC Clauses 27 or 28 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided, respectively, by GCC Clauses 35 or 36 hereof.

31. Payment Upon Termination

Upon termination of this Contract pursuant to GCC Clauses 27 or 28 hereof, the Procuring Entity shall make the following payments to the Consultant:

- (a) remuneration pursuant to **GCC** Clause 53 hereof for Services satisfactorily performed prior to the effective date of termination;
- (b) reimbursable expenditures pursuant to **GCC** Clause 53 hereof for expenditures actually incurred prior to the effective date of termination; and
- (c) in the case of termination pursuant to **GCC** Clause 27(b) hereof, reimbursement of any reasonable cost incident to the prompt and orderly termination of this Contract including the cost of the return travel of the Personnel and their eligible dependents.

32. Disputes about Events of Termination

If either Party disputes whether an event specified in **GCC** Clause 27.1 or in **GCC** Clause 28 hereof has occurred, such Party may refer the matter to arbitration pursuant to **GCC** Clause 34 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

33. Cessation of Rights and Obligations

Upon termination of this Contract pursuant to **GCC** Clauses 27 or 28 hereof, or upon expiration of this Contract pursuant to **GCC** Clause 24, all rights and obligations of the Parties hereunder shall cease, except:

- (a) such rights and obligations as may have accrued on the date of termination or expiration;
- (b) the obligation of confidentiality set forth in **GCC** Clause 17 hereof; and
- (c) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in **GCC** Clauses 51(b) and 51(c) hereof, any right which a Party may have under the Applicable Law.

34. Dispute Settlement

34.1 If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with the implementation of this Contract, the Parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

34.2 Any and all disputes arising from the implementation of this Contract shall be submitted to arbitration in accordance with the rules of procedure specified in the **SCC**.

35. Documents Prepared by the Consultant and Software Developed to be the Property of the Procuring Entity

35.1 All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Procuring Entity under this Contract shall become and remain the property of the Procuring Entity, and the Consultant shall, prior to termination or expiration of this Contract, deliver

all such documents to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. The plans, drawings, specifications, designs, reports, other documents and software, including restrictions on future use of such documents and software, if any, shall be specified in the SCC.

- 35.2 All computer programs developed by the Consultant under this Contract shall be the sole and exclusive property of the Procuring Entity; provided, however, that the Consultant may use such programs for its own use with prior written approval of the Procuring Entity. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements. In such cases, the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

36. Equipment and Materials Furnished by the Procuring Entity

Equipment and materials made available to the Consultant by the Procuring Entity, or purchased by the Consultant with funds provided by the Procuring Entity, shall be the property of the Procuring Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Procuring Entity an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Procuring Entity's instructions. While in possession of such equipment and materials, the Consultant, unless otherwise instructed by the Procuring Entity in writing, shall insure it at the expense of the Procuring Entity in an amount equal to their full replacement value.

37. Services, Facilities and Property of the Procuring Entity

The Procuring Entity shall make available to the Consultant and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix V at the terms and in the manner specified in said appendix, provided that if such services, facilities and property shall not be made available to the Consultant as and when so specified, the Parties shall agree on:

- (a) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services;
- (b) the manner in which the Consultant shall procure any such services, facilities and property from other sources; and
- (c) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to GCC Clause 52 hereinafter which should be within the agreed contract ceiling.

38. Consultant's Actions Requiring Procuring Entity's Prior Approval

The Consultant shall obtain the Procuring Entity's prior approval in writing before taking any of the following actions:

- (a) appointing such members of the Personnel as are listed in Appendix III merely by title but not by name;
- (b) entering into a subcontract for the performance of any part of the Services, it being understood that:
 - (i) the selection of the Subconsultant and the terms and conditions of the subcontract shall have been approved in writing by the Procuring Entity prior to the execution of the subcontract; and
 - (ii) the Consultant shall remain fully liable for the performance of the Services by the Subconsultant and its Personnel pursuant to this Contract;
- (c) replacement, during the performance of the contract for any reason, of any Personnel as listed in Appendix III of this Contract requiring the Procuring Entity's prior approval; and
- (d) any other action that may be specified in the **SCC**.

39. Personnel

- 39.1 The Consultant shall employ and provide such qualified and experienced Personnel and Subconsultants as are required to carry out the Services.
- 39.2 The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Personnel are described in Appendix III.
- 39.3 The Key Personnel and Subconsultants listed by title as well as by name in Appendix III are hereby approved by the Procuring Entity. In respect of other Key Personnel which the Consultant proposes to use in the carrying out of the Services, the Consultant shall submit to the Procuring Entity for review and approval a copy of their biographical data and, in the case of Key Personnel to be assigned within the GoP, a copy of a satisfactory medical certificate attached as part of Appendix III. If the Procuring Entity does not object in writing; or if it objects in writing but fails to state the reasons for such objection, within twenty-one (21) calendar days from the date of receipt of such biographical data and, if applicable, such certificate, the Key Personnel concerned shall be deemed to have been approved by the Procuring Entity.
- 39.4 The Procuring Entity may request the Consultants to perform additional services not covered by the original scope of work but are determined by the Procuring Entity to be critical for the satisfactory completion of the Services, subject to **GCC** Clause 55.6.
- 39.5 No changes shall be made in the Key Personnel, except for justifiable reasons as may be determined by the Procuring Entity, as indicated in the **SCC**, and only upon prior approval of the Procuring Entity. If it becomes justifiable and necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications. If the

Consultant introduces changes in Key Personnel for reasons other than those mentioned in the **SCC**, the Consultant shall be liable for the imposition of damages as described in the **SCC**.

- 39.6 Any of the Personnel provided as a replacement under **GCC** Clauses 39.5 and 39.7, the rate of remuneration applicable to such person as well as any reimbursable expenditures the Consultant may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Procuring Entity. Except as the Procuring Entity may otherwise agree, the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.
- 39.7 If the Procuring Entity finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action as defined in the Applicable Law, or has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Procuring Entity's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity.

40. Working Hours, Overtime, Leave, etc.

- 40.1 Working hours and holidays for Key Personnel are set forth in Appendix III. Any travel time prior to and after contract implementation shall not be considered as part of the working hours.
- 40.2 The Key Personnel shall not be entitled to claim payment for overtime work, sick leave, or vacation leave from the Procuring Entity since these items are already covered by the Consultant's remuneration. All leaves to be allowed to the Personnel are included in the staff-months of service set forth in Appendix III. Taking of leave by any Personnel should not delay the progress and adequate supervision of the Services.
- 40.3 If required to comply with the provisions of **GCC** Clause 43.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix III may be made by the Consultant by prior written notice to the Procuring Entity, provided that:
- (a) such adjustments shall not alter the originally estimated period of engagement of any individual by more than ten percent (10%); and
 - (b) the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in **GCC** Clause 52.1 of this Contract. Any other such adjustments shall only be made with the Procuring Entity's prior written approval.

41. Counterpart Personnel

- 41.1 If so provided in Appendix III hereto, the Procuring Entity shall make available to the Consultant, as and when provided in such Appendix III, and free of charge, such Counterpart Personnel to be selected by the Procuring Entity, with the Consultant's advice, as shall be specified in such Appendix III. Counterpart Personnel shall work with the Consultant. If any member of the Counterpart Personnel fails to perform adequately any work assigned to such member by the Consultant which is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.
- 41.2 The responsibilities of the Counterpart Personnel shall be specified in Appendix III, attached hereto, and the Counterpart Personnel shall not perform any work beyond the said responsibilities.
- 41.3 If Counterpart Personnel are not provided by the Procuring Entity to the Consultant as and when specified in Appendix III, and or if the Counterpart Personnel lack the necessary training, experience or authority to effectively undertake their responsibilities, the Procuring Entity and the Consultant shall agree on how the affected part of the Services shall be carried out, and the additional payments, if any, to be made by the Procuring Entity to the Consultant as a result thereof pursuant to **GCC** Clause 52 hereof.

42. Performance Security

- 42.1 Unless otherwise specified in the **SCC**, within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the Consultant shall furnish the performance security in any the forms prescribed in the **ITB** Clause 32.2.
- 42.2 The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the Consultant is in default in any of its obligations under the contract.
- 42.3 The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 42.4 The performance security may be released by the Procuring Entity and returned to the Consultant after the issuance of the Certificate of Final Acceptance subject to the following conditions:
- (a) There are no pending claims against the Consultant or the surety company filed by the Procuring Entity;
 - (b) The Consultant has no pending claims for labor and materials filed against it; and
 - (c) Other terms specified in the **SCC**.
- 42.5 In case of a reduction of the contract value, the Procuring Entity shall allow a proportional reduction in the original performance security, provided that any

such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.

43. Standard of Performance

- 43.1 The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods.
- 43.2 The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with Subconsultants or third parties.
- 43.3 The Consultant shall furnish to the Procuring Entity such information related to the Services as the Procuring Entity may from time to time reasonably request.
- 43.4 The Consultant shall at all times cooperate and coordinate with the Procuring Entity with respect to the carrying out of its obligations under this Contract.

44. Consultant Not to Benefit from Commissions, Discounts, etc.

The remuneration of the Consultant pursuant to **GCC** Clause 53 hereof shall constitute the Consultant's sole remuneration in connection with this Contract or the Services and, subject to **GCC** Clause 45 hereof, the Consultant shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the Consultant shall use its best efforts to ensure that any Subconsultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

45. Procurement by the Consultant

If the Consultant, as part of the Services, has the responsibility of advising or procuring goods, works or services, for the Procuring Entity, the Consultant shall comply with any applicable procurement guidelines of the Funding Source, and shall at all times exercise such responsibility in the best interest of the Procuring Entity. Any discounts or advantages obtained by the Consultant in the exercise of such procurement responsibility shall be for the benefit of the Procuring Entity.

46. Specifications and Designs

- 46.1 The Consultant shall prepare all specifications and designs using the metric system and shall embody the best design criteria applicable to Philippine conditions. The Consultant shall specify standards which are accepted and well-known among industrial nations.

- 46.2 The Consultant shall ensure that the specifications and designs and all documentation relating to procurement of goods and services for this Contract are prepared on an impartial basis so as to promote national and international competitive bidding.

47. Reports

The Consultant shall submit to the Procuring Entity the reports, deliverables and documents in English, in the form, in the numbers, and within the time periods set forth in Appendix II.

48. Assistance by the Procuring Entity on Government Requirements

- 48.1 The Procuring Entity may assist the Consultant, Subconsultants, and Personnel in the payment of such taxes, duties, fees and other impositions as may be levied under the Applicable Law by providing information on the preparation of necessary documents for payment thereof.

- 48.2 The Procuring Entity shall use its best efforts to ensure that the Government shall:

- (a) provide the Consultant, Subconsultants, and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Subconsultants, or Personnel to perform the Services;
- (b) arrange for the foreign Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, and any other documents required for their stay in the Philippines for the duration of the Contract;
- (c) facilitate prompt clearance through customs of any property required for the Services and of the necessary personal effects of the foreign Personnel and their eligible dependents;
- (d) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services; and
- (e) grant to foreign Consultant, any foreign Subconsultant and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into the Government's country reasonable amounts of foreign currency for purposes of the Services or for the personal use of the foreign Personnel and their dependents.

49. Access to Land

The Procuring Entity warrants that the Consultant shall have, free of charge, unimpeded access to all lands in the Philippines in respect of which access is required for the performance of the Services. The Procuring Entity shall be responsible for any damage to such land or any property thereon resulting from such access and shall indemnify the Consultant and each of the Personnel in respect of liability for any such

damage, unless such damage is caused by the default or negligence of the Consultant or any Subconsultant or the Personnel of either of them.

50. Subcontract

50.1 Subcontracting of any portion of the Consulting Services, if allowed in the **BDS**, does not relieve the Consultant of any liability or obligation under this Contract. The Consultant will be responsible for the acts, defaults, and negligence of any subconsultant, its agents, servants or workmen as fully as if these were the Consultant's own acts, defaults, or negligence, or those of its agents, servants or workmen.

50.2 Subconsultants 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.

51. Accounting, Inspection and Auditing

51.1 The Consultant shall:

- (a) keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as shall clearly identify all relevant time changes and costs, and the bases thereof;
- (b) permit the Procuring Entity or its designated representative and or the designated representative of the Funding Source at least once for short-term Contracts, and annually in the case of long-term Contracts, and up to one year from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Procuring Entity; and
- (c) permit the Funding Source to inspect the Consultant's accounts and records relating to the performance of the Consultant and to have them audited by auditors approved by the Funding Source, if so required.

51.2 The basic purpose of this audit is to verify payments under this Contract and, in this process, to also verify representations made by the Consultant in relation to this Contract. The Consultant shall cooperate with and assist the Procuring Entity and its authorized representatives in making such audit. In the event the audit discloses that the Consultant has overcharged the Procuring Entity, the Consultant shall immediately reimburse the Procuring Entity an amount equivalent to the amount overpaid. If overpayment is a result of the Consultant having been engaged in what the Procuring Entity (or, as the case may be, the Funding Source) determines to constitute corrupt, fraudulent, or coercive practices, as defined in **GCC Clause 27(e)** and under the Applicable Law, the Procuring Entity shall, unless the Procuring Entity decides otherwise, terminate this Contract.

51.3 The determination that the Consultant has engaged in corrupt, fraudulent, coercive practices shall result in the Procuring Entity and/or the Funding

Source seeking the imposition of the maximum administrative, civil and criminal penalties up to and in including imprisonment.

52. Contract Cost

- 52.1 Except as may be otherwise agreed under **GCC** Clause 10, payments under this Contract shall not exceed the ceiling specified in the **SCC**. The Consultant shall notify the Procuring Entity as soon as cumulative charges incurred for the Services have reached eighty percent (80%) of this ceiling.
- 52.2 Unless otherwise specified in the **SCC**, the cost of the Services shall be payable in Philippine Pesos and shall be set forth in the Appendix IV attached to this Contract.

53. Remuneration and Reimbursable Expenditures

- 53.1 Payments of Services do not relieve the Consultant of any obligation hereunder.
- 53.2 Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services including other additional factors indicated in the **SCC** after the date determined in accordance with **GCC** Clause 22, or such other date as the Parties shall agree in writing, including time for necessary travel via the most direct route, at the rates referred to, and subject to such additional provisions as are set forth, in the **SCC**.
- 53.3 Remuneration for periods of less than one month shall be calculated on an hourly basis for time spent in home office (the total of 176 hours per month shall apply) and on a calendar-day basis for time spent away from home office (1 day being equivalent to 1/30th of a month).
- 53.4 Reimbursable expenditures actually and reasonably incurred by the Consultants in the performance of the Services are provided in the **SCC**.
- 53.5 Billings and payments in respect of the Services shall be made as follows:
- (a) The Procuring Entity shall cause to be paid to the Consultant an advance payment as specified in the **SCC**, and as otherwise set forth below. The advance payment shall be due after the Consultant provides an irrevocable standby letter of credit in favor of the Procuring Entity issued by an entity acceptable to the Procuring Entity in accordance with the requirements provided in the **SCC**.
 - (b) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, the Consultant shall submit to the Procuring Entity, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to **GCC** Clauses 52.1 and 53 for such month. Separate monthly statements shall be submitted in respect of amounts payable in

foreign currency and in local currency. Each separate monthly statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures.

