

VOLUME III

**DPWH MANUAL OF
PROCEDURES FOR THE
PROCUREMENT OF
LOCALLY-FUNDED
INFRASTRUCTURE PROJECTS
THROUGH PUBLIC BIDDING**

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SECTION 1

INTRODUCTION

1.1 ACRONYMS AND ABBREVIATIONS

ABC	Approved Budget for the Contract
ABM	Agency Budget Matrix
APP	Annual Procurement Plan
ARCC	Allowable Range of Contract Cost
BAC	Bids and Awards Committee
BDs	Bidding Documents
BDS	Bid Data Sheet
BER	Bid Evaluation Report
BIR	Bureau of Internal Revenue
BOQ	Bill of Quantities
BS	Bid Security
CAF	Certificate of Availability of Funds
CARI	Contractor's All-Risk Insurance
CCASR	Contractor's Confidential Application Statement for Registration
cd	calendar days
CO	Central Office, DPWH
CP	Contract Profile for Eligibility Processing
CRC	Contractor's Registration Certificate
DBM	Department of Budget and Management
DO	District (Engineering) Office, DPWH
D.O.	Department Order of the DPWH
DOLE	Department of Labor and Employment
DPWH	Department of Public Works and Highways
DTI	Department of Trade and Industry
E.O.	Executive Order
GAA	General Appropriations Act
GCC	General Conditions of Contract
G-EPS	Government Electronic Procurement System
GPPB	Government Procurement Policy Board
HOPE	Head of Procuring Entity
IAEB	Invitation to Apply for Eligibility and to Bid
IRR-A	Implementing Rules and Regulations Part A of R.A. 9184
ITB	Instruction to Bidders
IU	Implementing Unit
JVA	Joint Venture Agreement
LCB	Lowest Calculated Bid
LOI	Letter of Intent for Eligibility

MIS	Monitoring and Information Service, DPWH
NEDA	National Economic and Development Authority
NFCC	Net Financial Contracting Capacity
NOA	Notice of Award
NOBR	Notification of Bidding Results
NPD	Notice of Postdisqualification
NPQ	Notice of Postqualification
NTP	Notice to Proceed
OS	Obligation Slip
PAGASA	Philippine Atmospheric, Geophysical and Astronomical Services Administration
PBC	Pre-Bid Conference
PCAB	Philippine Contractors Accreditation Board
PE	Procuring Entity
PERT/CPM	Program Evaluation and Review Technique/Critical Path Method
PMO	Project Management Office
PPC	Pre-Procurement Conference
PPMP	Project Procurement Management Plan
PQR	Postqualification Report
PS	Performance Security
R.A.	Republic Act
R.A. 9184	Republic Act No. 9184, otherwise known as the "Government Procurement Reform Act of 2003"
RO	Regional Office, DPWH
ROW	Right-of-Way
SARO	Special Allotment Release Order
SBDs	Standard Bidding Documents of the DPWH
SCC	Special Conditions of Contract
Sec	Secretariat of the Bids and Awards Committee
TIN	Tax Identification Number
TWG	Technical Working Group of the Bids and Awards Committee

1.2 SCOPE OF VOLUME III OF THE MANUAL

Volume III of the DPWH Procurement Manual (DPM) seeks to provide its users clear, concise, and accurate information on the process for the procurement by the Department of Public Works and Highways (DPWH), through public bidding, of locally-funded infrastructure projects, in the manner prescribed by Republic Act (R.A.) No. 9184, otherwise known as the Government Procurement Reform Act, and its Implementing Rules and Regulations Part A (IRR-A).

This Volume covers all stages of infrastructure procurement, from procurement planning and issuance of the Invitation to Apply for Eligibility and to Bid, through the actual bidding activities, up to the issuance of the Notice to Proceed to the winning contractor. For each procurement stage or step, Volume III lays down (a) the Legal Reference, (b) the Policies and Guidelines to be followed, and (c) the Procedure to be observed through a matrix of the detailed activities, responsible performers, time frames, and specific rules.

Volume III of the DPM shall be used together with its integral parts, viz., the Standard Forms (Annex "A") and Standard Bidding Documents or SBDs (Annex "B").

