



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

MAY 08 2013

DEPARTMENT ORDER)
No. **46**)
Series of 2013 *or .08.13*)
SUBJECT: **POSTING OF THE BIDDING DOCUMENTS/REQUESTS FOR PROPOSALS (RFP) IN THE PhilGEPS AND DPWH WEBSITES**

Pursuant to the provisions of Section 17.5 of the Revised Implementing Rules and Regulations (IRR) of RA 9184, all Implementing Offices are required to submit to the Central Procurement Office (CPO) in case of centrally procured projects for posting/uploading in the PhilGEPS and DPWH websites, the Bidding Documents as prescribed in Section 17.1 of the Revised IRR of R.A. 9184 or Requests for Proposals (RFP)(Consultancy Services), as provided under Section 25 of the Revised IRR at least three (3) working days before the date of advertisement of Invitations to Bid(Civil Works) or date of issuance of RFP (Consultancy Services), maximum of 3MB in pdf format per file.

For regional and district projects, the respective Regional Offices (ROs) and District Engineering Offices (DEOs) are responsible for the required posting/uploading.

In case of DEOs not yet connected to the DPWH Wide Area Network (WAN), their bidding documents shall be submitted to their respective ROs for posting/uploading.

To ensure transparent and competitive bidding, no bidding shall be conducted unless the abovementioned requirements on posting are sufficiently carried out.

A District Engineering Office/Regional Office/Project Management Office/Implementing Office that conducts bidding without the required documents posted on the PhilGEPS and DPWH websites will be subject to the following administrative sanctions:

- 1st Offense : Reprimand
- 2nd Offense : Suspension for one (1) day to thirty (30) days
- 3rd Offense : Dismissal

This Order takes effect immediately and amends previous issuances inconsistent herewith.


ROGELIO L. SINGSON
Secretary



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

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

The procuring entity may grant payment of honoraria to the BAC members in an amount not to exceed twenty five percent (25%) of their respective basic monthly salary subject to availability of funds. For this purpose, the DBM shall promulgate the necessary guidelines.⁵ The procuring entity may also grant payment of honoraria to the BAC Secretariat and the TWG members, subject to the relevant rules of the DBM.^(a)

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

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

RULE VI - PREPARATION OF BIDDING DOCUMENTS

Section 17. Form and Contents of Bidding Documents

- 17.1. The Bidding Documents shall be prepared by the procuring entity following the standard forms and manuals prescribed by the GPPB. The Bidding Documents shall include the following:
- a) Approved Budget for the Contract;
 - b) Invitation to Bid/Request for Expression of Interest;
 - c) Eligibility Requirements;
 - d) Instructions to Bidders, including scope of bid, documents comprising the bid, criteria for eligibility, bid evaluation methodology/criteria in accordance with the Act, and post-qualification, as well as the date, time and place of the pre-bid conference (where applicable), submission of bids and opening of bids;
 - e) Terms of Reference (TOR), for consulting services;
 - f) Scope of work, where applicable;
 - g) Plans/Drawings and Technical Specifications;
 - h) Form of Bid, Price Form, and List of Goods or Bill of Quantities;
 - i) Delivery Time or Completion Schedule;
 - j) Form, Amount, and Validity Period of Bid Security;

⁵ Refer to Appendix 23 on the Guidelines on the Grant of Honoraria to Government Personnel Involved in Government Procurement.

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k) Form, Amount, and Validity of Performance Security and Warranty; and

l) Form of Contract and General and Special Conditions of Contract.^(a)

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

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

a) For the procurement of goods and infrastructure projects, from the time the Invitation to Bid is first advertised until the deadline for the submission and receipt of bids.

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

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

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

17.6. *Detailed Engineering for the Procurement of Infrastructure Projects*

No bidding and award of contract for infrastructure projects shall be made unless the detailed engineering investigations, surveys and designs, including the acquisition of the ROW, for the project have been sufficiently carried out and duly approved in accordance with the standards and specifications prescribed by the Head of the Procuring Entity concerned or his duly authorized representative, and in accordance with the provisions of Annex "A" of this IRR.

The exception is design and build scheme, wherein the bidders shall be allowed to submit its detailed engineering designs as part of its bid. The procedures for the procurement and contract implementation of infrastructure projects using a design and build scheme shall be in accordance with the provisions of Annex "G" of this IRR.^(a)

Section 18. Reference to Brand Names

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

^a Refer to Appendix 25 for the Guidelines on the Sale of Bidding Documents.

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24.4.3.1. The registry system shall contain the foregoing Class "A" documents which should be maintained current and updated by the bidder concerned at least once a year or more frequently when needed.^(a)

24.4.3.2. A bidder who maintains a current and updated file of his Class "A" Documents shall be issued a certification by the BAC to that effect, which certification may be submitted to the procuring entity concerned in lieu of the foregoing Class "A" documents.^(a)

24.4.3.3. If the procuring entity maintains a registry system using the PhilGEPS or its own electronic system, a prospective bidder, whether or not duly registered in either system, shall submit a written letter of intent and/or its application for eligibility and latest Class "A" documents, to the BAC on or before the deadline specified in the Bidding Documents which shall in no case be later than the date for the submission and receipt of bids. Any application for eligibility or updates submitted after the deadline for the submission of the letter of intent shall not be considered for the bidding at hand.^(a)

24.5. Short Listing of Prospective Bidders

24.5.1. With respect to a particular contract for consulting services to be bid, the concerned procuring entity shall only consider for short listing those consultants whose contracts, as identified in the eligibility documents submitted for registration, are similar in nature and complexity to the contract to be bid, based on the Request for Expression of Interest.