- (c) The Procuring Entity shall cause the payment of the Consultant's monthly statements within sixty (60) days after the receipt by the Procuring Entity of such statements with supporting documents. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Procuring Entity may add or subtract the difference from any subsequent payments. Interest shall be paid for delayed payments following the rate provided in the **SCC**.

54. Final Payment

- 54.1 The final payment shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Procuring Entity. The Services shall be deemed completed and finally accepted by the Procuring Entity and the final report and final statement shall be deemed approved by the Procuring Entity as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Procuring Entity unless the Procuring Entity, within such ninety (90)-day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections within a maximum period of ninety (90) calendar days, and upon completion of such corrections, the foregoing process shall be repeated.
- 54.2 Any amount which the Procuring Entity has paid or caused to be paid in accordance with this clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Procuring Entity within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Procuring Entity for reimbursement must be made within twelve (12) calendar months after receipt by the Procuring Entity of a final report and a final statement approved by the Procuring Entity in accordance with the above.

55. Lump Sum Contracts

- 55.1 For Lump Sum Contracts when applicable, notwithstanding the terms of **GCC** Clauses 10, 18.1, 31(c), 41.3, 53.2, 53.3, 53.4, 53.5, and 54.1, the provisions contained hereunder shall apply.
- 55.2 Personnel - Any replacement approved by the Procuring Entity in accordance with **ITB** Clause 27.3 shall be provided by the Consultant at no additional cost.
- 55.3 Staffing Schedule - Should the rate of progress of the Services, or any part hereof, be at any time in the opinion of the Procuring Entity too slow to ensure

that the Services are completed in accordance with the Staffing Schedule, the Procuring Entity shall so notify the Consultant in writing and the Consultant shall at its sole cost and expense, thereupon take such steps as necessary, subject to the Procuring Entity's approval, or as reasonably required by the Procuring Entity, to expedite progress so as to ensure that the Services are completed in accordance with the Staffing Schedule.

- 55.4 Final payment pursuant to the Payment Schedule in Appendices IV and V shall be made by the Procuring Entity after the final report has been submitted by the Consultant and approved by the Procuring Entity.
- 55.5 Termination - Upon the receipt or giving of any notice referred to in **GCC** Clause 29 and if the Consultant is not in default under this Contract and has partly or substantially performed its obligation under this Contract up to the date of termination and has taken immediate steps to bring the Services to a close in prompt and orderly manner, there shall be an equitable reduction in the maximum amount payable under this Contract to reflect the reduction in the Services, provided that in no event shall the Consultant receive less than his actual costs up to the effective date of the termination, plus a reasonable allowance for overhead and profit.
- 55.6 Unless otherwise provided in the **SCC**, no additional payment for variation order, if any, shall be allowed for this Contract.

56. Liquidated Damages for Delay

If the Consultant fails to deliver any or all of the Services within the period(s) specified in this Contract, the Procuring Entity shall, without prejudice to its other remedies under this Contract and under the Applicable Law, deduct from the contract price, as liquidated damages, a sum equivalent to one-tenth of one percent of the price of the unperformed portion of the Services for each day of delay based on the approved contract schedule up to a maximum deduction of ten percent (10%) of the contract price. Once the maximum is reached, the Procuring Entity may consider termination of this Contract pursuant to **GCC** Clause 27.

Section V. Special Conditions of Contract

Special Conditions of Contract

GCC Clause	
1.1(g)	<p>The Funding Source is:</p> <p>The Government of the Philippines (GoP)</p>
6.2(b)	<p>For a period of two years after the expiration of this Contract, the Consultant shall not engage, and shall cause its Personnel as well as their Subconsultants and its Personnel not to engage, in the activity of a purchaser (directly or indirectly) of the assets on which they advised the Procuring Entity under this Contract nor in the activity of an adviser (directly or indirectly) of potential purchasers of such assets. The Consultant also agree that their affiliates shall be disqualified for the same period of time from engaging in the said activities.</p>
7	<p>The Member in Charge is <i>[name of member, address, and other necessary contact information]</i>.</p> <p>NOTE: <i>If the Consultant consists only of one entity, state “Not applicable”.</i></p>
8	Not Applicable.
10	No further instructions.
12	<p>The Authorized Representatives are as follows:</p> <p>For the Procuring Entity: <u>Privacy Commissioner Raymund E. Liboro</u></p> <p>For the Consultant: _____</p> <p>NOTE: <i>Name of authorized representative to be filled out by winning consultant prior to contract signing.</i></p>
15.1	<p>The addresses are:</p> <p>Procuring Entity: <i>National Privacy Commission</i> <i>Attention: Privacy Commissioner Raymund E. Liboro</i> <i>Address: 5th floor, Delegation Building, Philippine International Convention Center, Pasay City</i> <i>Email Address: <u>bacsecretariat@privacy.gov.ph</u></i></p> <p>Consultants:</p> <p>Attention:</p>

	<p>Address: _____</p> <p>Facsimile: _____</p> <p>Email Address: _____</p> <p><i>NOTE: Contact details to be filled out by winning consultant prior to contract signing.</i></p>
15.2	<p>Notice shall be deemed to be effective as follows:</p> <p>(a) in the case of personal delivery or registered mail, on delivery;</p> <p>(b) in the case of facsimiles, within <i>4 hours</i> following confirmed transmission; or</p> <p>(c) in the case of telegrams, within <i>4 hours</i> following confirmed transmission.</p>
18.3	<p><i>State here Consultant's account where payment may be made:</i></p> <p><i>NOTE: Details of account to be filled out by winning consultant prior to contract signing.</i></p>
19	No further instructions.
20	No additional provision.
22	<p>The effectiveness conditions are the following:</p> <p>1. Approval of the Contract by NPC; and</p> <p>2. Consultant's receipt of the NTP.</p>
24	The time period shall be time period as the parties may agree in writing.
34.2	Any and all disputes arising from the implementation of this contract shall be submitted to arbitration in the Philippines according to the provisions of Republic Acts 876 and 9285, as required in Section 59 of the IRR of RA 9184.
35.1	<p>The drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Procuring Entity under this Contract that shall become and remain the property of the Procuring Entity are as follows:</p> <p><i>a. The bidder shall provide all the hardware specifications and software components needed to operate the designed infrastructure for the developed systems. The developed systems will utilize a virtualized computing environment with an online facility to monitor and provision</i></p>

	<p><i>virtual machines.</i></p> <p><i>b. The bidder shall submit in paper or digital format a detailed network diagram depicting the applications, network configuration and connectivity of the server components. A detailed hardware deployment plan indicating the specifications and physical connectivity of the hardware as part of the delivery schedule must also be provided (if necessary).</i></p> <p><i>All data, source code, resources pertaining to the system shall be owned exclusively by the NPC.</i></p> <p><i>Personal data must be retained only for as long as necessary for the fulfillment of the purposes for which data was obtained. For this purpose, the personal data processed by the CONSULTANT/PROVIDER shall be disposed of after the fulfillment of its contract.</i></p> <p><i>Upon the fulfillment of the contract, any personal data processed by the CONSULTANT/PROVIDER must be deleted and disposed of in accordance with the provisions of the Data Privacy Act, its Implementing Rules and Regulations, and other issuances of the NPC. The deletion and disposal of data shall be under the supervision of the NPC. After the deletion and disposal of the data, the CONSULTANT/PROVIDER must issue a certification that the data were indeed deleted and disposed of properly.</i></p>
38.1(d)	<p>The Consultant's actions requiring the Procuring Entity's prior approval are:</p> <p><i>Please refer to the Terms of Reference.</i></p>
39.5	<p>The Consultant may change its Key Personnel only for justifiable reasons as may be determined by the Procuring Entity, such as death, serious illness, incapacity of an individual Consultant, resignation, among others, or until after fifty percent (50%) of the Personnel's man-months have been served.</p> <p>Violators will be fined an amount equal to the refund of the replaced Personnel's basic rate, which should be at least fifty percent (50%) of the total basic rate for the duration of the engagement.</p>
42.1	No further instructions.
42.4(c)	No further instructions.
52.1	<p>The total ceiling amount in Philippine Pesos is <i>[insert amount]</i>.</p> <p>NOTE: <i>The contract amount is to be filled out by the BAC Secretariat prior to contract signing.</i></p>

52.2	No further instructions.
53.2	No additional instructions.
53.4	<p>The reimbursable expenditures in local currency shall be as follows:</p> <ol style="list-style-type: none"> 1. any such additional payments in local currency for properly procured items as the Parties may have agreed upon pursuant to this Contract; and 2. the ordinary and necessary cost of such further items as may be required by the Consultant which are actually, directly, and necessarily used for the purpose of the Services, as agreed in writing by the Procuring Entity.
53.5(a)	No advance payment is allowed.
(c)	The interest rate is: 0%
55.6	No further instructions.

Section VI. Terms of Reference

PROFESSIONAL SERVICE - NPC REGISTRATION SYSTEM (NPCRS)

I. BACKGROUND

The National Privacy Commission (NPC) is charged with the administration and implementation of the provisions of the Data Privacy Act of 2012 (DPA) which includes ensuring the compliance by personal information controllers (PICs) with its provisions and publishing a compilation of an agency's system of records and notices, among others. To operationalize this, the Compliance and Monitoring Division (CMD) is mandated to manage the registration of the Data Processing Systems (DPS) of PICs and PIPs, following the requirements of the DPA, its Implementing Rules and Regulations (IRR) and NPC Circular 17-01. This registration function involves the following processes: (1) registration, (2) renewal, (3) amendment of registration details, (4) evaluation and review of submissions, and (5) report generation.

Currently, the registration process is done manually where the PICs and PIPs download the DPO Registration Form from the NPC website, then send its scanned and notarized copy together with the supporting documents to the DPO Registration email address. Upon verification, CMD's Registration Team will inform the PIC or PIP of any deficiency. To comply, the PIC or PIP shall email the deficiency to the same email address. Upon confirmation that the submission is complete and correct, Team shall send the Certificate of Registration to the PIC or PIP via email. The amendment of registration details is also done by submitting the requirements through email. On the CMD side of the process, the Registration Team downloads the email attachments and uploads them into the DPO Registration cloud. At present, the renewal of registration is currently on hold.

The manual process of registration, while resilient enough to continue despite the alternative work arrangements brought about by the COVID-19 pandemic, has also seen some setbacks. First, some submissions for registration are sent to NPC email addresses other than the dedicated email for registration. Second, the registration of DPS, which is required under the IRR, have been put on hold because of a lack of an efficient mechanism for the same. Lastly, registration information is manually encoded into the database to generate data which are regularly presented during the Commission's Compliance, Accountability, Audit & Trends Conference to aid in its policy direction.

The manual process, may be further be improved through the NPC Registration System (NPCRS) a web-based registration platform where submissions and verification will be done in one portal, including the registration of DPS. Hence, a more effective and efficient service from the CMD and ultimately the NPC.

II. OBJECTIVES

The development of the NPCRS aims to achieve an efficient and secure registration process and to serve as a portal for Individual Professionals, PICs and PIPs to comply with the

registration provisions stipulated in the Data Privacy Act (DPA), its implementing rules and regulations (IRR), and relevant NPC issuances.

Specifically, the implementation of NPCRS shall provide the Commission with the following benefits:

- Efficient way of monitoring requests/approval of registration applications;
- A secure registration web portal with the capability to accommodate unlimited number of external and internal NPC users;
- Real-time visibility in validation of documentary requirements ;
- Accurate collection of sectors and subsectors information;
- Provide appropriate storage and security of the submitted documents;
- Accurate verification of active/inactive registration;
- Efficient retrieval of contact details of the DPO;
- Fast and Efficient way of generation of the following documents:
 - Certificate of Registration
 - Statistical reports on registered DPOs (daily, monthly, yearly);
- Provide a more efficient way of checking and auditing access through well-defined role permissions; and
- Efficient viewing of recent applications as well as recording and monitoring of transactions and historical data .

Likewise, the system shall provide PICs and PIPs with the following:

- Real-time viewing of status of registration.
- Convenient downloading of certificate of registration
- Fast and convenient way of registering Data Processing Systems
- Integration thru the development of an API with NPC Systems such as the Data Breach Notification Management System, DPO ACE Automated Examination System, Case Management System and Compliance Check System
- Secure and convenient way of complying with registration requirements stipulated in the DPA and IRR.

III. PROJECT DURATION

The beta version system should be fully operational on or before 15 March 2022. Extending the project will subject the Consultant developer to penalties and surcharges (as stipulated in the Revised IRR of RA 9184) unless the fault is attributable to NPC. The Consultant is expected to strictly follow the schedule of delivery.

IV. SCOPE OF SERVICES

This project involves not only the provision of the software development but also the associated hardware and support services that are necessary to achieve its objective.

1. The development of the basic components of the NPCRS the following modules and its functionalities. This system will have two (2) interfaces, one public facing (PIC Portal) and another for NPC internal use only (Admin Portal)
 - i. PIC portal (External)
 - Account Creation/Application
 - Account Login / Authorization
 - Status tracker of the Registration Report
 - Feedback loop until report is resolved/closed
 - Secure submission and storage of documents submitted
 - Capability to accept secure payments
 - ii. NPC Admin Portal (Internal-NPC use only)
 - NPC User Login
 - Ticketing System for Approval, Validation and Rejection
 - Statistical Dashboard
 - Search Function
 - Designation of assignee per case
 - Multi-Level Approval system (Approver, Validator)
 - Internal notification system via email to Individual professionals, PICs and PIPs regarding the status of their application
 - Secure storage of uploaded documents
 - Generate and edit reports, Commission Orders, and recommendations.
 - Capability to track secure payments
 - Notification of ageing registration tickets or pending items
 - Capability to integrate or interoperate identity and access management to other NPC systems, such as, Single-Sign On (SSO) capability
 - iii. Analytics and Rating
 - Performance analytics of reviewers, evaluators and staff based on the speed of resolution and responsiveness
 - Ability to rate evaluators and reviewers
2. The initial build-up of a new NPCRS database and the migration of existing NPCRS database to the new database. In this respect, it requires the following services:
 - The sizing, configuring, and provisioning of the necessary systems storage space and the set-up and establishment of the required database.
 - The actual data migration from the existing old files and database to the new database.
3. The provision of the necessary user, administrative and technical trainings that cover NPCRS usage, database administration, and others

4. The provision of at least three 12 months warranty for NPCRS by the developer/consultant/provider with an option to extend the warranty as required by the end-user subject to the terms and conditions agreed upon by both parties
5. The provision of at least one (1) year subscription of the SMTP Relay service shall be shouldered by the consultants/developers upon deployment of the NPCRS
6. Inception Report

The CONSULTANT/PROVIDER or the scope of work shall deliver an Inception Report within one (1) month from issuance of the Notice to Proceed (NTP). The report shall consist of the following, but not limited to:

- Project approach, work plan, impact analysis, and software development methodology
- Initial assessment or review on the end-user's application system proposal/terms of reference.
- Review of the NPC's current domain model, and the supporting conceptual diagram for the NPC Software Ecosystem that support the reality of the structures, modules, behaviors and interfaces of the application systems to support the development lifecycle.
- Configured development environment that will be used for project based on the work plan subject to approval of the Inception Report.
- List of the system's features and functions based on meeting with NPC stakeholders/end-users
- System Overview and Requirements including but not limited to: System Architecture, Server Requirements, Deployment Configurations, etc.
- Support for Data Privacy/Data Protection Initiatives such as the conduct of Privacy Impact Assessment, Description on how the Privacy by Design framework will be implemented on the project, Security measures, Personal Data Inventory, etc.
- Warranty including Software maintenance and support as well as the training of the end users
- Technology Transfer
- Project Objectives
- Percentage of work and date of delivery as indicated in Section IV of this Terms of Reference

A Certificate of Acceptance for the Inception Report shall be issued by the end user with the recommendation of the IMISU representative, NPC Quality Assurance Team and approved by the Executive Director.

7. Deployment Services

i. Cloud

The CONSULTANT/PROVIDER shall provide deployment services of the project, is ready for production after meeting the requirements for

production deployment. These services shall include the following but not limited to:

- Preparation of the application system to deploy on a cloud environment specified by the end user.
- Application and configuration of Transport Layer Security (TLS) for data encryption that includes the deployment of certificate.
- Configuration of instance
- Configuration of Remote Desktop connections to role instances,
- Configuration of diagnostics for the cloud service
- Domain and web server deployment and configuration

Before the CONSULTANT/PROVIDER deploys the service in the cloud, the CONSULTANT/PROVIDER shall seek the approval of NPC's Interim Information Management System (IMISU) Unit and the end-user.

ii. On-Premises

In the event that NPC is ready for on-premises deployment, the CONSULTANT/PROVIDER, shall cause the migration of the system, at no additional cost to the NPC. Aside from migrating the system, the CONSULTANT/PROVIDER shall collaborate with NPC's Interim Management Information System Unit (IMISU) to initiate the following acts, including, but not limited to:

- Preparation of the application system to deploy on an on-premises environment specified by the end-user.
- Domain and web server deployment and configuration
- Configuration of Virtual machines or remote desktop.
- Configuration and application of firewall

8. Quality, security, and performance testing

The CONSULTANT/PROVIDER shall ensure that the application system project(s) are tested accordingly based on the quality, security and performance based on the end user's requirements. The CONSULTANT/PROVIDER shall provide test plans and test case design and its results to the end user and IMISU. The types of testing that will be provided shall be the following, but not limited to:

i. Agile Testing

The CONSULTANT/PROVIDER shall conform to the iterative requirements agreed by the end user, the IMISU and the CONSULTANT/PROVIDER. The testing methodologies that shall be used are the following but not limited to: (a) Behavior Driven Development (BDD); (b) Acceptance Test Driven Development (ATDD); and (s) Exploratory Testing.

The CONSULTANT/PROVIDER shall provide the complete lifecycle procedures, test plans and test case designs for the approval of the end-

user with the recommendation of the IMISU. The testing requirements for the Agile Testing shall focus on the quality, functionality and performance of the application system. Other testing methods (e.g., regression testing, automated testing, performance testing etc.) may be included or added to the testing plan based on the end-user's decisions.

ii. Security Testing

The CONSULTANT/PROVIDER shall provide detailed security testing reports about the possible threats and vulnerabilities of the application system on the network, system software, client-side application and server-side application. The security testing shall be done as much as necessary or as determined by NPC's IMISU and the end-user, security testing should be done in development servers, staging server deployment and prior to the deployment in. The CONSULTANT/PROVIDER shall conform to the resource requirements of the Open Web Application Security Project OWASP as well as other security testing methodologies. The reports shall be submitted to the end-user and IMISU.

iii. Agile development methodology

The CONSULTANT/PROVIDER shall, on a regular basis, meet with the End User to conduct the following:

- Provide status updates about the development of the system
- Conduct interviews with the End-User to determine their requirements, system flow, etc.,
- Create user stories based on information from end users
- Accept feedbacks/comments from the End-User and apply revisions on the system, if necessary.

9. Privacy Impact Assessment

The CONSULTANT/PROVIDER shall fully participate to the end user's conduct of privacy impact assessment (PIA) to the proposed application system. In the conduct of the said activity, the Consultant/Provider shall provide the following:

1. Provide solutions to the identified privacy risks if applicable
2. Assist in the determination of appropriate security measures identified during the conduct of PIA
3. Submit documents pertaining to technical security measures and data protection initiatives, etc. as required during the conduct of PIA.

10. Additional Application System Definition/Development Requirements

11. High Availability/Disaster Recovery

In case of force majeure, the CONSULTANT/PROVIDER shall ensure that the system will not be compromised, i.e. loss, destruction, alteration, and unauthorized acquisition of data and other analogous cases.

The CONSULTANT/PROVIDER shall integrate the privacy concerns, results and approved recommendations into the engineering practices for systems and software engineering lifecycle processes.

V. MANPOWER REQUIREMENTS

The proposed project team must be composed of experts and specialists as indicated in the table below. Overlapping of roles (functions) is allowed provided such functions are related.

In this respect, the persons' names and functions must be explicitly specified. However, the Consultant has the option to add more personnel depending on his work strategy. The curriculum vitae must be signed by the person.

Position	Minimum Number of Personnel	Qualifications	Time/Work Arrangements
Key Personnel			
Business Solutions Architect	1	<ul style="list-style-type: none"> a. Minimum of five (5) years of Business Solutions Architect experience and at least five (5) years of Software Engineer experience of IT experience inclusive proven track record of solution expertise b. Deep knowledge of software development lifecycle and development pipeline (planning to monitoring) c. Experience with waterfall, Agile (SCRUM, Kanban, etc) and able to discuss workflows for different software development processes d. Experience in both private and e-Government application development, project management, service management based on best practices and industry standards. e. Highly efficient in 	Amenable for work from home setup or on-premise from Monday-Friday on a full-time basis starting from 8:00 A.M. until 5:00 P.M. Must be available during scheduled meetings. Must be on-call 365x24x7

		<p>preparing reports, technical and business communication writing and articulate in oral communication.</p> <p>f. Must be a graduate of a bachelor's degree in Information Technology, Computer Science, Business Administration, or any degree course with comprehensive IT-related training and work experience. Master's Degree is an advantage</p>	
Project Manager /Scrum Master or any equivalent role	1	<p>g. Minimum of five (5) years of IT experience inclusive of three (3) years of experience in support, maintenance, development and deployment of complex mission-critical applications relating to secure software development using agile methodologies</p> <p>h. Certification in Information Technology Infrastructure Library (ITIL) Framework or any globally accepted project management certification.</p> <p>i. Familiar with Agile Development</p> <p>j. Experience in both private and e-Government application development, project management, service management based on best practices and industry standards.</p> <p>k. Highly efficient in preparing reports, technical and business communication writing and articulate in oral communication.</p> <p>l. Must be a graduate of a</p>	<p>Amenable for work from home setup or on-premise from Monday-Friday on a full-time basis starting from 8:00 A.M. until 5:00 P.M. Must be available during scheduled meetings. Must be on-call 365x24x7</p>

		bachelor's degree in Information Technology, Computer Science, Business Administration, or any degree course with comprehensive IT-related training and work experience. Master's Degree is an advantage	
Application Support Analyst	2	<ul style="list-style-type: none"> a. Minimum of five (5) years of IT experience inclusive of three (3) years of experience in business and system analysis, design and deployment of complex mission-critical applications relating to secure software development. b. Acquired foundation in Information Technology Infrastructure Library (ITIL) or any globally accepted project management certification. c. Background in performing preliminary user testing for related applications and systems. d. Have strong experience in Agile Methodology e. Strong system documentation and business communication skills. f. Must be a graduate of a bachelor's degree in Information Technology, Computer Science, Business Administration, or any degree course with IT-related background and training. 	Amenable for work from home setup or on-premise from Monday to Friday on a full-time basis on a regular time schedule starting from 8:00 A.M. until 5:00 P.M.
Application Team Lead/Senior Developer	1	<ul style="list-style-type: none"> a. Minimum of five (5) years' experience in computer programming, maintenance, and enhancement of IT systems. b. Must be a graduate of a 	Amenable for work from home setup or on-premise from Monday-Friday on a full-time basis

		<p>bachelor's degree in Information Technology, Computer Science or any degree course with IT-related background and training.</p> <p>c. Must have strong experience in Agile Methodology</p> <p>d. Strong experience in Secure Software Development</p> <p>e. Strong experience with Software Development Life Cycle</p>	<p>starting from 8:00 A.M. until 5:00 P.M. Must be available during scheduled meetings. Must be on-call 365x24x7</p>
Database Administrator	1	<p>a. Minimum of six (6) years of IT experience inclusive of three (3) years' as Database Administrator.</p> <p>b. Must have certifications relating to the management and use of any enterprise-grade database technologies</p> <p>c. Preferably knowledgeable on RedHat Linux or any equivalent.</p> <p>d. Must be a graduate of a bachelor's degree in Information Technology, Computer Science or any degree course with IT-related background and training.</p>	<p>Amenable for work from home setup or on-premise from Monday to Friday on a full-time basis at least eight (8) hours a day on starting from 8:00 A.M. until 5:00 P.M. and must be on-call 365x24x7</p>
Technical Personnel			
Quality Assurance Analyst	1	<p>a. Minimum of two (2) years' experience in Quality Management Software and Processes.</p> <p>b. Expertise in testing multiple simple and complex IT systems</p> <p>c. Ability to understand and create clear, concise and detail-oriented test plans/cases from specifications or verbal communications.</p> <p>d. Must have strong</p>	<p>Offsite but must be available during scheduled meetings. Must be on-call 365x24x7</p>

		<p>experience in Agile Methodology</p> <p>e. Must be a graduate of a bachelor's degree in Information technology, Computer Science, Computer Engineering, or any degree course with IT-related background and training.</p>	
Senior Developers	1	<p>a. Minimum of four (4) years' experience in computer programming, maintenance, and enhancement of IT systems.</p> <p>b. Must have strong experience in Agile Methodology</p> <p>c. Must be a graduate of a bachelor's degree in Information Technology, Computer Science or any degree course with IT-related background and training.</p> <p>d. Proficiency with software collaboration tools (git, Jira, etc.,)</p> <p>e. Strong experience in Secure Software Development</p> <p>f. Each individual must have the corresponding technical trainings as a requirement.</p>	<p>Amenable for work from home setup or on-premise from Monday-Friday on a full-time basis starting from 8:00 A.M. until 5:00 P.M. Must be available during scheduled meetings. Must be on-call 365x24x7</p>
Junior Developers	2	<p>a. Minimum of two (2) years' experience in computer programming, maintenance, and enhancement of IT systems.</p> <p>b. Must have strong experience in Agile Methodology</p> <p>c. Must be a graduate of a bachelor's degree in Information Technology, Computer Science or any degree course with IT-</p>	<p>Amenable for work from home setup or on-premise from Monday-Friday on a full-time basis starting from 8:00 A.M. until 5:00 P.M. Must be available during scheduled</p>

		<p>related background and training.</p> <p>d. Must have experience in Secure Software Development</p> <p>e. Proficiency with software collaboration tools (git, Jira, etc.,)</p> <p>f. Each individual must have the corresponding technical trainings as a requirement.</p>	<p>meetings. Must be on-call 365x24x7</p>
Systems Administrator/ Hardware Engineer	1	<p>a. Minimum of three (3) years experience in the configuration, administration, maintenance, setup, and use of Data Center equipment which includes but not limited to: Cisco Catalyst, Nutanix products</p> <p>b. Minimum of three (3) years' experience in the configuration, administration, maintenance, setup, and use of Cloud based technology</p> <p>c. Must be a graduate of a bachelor's degree in Information Technology, Computer Science or any degree course with IT-related background and training.</p> <p>d. Knowledgeable in the security configuration of on-premise and cloud-based technologies</p> <p>e. Must have certifications/trainings related to the field</p>	<p>Amenable for work from home setup or on-premise from Monday-Friday on a full-time basis starting from 8:00 A.M. until 5:00 P.M. Must be available during scheduled meetings. Must be on-call 365x24x7</p>
Document Specialist	2	<p>a. Minimum of two (2) years' experience in technical documentation of procedures and practices.</p> <p>b. Must be a graduate of a bachelor's degree in</p>	<p>Amenable for work from home setup or on-premise from Monday-Friday on a</p>

		Information Technology, Computer Sciences, Business Administration, or any degree course with IT-related background and training.	full-time basis starting from 8:00 A.M. until 5:00 P.M. Must be available during scheduled meetings. Must be on-call 365x24x7
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VI. TECHNICAL REQUIREMENTS

1. Use only Enterprise grade NPCRS;
2. Web based platform using secured technologies;
3. Must be compatible and able to utilize existing NPC ICT infrastructure and resources.
4. Privacy-by-design and privacy engineering should be applied into its development

VII. FUNCTIONAL REQUIREMENTS

The functional requirements are identified as follows:

1. PIC Module
 - a. System provides an online access facility for the user to:
 - i. Submit Registration Applications following the requirements in NPC Circular 17-01 and/or subsequent issuances on registration
 - b. System provides the user with the facility to securely upload their documents with the format specified by NPC and ensure that such documents are properly tagged.
 - c. System should have capability to accept payment in the future (details such as price and method will be provided on a separate NPC announcement)
 - d. The user profile function should provide:
 - i. The updated information of the user
 - ii. Dashboard
 - iii. Notifications thru email and thru the system
 - iv. Inquiry
2. Notifications
 - a. System provides the facility to send notifications to involved stakeholders
3. NPC Dashboards (i.e. Reports and Monitoring/ Tracking)

- a. Registration Statistics (PIC/PIP, DPO, Sector, Status)
 - b. Dashboards should have the ability to pull reporting from future systems such as Data Breach Management Notification Systems, Compliance Check Systems.
 - c. Search Functionality
 - d. History Tracking
 - e. Report Generation
 - f. Payment tracking, status, etc.
4. Ticketing Module
 - a. This will be used for tracking and monitoring of Registration applications in the form of tickets
 - b. Automated notification of new Registrations as well as updates to old Registration applications
 - c. Secure accessed by NPC stakeholders (CMD Registration Team, OPC, LEO)
 - d. Search functionality
 - e. Audit Tracking
 5. System provides for a log of all transactions for audit and administration purposes.
 6. System must have the ability to use or seamlessly integrate multi-factor authentication with ease.
 7. NPCRS Admin Dashboard
 - a. User Management System
 - User Activity logs (NPC and PIC)
 - b. System Logs
 - Activities produce by the system for statistics and measure effectiveness of the NPC personnel and measure/monitor if there will be errors on the submitted reports
 - c. Reports Administration Management – enables to manage and view the reports or work item and its timeline. This will help measure the productivity of the process and personnel.
 - d. Have a facility for administrative override
 - e. Capability to send email to end users both external and internal as deemed necessary
 - f. Other functions as deemed necessary

Aside from the above-mentioned functionality, the NPCRS system should have the following features:

1. Must be easily integrated with other NPC systems (Data Breach Management Notification System, Case Management System, DPO ACE Automated Examination System and Compliance Check System);
2. Web based using the most secure web and database technologies.
3. Developed using privacy engineering methodologies, Privacy By Design and Privacy By Default principles as well as other industry standard development requirements such as OWASP, NIST, etc.