24.5.2. The BAC shall draw up the short list of consultants from those who have been determined as eligible in accordance with the provisions of this IRR. The number of short listed consultants, which shall be determined in the pre-procurement conference, shall consist of three (3) to seven (7) consultants, with five (5) as the preferable number. 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.¹⁴

24.5.3. The BAC shall specify in the Request for Expression of Interest the set of criteria and rating system for short listing of consultants to be used for the particular contract to be bid, which shall consider the following, among others:

- a) Applicable experience of the consultant and members in case of joint ventures, considering both the overall experiences of the firm or, in the case of new firms, the individual experiences of the principal and key staff, including the times when employed by other consultants;
- b) Qualification of personnel who may be assigned to the job vis-à-vis extent and complexity of the undertaking; and
- c) Current workload relative to capacity.^(a)

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24.5.4. The BAC shall recommend the short list of consultants to the Head of the Procuring Entity for consideration and approval. The entire process of eligibility check and short listing shall not exceed twenty (20) calendar days.

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

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

Section 25. Submission and Receipt of Bids

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

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

a) For the procurement of goods:

- i) Eligibility requirements under Section 23.1 of this IRR;
- ii) The bid security in the prescribed form, amount and validity period;
- iii) Technical specifications, which may include production/delivery schedule, manpower requirements, and/or after-sales service/parts, if applicable; and
- iv) Sworn statement by the prospective bidder or its duly authorized representative in the form prescribed by the GPPB as to the following:
 - (1) 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;

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- (2) 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;
 - (3) It is authorizing the Head of the Procuring Entity or his duly authorized representative/s to verify all the documents submitted;
 - (4) The signatory is the duly authorized representative of the prospective bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the prospective bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the prospective bidder is a corporation, partnership, cooperative, or joint venture;
 - (5) It complies with the disclosure provision under Section 47 of the Act in relation to other provisions of R.A. 3019;
 - (6) It complies with the responsibilities of a prospective or eligible bidder provided in the PBDs; and
 - (7) It complies with existing labor laws and standards, in the case of procurement of services.^(a)
- b) For the procurement of infrastructure projects:
- i) Eligibility requirements under Section 23.1¹⁵ of this IRR;
 - ii) Bid security in the prescribed form, amount and validity period;
 - iii) Project Requirements, which shall include the following:
 - (1) Organizational chart for the contract to be bid;
 - (2) List of contractor's personnel (*viz.* Project Manager, Project Engineers, Materials Engineers, and Foremen), to be assigned to the contract to be bid, with their complete qualification and experience data;
 - (3) List of contractor's equipment units, which are owned, leased, and/or under purchase agreements, supported by certification of availability of equipment from the equipment lessor/vendor for the duration of the project; and
 - iv) Sworn statement by the prospective bidder or its duly authorized representative in the form prescribed by the GPPB as to the following:
 - (1) 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;

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- (2) 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;
 - (3) It is authorizing the Head of the Procuring Entity or his duly authorized representative/s to verify all the documents submitted;
 - (4) The signatory is the duly authorized representative of the prospective bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the prospective bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the prospective bidder is a corporation, partnership or joint venture;
 - (5) It complies with the disclosure provision under Section 47 of the Act in relation to other provisions of R.A. 3019;
 - (6) It complies with the responsibilities of a prospective or eligible bidder provided in the PBDs; and
 - (7) It complies with existing labor laws and standards.^(a)
- c) For the procurement of consulting services:
- i) The bid security in the prescribed form, amount and validity period;
 - ii) Organizational chart for the contract to be bid;
 - iii) List of completed and on-going projects;
 - iv) Approach, work plan, and schedule: *Provided, however,* That for architectural design, submission of architectural plans and designs shall not be required during the consultant's selection process;
 - v) List of key personnel to be assigned to the contract to be bid, with their complete qualification and experience data; and
 - vi) Sworn statement by the prospective bidder or its duly authorized representative in the form prescribed by the GPPB as to the following:
 - (1) It is not "blacklisted" or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, foreign government/foreign or international financing institution, whose blacklisting rules have been recognized by the GPPB;
 - (2) 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;
 - (3) It is authorizing the Head of the Procuring Entity or his duly authorized representative/s to verify all the documents submitted;

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- (4) The signatory is the duly authorized and designated representative of the prospective bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the prospective bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the prospective bidder is a corporation, partnership or joint venture;
- (5) It complies with the disclosure provision under Section 47 of the Act in relation to other provisions of R.A. 3019;
- (6) It complies with the responsibilities of a prospective or eligible bidder provided in the PBDs; and
- (7) It complies with existing labor laws and standards.^(a)

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

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

- a) For Goods, a maximum period of forty-five (45) calendar days.
- b) For infrastructure projects, the following maximum periods:

Approved Budget for the Contract (in Philippine currency)	Period
Fifty (50) million and below	50 calendar days
Above fifty (50) million	65 calendar days

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

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

Section 26. Modification and Withdrawal of Bids

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

26.2. A bidder may, through a letter, withdraw its bid before the deadline for the receipt of bids. Withdrawal of bids after the applicable deadline shall be subject to appropriate sanctions as prescribed in this IRR. A bidder may also express its intention not to participate in the bidding through a letter which should reach and be stamped

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withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.

Section 27. Bid Security

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

27.2. The bid security shall be in an amount equal to a percentage of the ABC in accordance with the following schedule:

Form of Bid Security	Amount of Bid Security (Equal to Percentage of the ABC)
a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank. ¹⁶	Two percent (2%)
b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank. ¹⁷	
c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Five percent (5%)
d) Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security

For biddings conducted by LGUs, the prospective bidder may also submit bid securities in the form of cashier's/manager's check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the BSP as authorized to issue such financial instrument.^(a)

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

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