4. System should be able to accept payments securely
5. Responsive web design shall be used for the system to ensure that system will adapt to all devices
6. System should be compatible to all known web browsers

The above-mentioned functionalities are the bare minimum requirements for the system and may be changed subject to the determination of the NPC IMISU and the End-Users during the development stage.

VIII. DOCUMENTATION

The following documentation are required to be submitted:

- a. System Design documents: Design proposal which includes functional specifications, technical specifications, security specifications, operational specifications, environmental specifications, network topology, proposed work program and schedule supported by Gantt charts and capacity planning guide, and other such design documents determined in the Inception Report.
- b. Technical documents: Installation and Configuration manual, operations manual, user's manual, developer's documentation, API references, training materials, security management manual, database maintenance manual, network administration manual and program source code, and other such technical documents determined in the Inception Report.

All other documents as may be necessary.

IX. TRAINING

Training Plan shall be submitted which includes the course design and method of delivery, specific topics to be covered and the corresponding date and times for each topic. Training shall be provided to end users as well as NPC's Interim Management Information Systems Unit. Training shall be provided by the developers as much as required by NPC covering the entire warranty period. At a minimum, the training must include:

- i. Discussion of the System Design and Architecture
- ii. Administration of the developed systems,
- iii. Network, systems and database maintenance of the systems
- iv. How to perform incident response relating to the NPCRS

Proof of completion of required training to be conducted shall be the issuance of training certificates to the participants.

The bidder must be available for consulting following Philippine local time and business hours. References to date and time shall be based on Philippine Standard Time.

X. SERVICE LEVEL AGREEMENT

Technical support must be provided either on-site, via telephone or email to resolve technical and other related problems based on a Service Level Agreement (SLA) with provisions for liquidated damages for non-compliance. Resolution must be delivered based on the following levels of severity:

- a. Severity 1 Critical: Major system or component failure with critical impact on business process. Service has stopped. The problem must be resolved through immediate onsite support (within 4 hours). This includes successful attacks to the system as well as hacking attempts.
- b. Severity 2 High: Minor system or component failure with high impact on business process. The service is running but performance has degraded. The problem must be resolved immediately (within 1 working day).
- c. Severity 3 Moderate: Operational use exhibits signs of non-compliance with agreed functionality. The service is running but certain functions do not work as indicated. The problem must be resolved at the soonest time possible (within 5 working days).
- d. Severity 4 Low: Service is running. Efficiencies would be achieved through desired improvements in the system components. Feature must be available in the next update.

The National Privacy Commission shall have the right to blacklist the service provider, execute redress and demand damages after three (3) instances of non-compliance at any given time during the contract period, of the above-mentioned SLA.

One-tenth of one percent of the total contract cost shall be imposed for every hour or a fraction thereof of service unavailability in excess of the required hours to resolve.

The service provider shall appoint a person possessing the necessary knowledge and technical expertise to serve as the single point of contact and shall be available at the time and manner indicated in the previous section to respond to queries or requests for technical support. The service provider shall also create an escalation procedure to be followed in scenarios where issues are not resolved within SLA.

The warranty period shall commence upon the Issuance of Certificate of User Acceptance which shall be for a period of 12 months to cover software updates, limited to upgrades of software dependencies used by the application, security patches and technical support including during the conduct of VAPT by NPC. The service provider shall provide NPC with the option to extend the warranty period subject to the terms and conditions that will be agreed upon by both parties.

XI. HARDWARE REQUIREMENTS / SPECIFICATIONS

The following are the requirements with regard the specification of the hardware (on premise or on cloud):

- a. The bidder shall provide all the hardware specifications and software components needed to operate the designed infrastructure for the developed systems. The developed systems will utilize a virtualized computing environment with an online facility to monitor and provision virtual machines.
- b. The bidder shall submit in paper or digital format a detailed network diagram depicting the applications, network configuration and connectivity of the server components. A detailed hardware deployment plan indicating the specifications and physical connectivity of the hardware as part of the delivery schedule must also be provided (if necessary).

XII. MODE OF PROCUREMENT

The mode of procurement shall be Competitive bidding.

XIII. NATURE OF PROCUREMENT

The procurement shall follow the “Consulting services” guidelines.

XIV. PAYMENT AND DELIVERY

Payment shall be made upon Issuance of the Inspection and Acceptance Certificate by the Inspection and Acceptance Committee upon recommendation by the end-user, but consistent with the following:

% of Contract Cost	Deliverable and Indicative Delivery Date*
10%	Upon approval of the Inception Report from the issuance of the Notice to Proceed (NTP)
30%	Project is 35% completed and the CONSULTANT/PROVIDER has conducted a quality, security (VAPT), and performance testing with the required documentation submitted
30%	Project is 70% completed and the CONSULTANT/PROVIDER has conducted a quality, security (VAPT), and performance testing with the required documentation submitted
30%	Project is 100% completed and the CONSULTANT/PROVIDER has conducted a quality, security (VAPT), and performance testing with the complete required documentation submitted
100%	TOTAL

* Indicative delivery dates may be adjusted after receipt of written request from NPC. The contract shall be completed or NPCRS should be on a production level on or before 15 March 2022.

XV. FUND SOURCE AND APPROVED BUDGET FOR THE CONTRACT (ABC)

Source of Fund: Maintenance and other operating expenses, NPC 2021 Annual Procurement Plan (APP Item No. 2021-0148), NPC ISSP 2018-2020 and NPC ISSP 2021-2023.

Approved Budget for the Contract: Five Million Pesos Only (Php 5,000,000.00).

XVI. CRITERIA FOR EVALUATION

The BAC shall draw up the shortlist of consultants from those who have submitted Expression of Interest, including the eligibility documents, and have been determined as eligible in accordance with the provisions of Republic Act 9184 (RA 9184), otherwise known as the “Government Procurement Reform Act”, and its Implementing Rules and Regulations (IRR).

The short list shall consist of three (3) prospective bidders who will be entitled to submit bids. Should less than the required number apply for eligibility and short listing, pass the eligibility check, and/or pass the minimum score required in the short listing, the BAC shall consider the same. The criteria and rating system for shortlisting are:

Criteria for Shortlisting	Weight
Applicable experience of the consultant or consulting firm (Total Max Score is 50%)	
Overall Experience of the firm	30%
Individual Experiences of the principal and key staff	10%
Times when employed by other consultants	10%
Qualification of personnel to be assigned to the Project (Total Max Score is 30%)	
Applicable Certifications (if any)	10%
Related Projects worked on or handled	20%
Current workload relative to the capacity of the consultant or consulting firm (Total Max Score is 20%)	

Further, the bids shall be evaluated using the Quality Based Evaluation procedure. The criteria and rating system for the evaluation of bids below shall be provided in the Instructions to Bidders:

Criteria for Bid Evaluation	Max Points
Quality of personnel	

(Total Max Score is 50%)	
Suitability of key staff	15%
General qualifications & competence	30%
Education and training of key staff	5%
Experience and capability of the consultant (Total Max Score is 30%)	
Records of previous engagement and quality of performance in similar projects	6%
Relationship with previous and current clients	6%
Overall work commitments	6%
Geographical distribution of projects	6%
Attention to be given by the consultant	6%
Plan of approach and methodology (Total Max Score is 20%)	
Clarity, feasibility, innovativeness, and comprehensiveness of the plan approach	10%
Quality of interpretation of project problems, risks, and suggested solutions	10%

The passing rate shall be set to 70% for shortlisting, and 75% for bid evaluation.

XVII. POST QUALIFICATION REQUIREMENT

Aside from the post-qualification documents required to be submitted as specified in the Bidding Documents, the bidder should also submit Registration Certificate issued by the National Privacy Commission upon registration of the company's Data Protection Officer.

XVIII. OWNERSHIP OF DATA

All data, source code, resources pertaining to the system shall be owned exclusively by the NPC.

XIX. DELETION AND DISPOSAL OF DATA

Personal data must be retained only for as long as necessary for the fulfillment of the purposes for which data was obtained. For this purpose, the personal data processed by the CONSULTANT/PROVIDER shall be disposed of after the fulfillment of its contract.

Upon the fulfillment of the contract, any personal data processed by the CONSULTANT/PROVIDER must be deleted and disposed of in accordance with the provisions of the Data Privacy Act, its Implementing Rules and Regulations, and other issuances of the NPC. The deletion and disposal of data shall be under the supervision of the NPC. After the deletion and disposal of the data, the CONSULTANT/PROVIDER must issue a certification that the data were indeed deleted and disposed of properly.

XX. WARRANTIES OF THE SERVICE PROVIDER

The service provider warrants that it shall conform strictly with the terms and conditions of this Terms of Reference. The warranty period shall commence upon issuance of the Certificate of User Acceptance with the applicable period, which shall be for three twelve (12) months to cover software upgrades, security patches and technical support. The service provider warrants that its personnel shall take all necessary precautions for the safety of persons and properties at or near their area of work and shall comply with all the standard and established safety regulations, rules and practices. The service provider shall coordinate with the authorized and/or designated National Privacy Commission personnel in the performance of their jobs. The service provider shall be liable for loss, damage or injury due directly or indirectly through the fault or negligence of its personnel. It shall assume full responsibility thereof and the National Privacy Commission shall be specifically released from all liabilities arising therefrom.

XXI. CONFIDENTIALITY OF DATA

The service provider shall document detailed procedures and techniques in identifying systems security risks and breaches and how such shall be handled. All project staff of the service provider shall be required to sign a non-disclosure agreement immediately at the start of the project and before commencing work on the Inception Report. All systems to which the project staff of the service provider shall be granted access to, its components, parts, specifications, data, ideas, technology, and technical and non-technical materials (collectively referred to here as “Proprietary Information”) are confidential and proprietary to National Privacy Commission. The service provider agrees to hold the Proprietary Information in strict confidence and further agrees not to reproduce, transcribe, or disclose the Proprietary Information to third parties without the prior written approval of the National Privacy Commission.

Section VII. Bidding Forms

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IMPORTANT NOTE: Aside from these mentioned in the Bidding Documents, bidders are also reminded to comply with Government Procurement Policy Board Resolution No. 16-2020 approving Circular 04-2020 (*Guidelines in the Preparation of the Simplified Philippine Bidding Documents for Goods and Infrastructure Projects and the Submission of the Required Forms to be included in the Procurement of Goods, Infrastructure Projects, and Consulting Services*) issued on 16 September 2020.

As such, bidders are reminded to use and submit the revised Bid Securing Declaration and Omnibus Sworn Statement, among others, as can be found in:

<https://www.gppb.gov.ph/downloadables.php>

ELIGIBILITY DOCUMENTS SUBMISSION FORM

[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

In connection with your Request for Expression of Interest dated [insert date] for [Title of Project], [Name of Consultant] hereby expresses interest in participating in the eligibility and short listing for said Project and submits the attached eligibility documents in compliance with the Eligibility Documents therefor.

In line with this submission, we certify that:

- a) [Name of Consultant] is not blacklisted or barred from bidding by the GoP or any of its agencies, offices, corporations, LGUs, or autonomous regional government, including foreign government/foreign or international financing institution; and
- b) Each of the documents submitted herewith is an authentic copy of the original, complete, and all statements and information provided therein are true and correct.

We acknowledge and accept the Procuring Entity's right to inspect and audit all records relating to our submission irrespective of whether we are declared eligible and short listed or not.

We further acknowledge that failure to sign this Eligibility Document Submission Form shall be a ground for our disqualification.

Yours sincerely,

Signature
Name and Title of Authorized Signatory
Name of Consultant
Address

TECHNICAL PROPOSAL FORMS

Notes for Consultants

The following summarizes the content and maximum number of pages permitted for the Technical Proposal. A page is considered to be one printed side of A4 or letter sized paper.

Cover Letter

Use TPF 1. Technical Proposal Submission Form.

Experience of the Firm

Maximum of *[insert acceptable number of pages]* introducing the background and general experience of the Consultant, including its partner(s) and subconsultants, if any.

Maximum of *[insert acceptable number of pages]* completed projects in the format of TPF 2. Consultant's References illustrating the relevant experience of the Consultant, including its partner and subconsultants, if any. No promotional material should be included.

General approach and methodology, work and staffing schedule

Use TPF 4. Description of the Methodology and Work Plan for Performing the Project, TPF 5. Team Composition and Task, TPF 7. Time Schedule for Professional Personnel, and TPF 8. Activity (Work) Schedule.

If subcontracting is allowed, add the following: If the Consultant will engage a subconsultant for the portions of the Consulting Services allowed to be subcontracted, the Consultant shall indicate which portions of the Consulting Services will be subcontracted, identify the corresponding subconsultant, and include the legal eligibility documents of such subconsultant.

Curriculum Vitae (CV)

Use TPF 6. Format of Curriculum Vitae (CV) for Proposed Professional Staff.

Comments on the terms of reference and data and facilities to be provided by the Procuring Entity

Not more than *[insert acceptable number of pages]* using TPF 3. Comments and Suggestions of Consultant on the Terms of Reference and on Data, Services, and Facilities to be Provided by the

TPF 1. TECHNICAL PROPOSAL SUBMISSION FORM

[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for [Title of Project] in accordance with your Bidding Documents dated [insert date] and our Bid. We are hereby submitting our Bid, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

In accordance with **ITB** Clause 21.1, we confirm that the information contained in the eligibility documents submitted earlier together with the Expression of Interest remain correct as of the date of bid submission.

If negotiations are held during the period of bid validity, *i.e.*, before [insert date], we undertake to negotiate on the basis of the proposed staff. Our Bid is binding upon us and subject to the modifications resulting from contract negotiations.

In accordance with **GCC** Clause 51, we acknowledge and accept the Procuring Entity's right to inspect and audit all records relating to our Bid irrespective of whether we enter into a contract with the Procuring Entity as a result of this Bid or not.

We understand you are not bound to accept any Bid received for the selection of a consultant for the Project.

We acknowledge that failure to sign this Technical Proposal Submission Form and the abovementioned Financial Proposal Submission Form shall be a ground for the rejection of our Bid.

We remain,

Yours sincerely,

Authorized Signature:
Name and Title of Signatory:
Name of Firm:
Address:

TPF 2. CONSULTANT'S REFERENCES

Relevant Services Carried Out in the Last Five Years That Best Illustrate Qualifications

Using the format below, provide information on each project for which your firm/entity, either individually, as a corporate entity, or as one of the major companies within an association, was legally contracted.

Project Name:		Country:
Location within Country:		Professional Staff Provided by Your Firm/Entity(profiles):
Name of Client:		Nº of Staff:
Address:		Nº of Staff-Months; Duration of Project:
Start Date (Month/Year):	Completion Date (Month/Year):	Approx. Value of Services (in Current US\$):
Name of Associated Consultants, if any:		Nº of Months of Professional Staff Provided by Associated Consultants:
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:		
Narrative Description of Project:		
Description of Actual Services Provided by Your Staff:		

Consultant's Name: _____

TPF 3. COMMENTS AND SUGGESTIONS OF CONSULTANT ON THE TERMS OF
REFERENCE AND ON DATA, SERVICES, AND FACILITIES TO BE PROVIDED BY THE
PROCURING ENTITY

On the Terms of Reference:

- 1.
- 2.
- 3.
- 4.
- 5.

On the data, services, and facilities to be provided by the Procuring Entity:

- 1.
- 2.
- 3.
- 4.
- 5.

TPF 4. DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR PERFORMING
THE PROJECT

TPF 5. TEAM COMPOSITION AND TASK

1. Technical/Managerial Staff		
Name	Position	Task

2. Support Staff		
Name	Position	Task

3 Where applicable, indicate relationships among the Consultant and any partner and/or subconsultant, the Procuring Entity, the Funding Source and other parties or stakeholders.

--

TPF 6. FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL
STAFF

Proposed Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

Years with Firm/Entity: _____ Nationality: _____

Membership in Professional Societies: _____

Detailed Tasks Assigned: _____

Key Qualifications:

[Give an outline of staff member's experience and training most pertinent to tasks on project. Describe degree of responsibility held by staff member on relevant previous projects and give dates and locations. Use about half a page.]

Education:

[Summarize college/university and other specialized education of staff members, giving names of schools, dates attended, and degrees obtained. Use about one quarter of a page.]

Employment Record:

[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of projects. For experience in last ten years, also give types of activities performed and client references, where appropriate. Use about two pages.]

Languages:

[For each language, indicate proficiency: excellent, good, fair, or poor in speaking, reading, and writing.]

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, these data correctly describe me, my qualifications, and my experience.

Commitment:

I also commit to work for the Project in accordance with the time schedule as indicated in the contract once the firm is awarded the Project.

_____ Date: _____
[Signature of staff member and authorized representative of the firm] Day/Month/Year

Full name of staff member: _____

Full name of authorized representative: _____

SUBSCRIBED AND SWORN to before me this ___ day of [month] [year] at [place of execution], Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her [insert type of government identification card used], with his/her photograph and signature appearing thereon, with no. _____.

Witness my hand and seal this ___ day of [month] [year].

NAME OF NOTARY PUBLIC

Serial No. of Commission _____

Notary Public for _____ **until** _____

Roll of Attorneys No. _____

PTR No. __, [date issued], [place issued]

IBP No. __, [date issued], [place issued]

Doc. No. ____

Page No. ____

Book No. ____

Series of _____.

TPF 7. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL

			Months (in the Form of a Bar Chart)												
Name	Position	Reports Due/Activities	1	2	3	4	5	6	7	8	9	10	11	12	Number of Months
															Subtotal (1)
															Subtotal (2)
															Subtotal (3)
															Subtotal (4)

Full-time: _____
 Reports Due: _____
 Activities Duration: _____
 Location _____

Part-time: _____

Signature: _____
 (Authorized representative)

Full Name: _____

Title: _____

Address: _____

TPF 8. ACTIVITY (WORK) SCHEDULE

A. Field Investigation and Study Items

	<i>[1st, 2nd, etc. are months from the start of project.]</i>												
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	
Activity (Work)													

B. Completion and Submission of Reports

Reports	Date
1. Inception Report	
2. Interim Progress Report (a) First Status Report (b) Second Status Report	
3. Draft Report	
4. Final Report	

Omnibus Sworn Statement (Revised)

[shall be submitted with the Bid]

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF _____) S.S.

AFFIDAVIT

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

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

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

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

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

[If a sole proprietorship:] As the owner and sole proprietor, or authorized representative of [Name of Bidder], I have full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for [Name of the Project] of the [Name of the Procuring Entity], as shown in the attached duly notarized Special Power of Attorney;

[If a partnership, corporation, cooperative, or joint venture:] I am granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for [Name of the Project] of the [Name of the Procuring Entity], as shown in the attached [state title of attached document showing proof of authorization (e.g., duly notarized Secretary's Certificate, Board/Partnership Resolution, or Special Power of Attorney, whichever is applicable)];

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

4. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
5. [Name of Bidder] is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;

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

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of ___, 20__ at _____, Philippines.

[Insert NAME OF BIDDER OR ITS AUTHORIZED REPRESENTATIVE]

[Insert signatory's legal capacity]

Affiant

SUBSCRIBE AND SWORN TO before me this _____ day of _____ 20__
at _____, affiant having exhibited to me his/her
_____ issued on/valid until _____.

NOTARY PUBLIC

Doc. No.: _____
Page No. _____
Book No.: _____
Series of 20 _____

Bid Securing Declaration Form

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

REPUBLIC OF THE PHILIPPINES)
CITY OF _____) S.S.

BID SECURING DECLARATION

Project Identification No.: [Insert number]

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

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Bid Security, which may be in the form of a Bid Securing Declaration.
2. I/We accept that: (a) I/we will be automatically disqualified from bidding for any procurement contract with any procuring entity for a period of two (2) years upon receipt of your Blacklisting Order; and, (b) I/we will pay the applicable fine provided under Section 6 of the Guidelines on the Use of Bid Securing Declaration, within fifteen (15) days from receipt of the written demand by the procuring entity for the commission of acts resulting to the enforcement of the bid securing declaration under Sections 23.1(b), 34.2, 40.1 and 69.1, except 69.1(f), of the IRR of RA No. 9184; without prejudice to other legal action the government may undertake.
3. I/We understand that this Bid Securing Declaration shall cease to be valid on the following circumstances:
 - a. Upon expiration of the bid validity period, or any extension thereof pursuant to your request;
 - b. I am/we are declared ineligible or post-disqualified upon receipt of your notice to such effect, and (i) I/we failed to timely file a request for reconsideration or (ii) I/we filed a waiver to avail of said right; and
 - c. I am/we are declared the bidder with the Lowest Calculated Responsive Bid, and I/we have furnished the performance security and signed the Contract.

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

[Insert NAME OF BIDDER OR ITS AUTHORIZED REPRESENTATIVE]

[Insert signatory's legal capacity]

Affiant

SUBSCRIBED AND SWORN to before me this ___ day of *[month]* *[year]* at *[place of execution]*, Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her *[insert type of government identification card used]*, with his/her photograph and signature appearing thereon, with no. _____.

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

NOTARY PUBLIC

Doc. No. ____

Page No. ____

Book No. ____

Series of ____.

FINANCIAL PROPOSAL FORMS

Notes for Consultants

The following summarizes the content of the Financial Proposal.

Cover Letter

Use FPF 1. Financial Proposal Submission Form, which is an acknowledgement that, in preparation and submission of the Technical and Financial Proposals, Consultants have:

- (f) followed the applicable rules and guidelines indicated in this ITB;
- (g) not taken any action which is or constitutes a corrupt, fraudulent, or coercive practice as defined in the applicable rules and guidelines; and
- (h) agrees to allow the Procuring Entity and the Funding Source, at their option, to inspect and audit all accounts, documents, and records relating to the its Bid and to the performance of the ensuing contract.

Costs of Consulting Services

Use FPF 2. Summary of Costs; FPF 3. Breakdown of Price per Activity; FPF 4. Breakdown of Remuneration per Activity; FPF 5. Reimbursables per Activity; and FPF 6. Miscellaneous Expenses.

FPF 1. FINANCIAL PROPOSAL SUBMISSION FORM

[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for *[Title of Project]* in accordance with your Bidding Documents dated *[insert date]* and our Bid (Technical and Financial Proposals). Our attached Financial Proposal is for the sum of *[amount in words and figures]*. This amount is exclusive of the local taxes, which we have estimated at *[amount(s) in words and figures]*.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the bid validity period, *i.e.*, *[Date]*.

In accordance with **GCC** Clause 51, we acknowledge and accept the Procuring Entity's right to inspect and audit all records relating to our Bid irrespective of whether we enter into a contract with the Procuring Entity as a result of this Bid.

We confirm that we have read, understood and accept the contents of the Instructions to Bidders (ITB), the Bid Data Sheet (BDS), General Conditions of Contract (GCC), Special Conditions of Contract (SCC), Terms of Reference (TOR), the provisions relating to the eligibility of Consultant and the applicable guidelines for the procurement rules of the Funding Source, any and all Bid bulletins issued and other attachments and inclusions included in the Bidding Documents sent to us.

We understand you are not bound to accept any Bid you receive.

We remain,

Yours sincerely,
Authorized Signature:
Name and Title of Signatory:
Name of Firm:
Address:

FPF 2. SUMMARY OF COSTS

Costs	Currency(ies) ¹	Amount in Philippine Peso
Subtotal		
Local Taxes		
Total Amount of Financial Proposal		<hr/>

¹ In cases of contracts involving foreign consultants, indicate the exchange rate used.

FPF 3. BREAKDOWN OF PRICE PER ACTIVITY

Activity No.: _____	Activity No.: _____	Description: _____
Price Component	Currency(ies) ²	Amount in Philippine Peso
Remuneration		
Reimbursables		
Miscellaneous Expenses		
Subtotal		_____

² In cases of contracts involving foreign consultants, indicate the exchange rate used.

FPF 4. BREAKDOWN OF REMUNERATION PER ACTIVITY

Activity No. _____		Name: _____		
Names	Position	Input ³	Remuneration Currency(ies) Rate	Amount
Regular staff				
Local staff				
Consultants				
Grand Total				_____

³ Staff months, days, or hours as appropriate.

FPF 5. REIMBURSABLES PER ACTIVITY

Activity No: _____

Name: _____

No.	Description	Unit	Quantity	Unit Price In	Total Amount In
1.	International flights _____	Trip			
2.	Miscellaneous travel expenses	Trip			
3.	Subsistence allowance	Day			
4.	Local transportation costs ⁴				
5.	Office rent/accommodation/ clerical assistance				
	Grand Total				_____

⁴ Local transportation costs are not included if local transportation is being made available by the Entity. Similarly, in the project site, office rent/accommodations/clerical assistance costs are not to be included if being made available by the Entity.

FPF 6. MISCELLANEOUS EXPENSES

Activity No. _____ Activity Name: _____

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Communication costs between _____ and _____ (telephone, telegram, telex)				
2.	Drafting, reproduction of reports				
3.	Equipment: vehicles, computers, etc.				
4.	Software				
	Grand Total				_____

FORM OF CONTRACT AGREEMENT

THIS AGREEMENT, made this *[insert date]* day of *[insert month]*, *[insert year]* between *[name and address of Procuring Entity]* (hereinafter called the “Entity”) and *[name and address of Consultant]* (hereinafter called the “Consultant”).

WHEREAS, the Entity is desirous that the Consultant execute *[name and identification number of contract]* (hereinafter called “the Works”) and the Entity has accepted the bid for *[insert the amount in specified currency in numbers and words]* by the Consultant for the execution and completion of such Consulting Services and the remedying of any defects therein.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be attached, deemed to form, and be read and construed as part of this Agreement, to wit:
 - (a) General and Special Conditions of Contract;
 - (b) Terms of Reference
 - (c) Request for Expression of Interest;
 - (d) Instructions to Bidders;
 - (e) Bid Data Sheet;
 - (f) Addenda and/or Supplemental/Bid Bulletins, if any;
 - (g) Bid forms, including all the documents/statements contained in the Bidder’s bidding envelopes, as annexes, and all other documents/statements submitted (*e.g.*, bidder’s response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity’s bid evaluation;
 - (h) Eligibility requirements, documents and/or statements;
 - (i) Performance Security;
 - (j) Notice of Award of Contract and the Bidder’s conforme thereto;
 - (k) Other contract documents that may be required by existing laws and/or the Entity.
3. In consideration of the payments to be made by the Entity to the Consultant as hereinafter mentioned, the Consultant hereby covenants with the Entity to execute and complete the Consulting Services and remedy any defects therein in conformity with the provisions of this Consultant in all respects.

4. The Entity hereby covenants to pay the Consultant in consideration of the execution and completion of the Consulting Services, the Contract Price or such other sum as may become payable under the provisions of this Contract at the times and in the manner prescribed by this Contract.

IN WITNESS whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

Binding Signature of Procuring Entity

Binding Signature of Consultant

[Addendum showing the corrections, if any, made during the bid evaluation should be attached with this agreement]

Section VIII. Appendices

I. Description of Services

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Client, etc.

II. Reporting Requirements

List format, frequency, and contents of reports; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

III. Key Personnel and Subconsultants

List under:

1. Titles [and names, if already available], detailed job descriptions and minimum qualifications, and staff-months of service, and estimated periods of engagement for each, including a copy of a satisfactory medical certificate.
2. Same information as in no. 1 for Key foreign Personnel to be assigned to work outside the Government’s country.
3. Same information as in no.1 for Key Local Personnel.
4. List of approved Subconsultants (if already available) and Counterpart personnel (if allowed); same information with respect to their Personnel as in no.’s 1 and 2.

IV. Breakdown of Contract Price

List here the elements of cost, including expenditures in foreign currency(ies) denominated and payable in Philippine Peso, used to arrive at the itemized breakdown of the contract price:

1. Monthly rates for Personnel (Key Personnel and other Personnel)
2. Reimbursable expenditures
3. Applicable taxes

V. Services and Facilities Provided by the Client

Give detailed description of the services and facilities made available to the Consultant, and the time and manner of its availment.

VI. Consultant's Representations Regarding Costs and Charges

Breakdown of Remuneration Rates, WB funded projects using Quality Based Selection, Selection Based on the Consultant's Qualifications and Single Source Selection.

1. Review of Remuneration Rates

1.1 The remuneration rates for staff are made up of salary, social costs, overheads, fee that is profit, and any premium or allowance paid for projects away from headquarters. To assist the Consultant in preparing for financial negotiations, a sample form giving a breakdown of rates is attached (no financial information should be included in the Technical Proposal). Agreed breakdown sheets shall form part of the negotiated contract.

1.2 The Procuring Entity is charged with the custody of Government funds and is expected to exercise prudence in the expenditure of these funds. The Procuring Entity is, therefore, concerned with the reasonableness of the firm's Financial Proposal, and, during negotiations, it expects to be able to review audited financial statements backing up the Consultant's remuneration rates, certified by an independent auditor. The Consultant shall be prepared to disclose such audited financial statements for the last three years, to substantiate its rates, and accept that its proposed rates and other financial matters are subject to scrutiny. Rate details are discussed below.

(i) Salary

This is the gross regular cash salary paid to the individual in the Consultant's home office. It shall not contain any premium for work away from headquarters or bonus (except where these are included by law or government regulations).

(ii) Bonus

Bonuses are normally paid out of profits. Because the Procuring Entity does not wish to make double payments for the same item, staff bonuses shall not normally be included in the rates. Where the Consultant's accounting system is such that the percentages of social costs and overheads are based on total revenue, including bonuses, those percentages shall be adjusted downward accordingly. Where national policy requires that thirteen (13) months' pay be given for twelve (12) months' work, the profit element need not be adjusted downward. Any discussions on bonuses shall be supported by audited documentation, which shall be treated as confidential.

(iii) Social Costs

Social costs are the costs to the Consultant of staff's non-monetary benefits. These items include, *inter alia*, pension, medical and life insurance costs, and the cost of a staff member being sick or on vacation. In this regard, the cost of leave for public holidays is not an acceptable social cost nor is the cost of leave taken during the Contract if no additional staff replacement has been provided. Additional leave taken at

the end of the Contract in accordance with the Consultant's leave policy is acceptable as a social cost.

(iv) Cost of Leave

The principles of calculating the cost of total days leave per annum as a percentage of basic salary shall normally be as follows:

$$\text{Leave cost as percentage of salary}^5 = \frac{\text{total days leave} \times 100}{[365 - w - ph - v - s]}$$

It is important to note that leave can be considered a social cost only if the Procuring Entity is not charged for the leave taken.

(v) Overheads

Overhead expenses are the firm's business costs that are not directly related to the execution of the project and shall not be reimbursed as separate items under the Contract. Typical items are home office costs (partner's time, non-billable time, time of senior staff monitoring the project, rent, support staff, research, staff training, marketing, etc.), the cost of staff not currently employed on revenue-earning projects, and business promotion costs. During negotiations, audited financial statements, certified as correct by an independent auditor and supporting the last three years' overheads, shall be available for discussion, together with detailed lists of items making up the overheads and the percentage by which each relates to basic salary. The Procuring Entity does not accept an add-on margin for social charges, overhead expenses, etc., for staff who are not permanent employees of the firm. In such case, the firm shall be entitled only to administrative costs and fee on the monthly payments charged for subcontracted staff.

(vi) Fee or Profit

The fee or profit shall be based on the sum of the salary, social costs, and overhead. If any bonuses paid on a regular basis are listed, a corresponding reduction in the profit element shall be expected. Fee or profit shall not be allowed on travel or other reimbursable expenses, unless in the latter case an unusually large amount of procurement of equipment is required. The Consultant shall note that payments shall be made against an agreed estimated payment schedule as described in the draft form of the Contract.

(vii) Away from Headquarters Allowance or Premium

Some consultants pay allowances to staff working away from headquarters. Such allowances are calculated as a percentage of salary and shall not draw overheads or profit. Sometimes, by law, such allowances may draw social costs. In this case, the amount of this social cost shall still be shown under social costs, with the net allowance shown separately. For concerned staff, this allowance, where paid, shall cover home education, etc.; these and similar items shall not be considered as reimbursable costs.

(viii) Subsistence Allowances

⁵ Where w = weekends, ph = public holidays, v = vacation, and s = sick leave.

Subsistence allowances are not included in the rates, but are paid separately and in local currency. No additional subsistence is payable for dependents — the subsistence rate shall be the same for married and single team members.

UNDP standard rates for the particular country may be used as reference to determine subsistence allowances.

2. Reimbursables

2.1 The financial negotiations shall further focus on such items as out-of-pocket expenses and other reimbursables. These costs may include, but are not restricted to, cost of surveys, equipment, office rent, supplies, international and local travel, computer rental, mobilization and demobilization, insurance, and printing. These costs may be either fixed or reimbursable in foreign or local currency.

3. Bank Guarantee

3.1 Payments to the Consultant, including payment of any advance based on cash flow projections covered by a bank guarantee, shall be made according to an agreed estimated schedule ensuring the firm regular payments in local and foreign currency, as long as the services proceed as planned.

VII. BREAKDOWN OF AGREED FIXED RATES⁶

[Currencies: _____⁷]

Consultants		1	2	3	4	5	6	7	8
Name	Position	Basic Rate ⁸	Social Charge (__% of 1)	Overhead (__% of 1)	Subtotal	Fee (__% of 4)	Away from Headquarters Allowance (__% of 1)	Total Agreed Fixed Rate	Agreed Fixed Rate (__% of 1)
Philippines									
Home Office									

Signature of Consultant: _____

Date: _____

Authorized Representative: _____

Name: _____

Title: _____

⁶ This model form is given for negotiation purposes only. It is not part of the proposals (technical or financial).

⁷ If different currencies, a different table for each currency should be used.

⁸ Per month, day, or hour as appropriate.





Republic of the Philippines
NATIONAL PRIVACY COMMISSION

BIDS AND AWARDS COMMITTEE

Guidelines on Electronic Submission and Receipt of Bids

Pursuant to the GPPB Resolution No. 09-2020 issued to provide measures for the efficient conduct of all procurement activities during a State of Calamity, or implementation of community quarantine or similar restrictions, the NPC Bids and Awards Committee (NPC-BAC) hereby adopts these guidelines to allow the online or electronic submission and receipt of bids until such time as the online bidding facility under the modernized Philippine Government Electronic Procurement System (mPhilGEPS) becomes fully operational.

I. Submission of Bids

A. Preparation of Eligibility Document

Each bidder shall submit one (1) original of the first (technical), second (financial) components of its bid in PDF in cases of procurement of Good and Services or Infrastructure Projects and shall submit eligibility documents, technical proposal and financial proposal in PDF in cases of procurement of Consulting Services, through electronic mail.

B. Scanning and Encrypting of the Documents

Each PDF file and Zip folder must bear a unique combination of Password. Same password for all files is not allowed. Bidders are required to encrypt using AES-256. For details on how to assign password or encrypt file using AES-256, please see file attached as "Annex A". To maintain the integrity of the Zip folder and to ensure that no alterations or revisions are made, Bidders are also required to generate the hash value of the file and submit to the BAC together with the documents.

1. Good and Services and Infrastructure Projects

a. Technical Component Envelope

The bidder shall prepare one (1) zip file containing all the legal, technical and financial documents in accordance with the following instructions:

- i. Scan each original copy of the Legal, Technical and Financial Documents and save as an individual PDF file, each document shall be assigned with its own file name in this format: "NPC (Item Name); APP Item No.____; (Name of Bidder); (Type of Legal, Technical or Financial Document)"

SAMPLE: NPC Janitorial Services; APP Item No. 2020-0040; AAA Janitorial Services Inc.; PhilGeps Platinum Registration Certificate

- ii. Place/set a password on each PDF files.
- iii. Save the password-protected PDF files to a ZIP file.
- iv. Place/set password on the ZIP file.
- v. Name the password-protected Zip file in this format, avoid using spaces: "NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-Technical Component Envelope"

SAMPLE: NPC-JanitorialServices-APPItemNo_2020-0040-NameOfCompany-TechnicalComponentEnvelope.zip

- vi. Generate the hash value of the Zip file, copy and save in an excel spreadsheet. In generating the hash value, please use *SHA-256 hash algorithm*. Refer to "Annex B" for instructions on how to generate hash values.

b. Financial Component Envelope

The bidder shall prepare one (1) Zip file containing all the financial documents in accordance with the following instructions:

- i. Scan each original copy of the Financial Component Documents and save as an individual PDF file, each document shall be assigned with its own file name in this format: "NPC (Item Name); APP Item No.____; (Name of Bidder); (Type of Financial Component Document)"

SAMPLE: NPC Janitorial Services; APP Item No. 2020-0040; AAA Janitorial Services Inc.; Financial Bid Form

- ii. Place/set a password on each PDF files.
- iii. Save the password-protected PDF files to a ZIP file.
- iv. Place/set password on the ZIP file.
- v. Name the password-protected Zip file in this format, avoid using spaces: "NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-Financial Component Envelope"

SAMPLE: NPC-JanitorialServices-APPItemNo_2020-0040-NameOfCompany-FinancialComponentEnvelope.zip

- vi. Generate the hash value of the Zip file, copy and save in an excel spreadsheet. In generating the hash value, please use *SHA-256 hash algorithm*. Refer to “Annex B” for instructions on how to generate hash values.

2. Consulting Services

For procurement of Consulting Services where eligibility documents, technical proposal and financial proposal is required to be submitted, the documents shall be prepared in accordance with the following instructions:

a. Eligibility Check Documents

- i. Scan each original copy of the Legal, Technical and Financial Documents and save as an individual PDF file, each document shall be assigned with its own file name in this format: “NPC (Item Name); APP Item No.____; (Name of Bidder); (Type of Legal, Technical and Financial Documents)”

SAMPLE: NPC Conduct of Privacy Survey; APP Item No. 2020-0040; AAA Inc.; PhilGeps Platinum Registration Certificate

- ii. Place/set a password on each PDF files.
- iii. Save the password-protected PDF files to a ZIP file.
- iv. Place/set password on the ZIP file.
- v. Name the password-protected Zip file in this format, avoid using spaces: “NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-EligibilityDocumentEnvelope”

SAMPLE: NPC-ConductofPrivacySurvey-APPItemNo_2020-0040-AAA Inc.-EligibilityDocumentEnvelope.zip

- vi. Generate the hash value of the Zip file, copy and save in an excel spreadsheet. In generating the hash value, please use *SHA-256 hash algorithm*. Refer to “Annex B” for instructions on how to generate hash values.

b. Technical Proposal Envelope

- i. Scan each original copy of the Technical Proposal Documents and save as an individual PDF file, each document shall be assigned

with its own file name in this format: "NPC (Item Name); APP Item No.____; (Name of Bidder); (Type of Technical Document)"

SAMPLE: NPC Conduct of Privacy Survey; APP Item No. 2020-0040; AAA Inc.; Bid Security

- ii. Place/set a password on each PDF files.
- iii. Save the password-protected PDF files to a ZIP file.
- iv. Place/set password on the ZIP file.
- v. Name the password-protected Zip file in this format, avoid using spaces: "NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-TechnicaProposalEnvelope"

SAMPLE: NPC-ConductofPrivacySurvey-APPItemNo_2020-0040-AAA Inc.-TechnicalProposalEnveloper.zip

- vi. Generate the hash value of the Zip file, copy and save in an excel spreadsheet. In generating the hash value, please use *SHA-256 hash algorithm*. Refer to "Annex B" for instructions on how to generate hash values.

c. Financial Proposal Envelope

- i. Scan each original copy of the Financial Documents and save as an individual PDF file, each document shall be assigned with its own file name in this format: "NPC (Item Name); APP Item No.____; (Name of Bidder); (Type of Financial Document)"

SAMPLE: NPC Conduct of Privacy Survey; APP Item No. 2020-0040; AAA Inc.; Financial Proposal Submission Form

- ii. Place/set a password on each PDF files.
- iii. Save the password-protected PDF files to a ZIP file.
- iv. Place/set password on the ZIP file.
- v. Name the password-protected Zip file in this format, avoid using spaces: "NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-FinancialProposalEnvelope"

SAMPLE: NPC-ConductofPrivacySurvey-APPItemNo_2020-0040-AAA Inc.-FinancialProposalEnveloper.zip

- vi. Generate the hash value of the Zip file, copy and save in an excel spreadsheet. In generating the hash value, please use *SHA-256 hash algorithm*. Refer to "Annex B" for instructions on how to generate hash values.

C. Bidding Documents' Proof of Payment

Scan original copy of the official receipt or proof of payment of the Bidding Documents and save as a PDF file assigned with the file name in this format: "NPC (Item Name); APP Item No.____; (Name of Bidder); Bidding Document Proof of Payment"

SAMPLE: NPC Janitorial Services; APP Item No. 2020-0040; AAA Janitorial Services Inc.; Bidding Document Proof of Payment

Failure to attach copy of the official receipt or proof of payment, will result to non-issuance of the Bid Receipt Document. The BAC Secretariat shall notify the bidder of its non-submission and shall instruct them to re-send the bid together with the proof of scan, provided, that the period for submission of bid has not yet expired. Failure to do so before deadline of submission, despite notice, shall result to non-issuance of the Bid Receipt Document which is equivalent to non-acceptance of the Bidding Documents.

D. Proof of Malware, Virus or any Malicious Threat Scan

The attachments or the files shall be free from malwares, viruses or any malicious threats. The bidder shall scan the files for these threats and the result of the scan must be captured as proof. The captured proof of scan shall also show the date and time when the scan was made which must be immediately prior to the date and time of its submission via e-mail to the BAC-Secretariat. For instructions on how to scan for threats, please refer to attached "Annex C".

The proof of scan shall be submitted together with the eligibility documents with the file name in this format: "NPC (Item Name); APP Item No.____; (Name of Bidder); Proof of Virus Scan"

SAMPLE: NPC Janitorial Services; APP Item No. 2020-0040; AAA Janitorial Services Inc.; Proof of Virus Scan

Failure to scan for threats or attach captured proof of the scan, and/or submission of files corrupted with virus or malwares, will result to non-issuance of the Bid Receipt Document. The BAC Secretariat shall notify the bidder of its non-submission and shall instruct them to re-send the bid together with the proof of scan, provided, that the period for submission of bid has not yet expired. Failure to do so before deadline of submission, despite notice, shall result to non-issuance of the Bid Receipt Document which is equivalent to non-acceptance of the Bidding Documents.

E. Submission of Documents

For Goods and Services or Infrastructure Projects, submit your bids consisting of two (2) zip folders (Technical and Financial Component Envelopes), one (1) proof of payment, one (1) proof of scan, and one (1) excel file with the hash values of the Zip folders via electronic mail to bacsecretariat@privacy.gov.ph on or before the scheduled deadline for bid submission.

For Consulting Services, submit one (1) zip file (Eligibility Documents), one (1) proof of scan, and one (1) excel file with the hash values of the Zip folder via electronic mail to bacsecretariat@privacy.gov.ph on or before the scheduled eligibility check and short listing. Upon being short-listed, submit two (2) zip folders (Technical and Financial Proposal Envelopes), one (1) proof of payment, one (1) proof of scan, and one (1) excel file with the hash values of the Zip folders via electronic mail to bacsecretariat@privacy.gov.ph on or before the scheduled deadline for bid submission.

F. Bid Receipt Document

Upon receipt before the deadline, of the email containing the bid submissions, the BAC Secretariat shall send an email of acknowledgement with attached Bid Receipt Document which can be saved or printed by the bidder, as proof of the official time of receipt of bids. Late Bids shall not be accepted and shall no longer be included in the opening of bids.

The email acknowledgement shall also contain a link to the registration form to be filled out by the bidder's authorized representative who shall attend the bid opening.

In case of non-receipt of the acknowledgment within one (1) hour after submission, the bidder shall re-submit the bid to the same electronic mail address. If no acknowledgment is still received, the bidder shall call the Bids and Awards Committee Secretariat (02) 8234-2228 local 127 to confirm whether the submission was received, and if so, request for the acknowledgment of receipt of the submitted bid.

Non-issuance of the Bid Receipt Document is equivalent to non-acceptance of the Bidding Documents.

G. Modification of Bids

Bidders may modify or withdraw their Bid at any time before the deadline for the submission and receipt of bids. Where a bidder modifies its Bid, it shall not be allowed to retrieve its original Bid and shall only be allowed to submit another. The time indicated in the latest Bid receipt page generated shall be the official time of submission. Bids submitted after the deadline shall not be accepted.

Bidders shall send another Bid (containing all the required Technical and Financial Documents – not just the modified document/s) equally secured, properly identified, and labelled as a “modification” of the one previously submitted on or before the deadline. The bidder shall use the following file names for each PDF file and Zip files of the modified bid:

Goods and Services and Infrastructure Project:

- a. “NPC (Item Name); APP Item No.____; (Name of Bidder); (Type of Legal, Technical or Financial Document) - Modification”
- b. “NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-TechnicalComponentEnvelope-Modification”
- c. “NPC (Item Name); APP Item No.____; (Name of Bidder); (Type of Financial Component Document) - Modification
- d. “NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-FinancialComponentEnvelope-Modification”

Consulting Services

- a. “NPC (Item Name); APP Item No.____; (Name of Bidder); (Type of Legal, Technical and Financial Documents) - Modification”
- b. “NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-EligibilityDocumentEnvelope-Modification”
- c. “NPC (Item Name); APP Item No.____; (Name of Bidder); (Type Technical Document) - Modification”
- d. “NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-TechnicaProposalEnvelope-Modification”
- e. “NPC (Item Name); APP Item No.____; (Name of Bidder); (Type Financial Document) - Modification”
- f. “NPC-(Item Name)-APPItemNo_(____)-(Name of Bidder)-FinancialProposalEnvelope-Modification”

The Secretariat shall record the last document submitted by the prospective bidder as the official document for the opening of bids, provided it is submitted on or before the deadline.

H. Registration of Bidders

Bidders must register through MS Forms upon submission of the bidding documents and receipt of acknowledgement email from the BAC Secretariat.

The pre-registration is required for the BAC Secretariat to monitor the persons allowed to enter in the video teleconference and for records purposes. The BAC Secretariat shall send the link to the registration form together with the acknowledgement e-mail. The following information shall be disclosed upon registration:

- a. Name of the Company
- b. Name of owner/ representative
- c. E-mail address used to submit the bid
- d. Official mobile number
- e. PhilGEPs registered office/company address
- f. Authority to represent the company (special power of attorney [SPA] or secretary's certificate)

Only those suppliers duly registered shall be allowed to attend. In case there will be more than one (1) representative for each prospective bidder, the names of each representative and their respective e-mail addresses shall be listed in the registration form.

The BAC Secretariat, after the deadline of submission of bids and prior to the bid opening, will send an e-mail to the bidders via the official e-mail address used to submit the bid with the instructions on how and when to disclose the passwords and hash value of the zip files.

I. Download of Submitted Bids

The completely submitted bid files shall be downloaded by the BAC Secretariat to the BAC's official issued laptop/desktop so that the audit trail shall be preserved.

Upon download, the Zip files will be scanned for virus, malwares or other malicious threats. The bidder who shall submit a file corrupted with virus shall not be issued a Bid Receipt Document, instead the BAC Secretariat shall notify the bidder of the case and shall require it to re-submit, provided, that the period for bid submission has not yet expired.

Each bidder will be assigned one (1) file folder named after the Company Name of the bidder. Each file folder will have sub-folders for the Technical Component, Financial Component, and Eligibility Document (for Consulting Services).

The Secretariat Head shall designate the official representative of the BAC Secretariat as the Bid Opener and an alternate who are the only personnel allowed to access the said password protected files for safekeeping and record purposes during the Bid Opening.

II. Eligibility Check and/or Bid Opening Process

The BAC, with the assistance of the BAC Secretariat and Technical Working Group (TWG), shall conduct the bid opening via Microsoft Teams. Bidders are

encouraged to attend the bid opening online. The passwords for the zip folders and the files shall be disclosed by the bidders only during the bid opening.

The BAC Secretariat will be the sole administrator in Microsoft Teams and only the appointed person from the BAC Secretariat can allow the entry of the participants in the bid opening. The video conference via Microsoft Teams will be recorded and minutes of the meeting will also be prepared.

On the date and time set for the eligibility check and shortlisting and/or opening of the bids, the following procedure shall be observed.

A. Videoconference via Microsoft Teams

The bidder shall access the Microsoft Teams meeting link provided by the BAC Secretariat prior to the bid opening date and enter the meeting by clicking **“Join Now”**. Bidder shall allow access to the microphone and the camera and wait in the meeting lobby for the BAC Secretariat to allow them entry to the meeting room.

The bidder’s representative shall state their Company Name and their Name in the meeting chatbox so their attendance can be recognized. Bidders are expected to observe proper meeting decorum, open their device camera and keep their microphone on mute unless called to speak.

B. Opening of Bids

Upon instruction, the designated Bid Opener, using the BAC’s official desktop/laptop, shall open the bids in accordance with the order it was received. The BAC Secretariat during the actual access of the bidding document files, shall share the screen of the designated Bid Opener in the MS Teams meeting.

a. 1st Zip Folder

When prompted, the bidder shall disclose the password and the hash value of their 1st Zip folder in accordance with the instruction previously provided.

The Bid Opener shall access the 1st Zip folder and shall check the hash value of the said file and compare it to the hash value recorded in the excel file previously submitted by the Bidder together with their Bidding Documents. If both hash values are the same, the Bid Opener upon confirming that the files were not altered will proceed to open the Zip folder with the password provided and extract the files contained in the Zip folder. It is strongly advised that the bidder shall ensure the accuracy of the submitted zip files and its passwords and hash values to avoid

disqualification. Upon access to the 1st Zip folder, the BAC Secretariat will prompt the bidder to disclose the passwords for each PDF document extracted.

The bidders are given a minimum of five (5) minutes to respond. Should the bidder fail to respond with the password when prompted, the BAC shall move on to the next bid, if there is any. If there are no other bids to be considered, the Secretariat shall ask again for the password and the bidder is given another five (5) minutes to respond. Should the bidder fail to respond within the allotted time, the submitted bid or specific document will no longer be considered.

Under no circumstances should the bidder disclose the passwords BEFORE being prompted to do so on the scheduled bid opening

Only **three (3) attempts** are given to disclose the password per Zip folder or PDF file to open the documents. Should the bidder fail to provide the correct password after the third attempt, the submitted bids shall **NOT** be accepted during the bid opening.

b. 2nd Zip Folder

Except in cases of procurement of Consulting Service, immediately after determining compliance with the requirements in the first envelope, the BAC shall open the second bid envelope of each remaining eligible and technically complying bidder whose submitted technical bid including eligibility requirements were rated “passed.”

The bidder will be prompted to disclose the password for the 2nd Zip folder containing the Financial Component. The Bid Opener shall access the 2nd Zip folder and shall check the hash value of the said file and compare it to the hash value recorded in the excel file previously submitted by the Bidder together with their Bidding Documents. If both hash values are the same, the Bid Opener upon confirming that the files were not altered will proceed to open the Zip folder with the password provided and extract the files contained in the Zip folder. Subsequently the BAC shall prompt for the passwords of the PDF documents contained therein, and the files will be accessed in the same manner as the procedure described for the 1st Zip Folder.

Under no circumstances should the bidder disclose the passwords BEFORE being declared eligible and technically complying bidder based on the evaluation of the technical bid including eligibility requirements and before being prompted to do so.

Only **three (3) attempts** are given to disclose your password per Zip folder and PDF files to open the documents. Should the bidder fail to provide the correct password after the third attempt, the submitted bids shall **NOT** be accepted during the bid opening.

The BAC Secretariat shall take and print a screenshot of such inquiries and responses to form part of the records and all incidents should be recorded in the minutes.

c. Saving a Copy

The Bid Opener shall save the bid files received in the bidder's designated file folder in BAC's One Drive as copy.

III. Submission of Original Physical Copy

The Single/Lowest Calculated Bidder or the Single/Highest Rated Bidder in case of procurement for Consulting Services is required to submit one (1) physical copy of the original bidding documents for the conduct of post-qualification.



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ANNEX A

How to Use 7-Zip to Encrypt Files and Folders

7-Zip is an open source software used to compress or zip files secured with encryption.

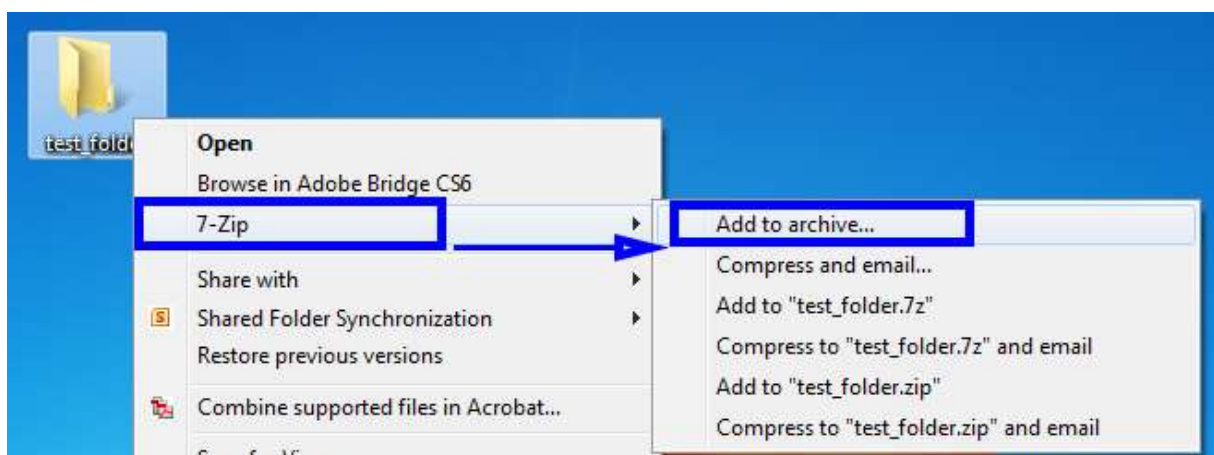
When you send or transfer files that contain Personal Identifiable Information (PII) or other confidential and sensitive data, the files must be encrypted to ensure they are protected from unauthorized disclosure.

7-Zip, like WinZip, creates a container called archive that holds the files to be protected. That archive can be encrypted and protected with a password. 7-Zip is a free software that creates Zip files that can be opened with WinZip or other similar programs.

To obtain a copy of 7-Zip, please see <http://www.7-zip.org/> and select the appropriate Download link. Once the software is installed, please follow these steps to encrypt a file or folder.

Step 1: Right click on the file / folder to be encrypted.

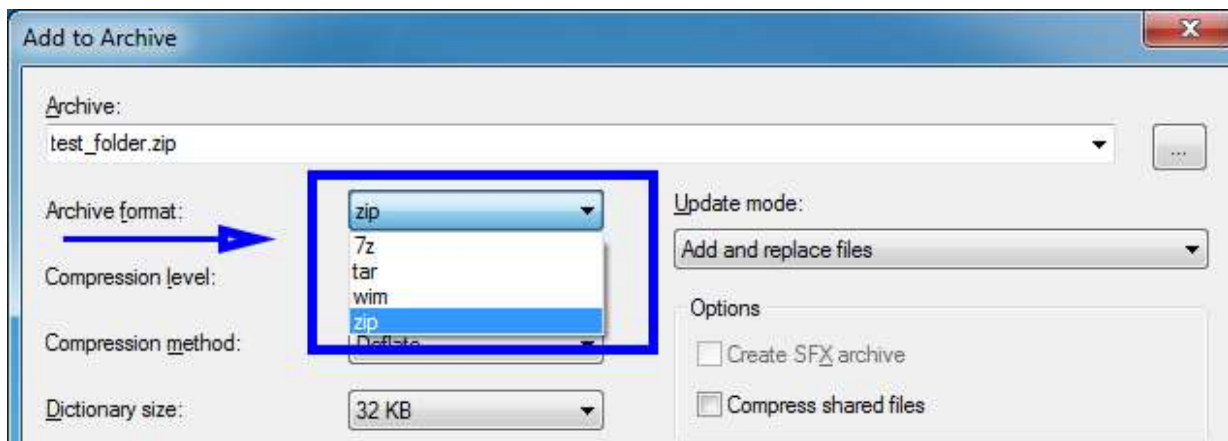
Step 2: Select “7-Zip” then “Add to archive...”



Step 3: In the Add to Archive window change the name of the archive you wish to create.



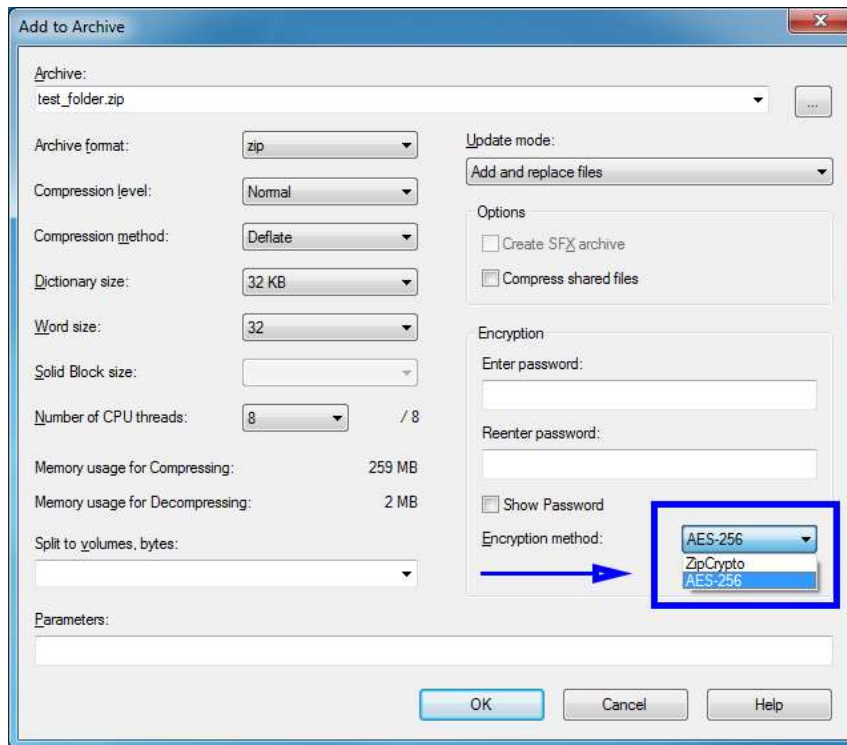
Step 4: Change the Archive format to “Zip”.



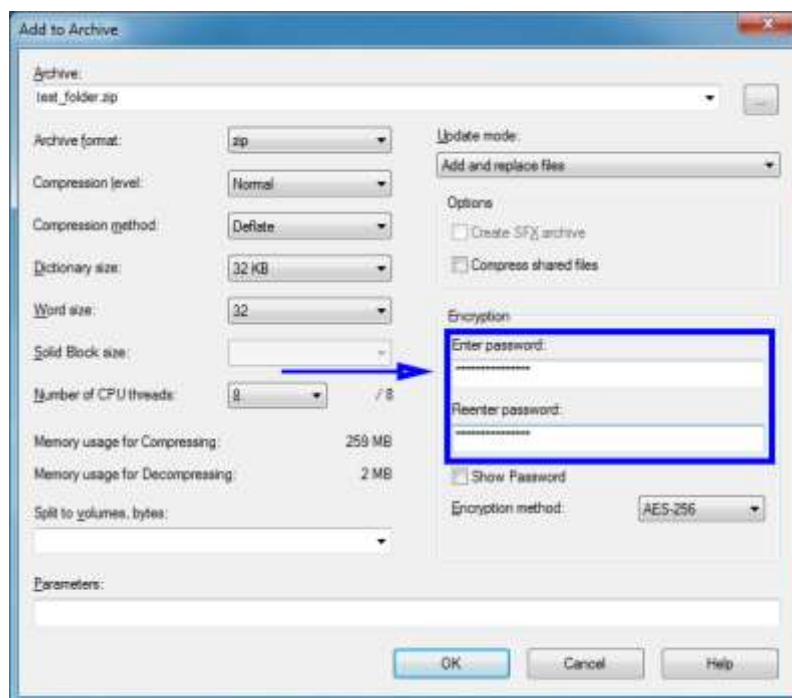
Step 5: Change the Encryption Method to “AES-256”.

There is a trade-off between using AES-256 and ZipCrypto. AES-256 is proven much more secure than ZipCrypto, but if you select AES-256 the recipient of the zip file may have to install 7-zip or another zip program to read the file contents. Selecting ZipCrypto may allow users to open the zip file in Windows without a zip program, but it does not provide adequate protection against attackers with modern cracking tools.

It is strongly recommended to use AES-256 to protect sensitive and confidential data.



Step 6: Enter a Password. Use a strong password with at least 8 characters containing upper and lowercase letters, and a minimum of one number.



Step 7: Select "Ok" to create the encrypted archive file. The new archive file will be located in the same folder as the original.



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ANNEX B

How to Generate SHA-256 Hash Values for .ZIP Archives

In Windows,

1. To open the Command window, hold down the Windows key and then press R on the keyboard.

Visit the link for other ways to open command prompt window:

<https://www.digitalcitizen.life/run-window-windows-7-why-use-it-anymore/>



Figure 1. Keyboard with Windows Key button

2. The Run window will be displayed on the lower left corner of the screen.
3. Type **cmd** in the text box.

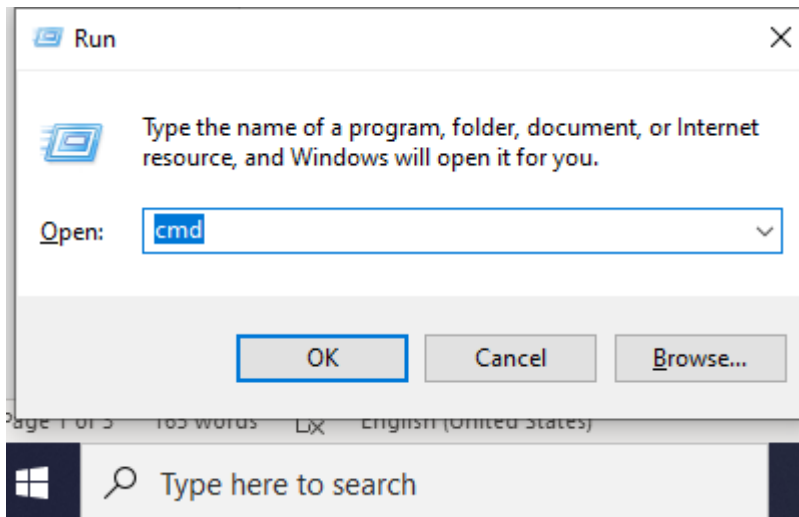


Figure 2. Run window

4. The Command prompt window will be displayed.

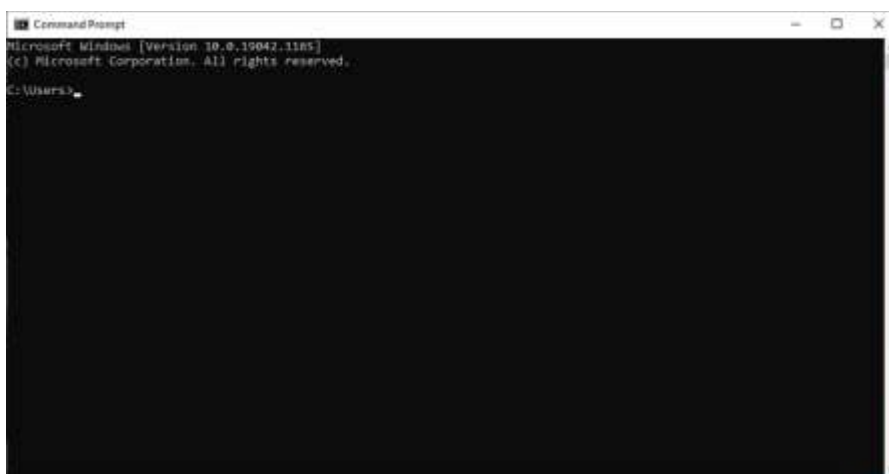


Figure 3. Command prompt window

5. Type the following in the Microsoft Windows Command Prompt:

certutil -hashfile <PATH-TO-FILENAME> <SHA256>

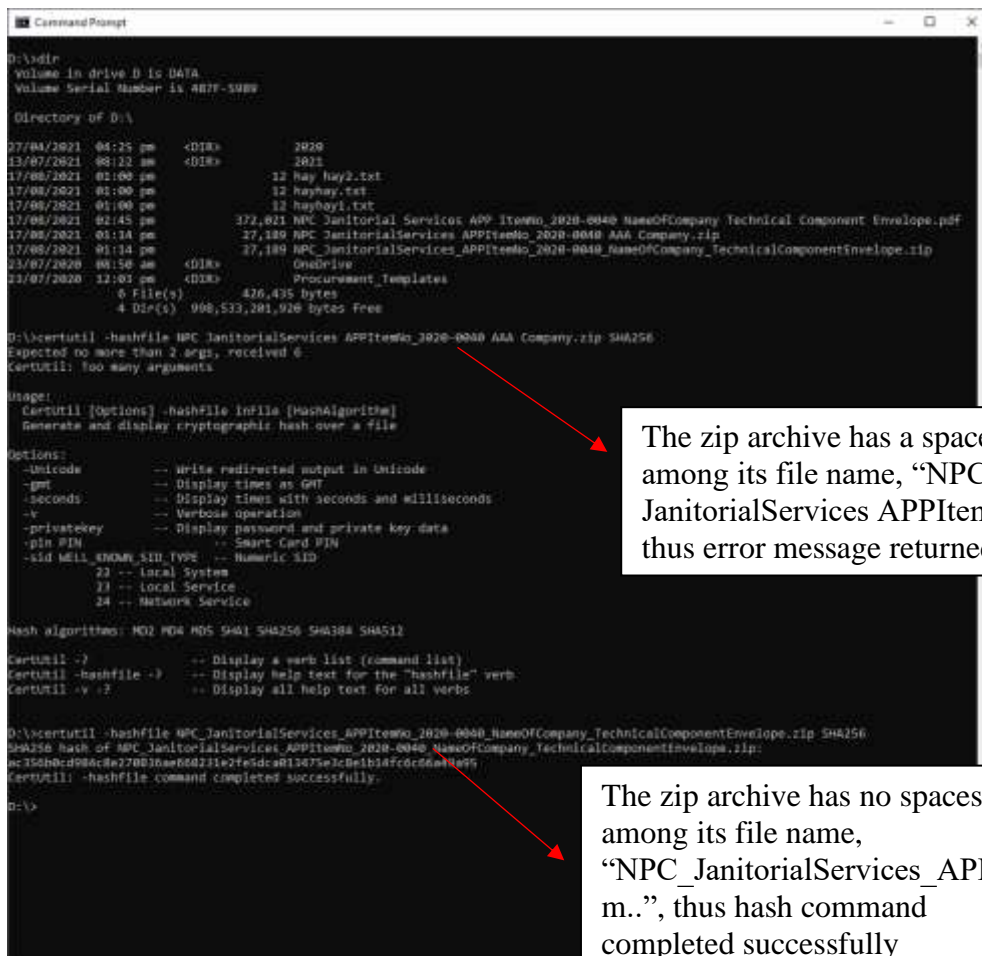
Example: **certutil -hashfile NPC_JanitorialServices_APPItemNo_2020-0040_NameOfCompany_TechnicalComponentEnvelope.zip SHA256**



Hash Value you need to copy

Figure 4. Hashfile command in Command Prompt

Note: Avoid putting spaces among the file name of the final zip archive, as this may cause problems (windows recognizes spaces as another directory), see Figure 5.

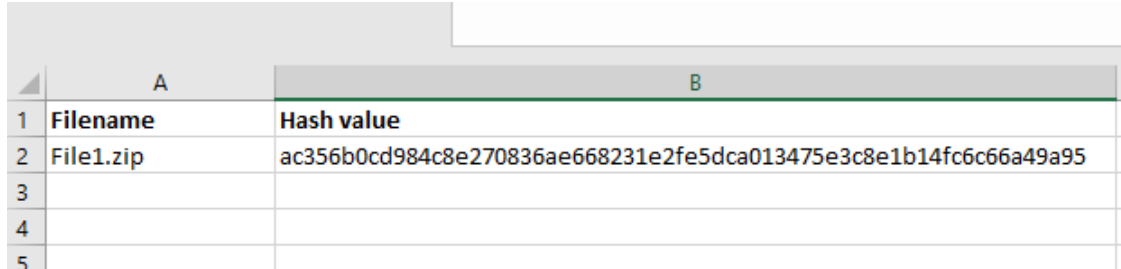


The zip archive has a space among its file name, "NPC JanitorialServices APPItem.." thus error message returned

The zip archive has no spaces among its file name, "NPC_JanitorialServices_APPItem..", thus hash command completed successfully

Figure 5. Error due to archive file name spaces

6. Copy and paste the hash value generated and save in an excel spreadsheet. See Figure 6.



	A	B
1	Filename	Hash value
2	File1.zip	ac356b0cd984c8e270836ae668231e2fe5dca013475e3c8e1b14fc6c66a49a95
3		
4		
5		

Figure 6. Filename and hash value in excel spreadsheet

In Mac OS,

1. To open the terminal window, please open the link below:
<https://support.apple.com/en-ph/guide/terminal/apd5265185d-f365-44cb-8b09-71a064a42125/mac>

2. Type the following in the Terminal command line:

openssl sha256 <PATH-TO-FILE>

Example: openssl sha256 File1.zip



```
user@user-mbp Desktop % openssl sha256 File1.zip
SHA256(File1.zip)= ac356b0cd984c8e270836ae668231e2fe5dca013475e3c8e1b14fc6c66a49a95
user@user-mbp Desktop %
```

Figure 7. Mac OS terminal screenshot

3. Copy and paste the hash value generated and save in an excel spreadsheet, see figure 6 above.



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ANNEX C

How to Scan for Virus, Malware or Other Malicious Threats

Step 1. Use virus scanner software or program.

Step 2. Scan the Zip folders and PDF files based on the instructions provided by the scanner used.

Step 3. Take a screenshot of the scan results and make sure to capture the date and time of scan, which must be prior to the date and time the documents will be e-mailed to the BAC-Secretariat.

Protection for your device against threats.

 **Current threats**

No current threats.

Last scan: 09/08/2021 1:47 pm (quick scan)

0 threats found.

Scan lasted 1 minutes 7 seconds

18856 files scanned.

Quick scan

Step 4. Rename the capture proof of scan according to the instructions and e-mail together with the bidding documents to the BAC Secretariat.