The provisions of Volume III shall apply to (a) projects under the mandate of and, thus, directly financed, procured and implemented by the DPWH, e.g., national highways and flood control projects, and (b) projects funded by other departments/agencies but procured and implemented by the DPWH in accordance with the provisions of law or inter-agency agreements. The latter includes, among others, road maintenance projects financed from the Motor Vehicle User's Charges administered by the Road Board (under R.A. 8794), school building projects under the Department of Education budget, farm-to-market road projects funded by the Department of Agriculture and the Department of Agrarian Reform, and building projects of non-infrastructure agencies.

1.3 DEFINITION OF TERMS

DPWH infrastructure projects are undertakings to construct, improve, rehabilitate, demolish, repair, restore, or maintain roads and bridges, flood control and drainage, shore protection, water supply, school buildings, other public buildings, civil works components of information technology projects, and other related construction projects of the government. Under R.A. 9184 and its IRR-A, the term "infrastructure projects" has the same meaning as and is used interchangeably with the term "civil works" or "works" (**IRR-A Section 5 [n]**).

In addition, the following terms are used as indicated:

- a. The bidder will be referred to differently at different stages of the procurement process, as follows:
 - (1) "Prospective bidder," from the posting of the Invitation to Apply for Eligibility and to Bid to the receipt and processing of its Letter of Intent;
 - (2) "Eligible Bidder," if it passes the eligibility check or screening;
 - (3) "Bidder with the Lowest Calculated Bid," if determined as such by the Bids and Awards Committee concerned after the evaluation of bids;
 - (4) "Bidder with the Lowest Calculated Responsive Bid," if determined as such by the BAC after postqualification; and
 - (5) "Contractor," after the approval of the Contract.
- b. The term "bid" will be used instead of "proposal" or "offer."
- c. "Eligibility Check" and "Eligibility Screening" will be used interchangeably.
- d. The Technical Envelope contains the "Technical Proposal" component of the bid.
- e. The Financial Envelope contains the "Financial Proposal" component of the bid.

SECTION 2

PREPARING FOR PROCUREMENT

2.1 PREPARING FOR THE PROCUREMENT OF INFRASTRUCTURE PROJECTS

While Volume I of the DPM contains an extensive discussion of Procurement Planning as a general concern for all kinds of government procurement, this Section of Volume III focuses mainly on procurement concerns particular to locally-funded infrastructure projects. As such, the reader is advised to refer to the pertinent discussions in Volume I before and during the reading of this Section.

Preparing makes for higher efficiency and efficacy. It enables the procurement officials concerned to anticipate the onset of events and, as a consequence, better calibrate their response to them. Having a better appreciation of forthcoming events gives these officials the opportunity to test a range of possible courses of action, choose the best and most feasible of these, and identify measures to put them into action. Ultimately, it will enable the procuring officials to determine the best manner by which these measures are to be implemented, ensuring that their individual and collective impacts are optimized at the least cost.

Preparing for procurement basically involves three activities: (a) procurement planning, (b) preparation of the Bidding Documents, and (c) conduct of the Pre-Procurement Conference.

2.2 **PROCUREMENT PLANNING**

2.2.1 **LEGAL REFERENCE**

Sections 7 and 17.6 and Annex "A" of IRR-A provide the rules in relation to Procurement Planning and Detailed Engineering.

2.2.2 **POLICIES AND GUIDELINES**

2.2.2.1 **Purpose and Scope of Procurement Planning**

The purpose of procurement planning is for the Procuring Entity to schedule its procurement activities in advance, consistent with its approved budget and target dates of implementation.

Procurement planning entails ensuring that detailed engineering investigations and design are undertaken, plans for procurement are linked to budgets, preparing the Project Management and Procurement Plan (PPMP) and consolidating all PPMPs into the Annual Procurement Plan (APP). Formulating the PPMP involves defining the scope of work, Approved Budget for the Contract (ABC), and implementation schedule; determining if the prerequisites for procurement in terms of funding, engineering, technical documents, and project site are met; determining the method of procurement; and identifying the milestone activities.

The DPWH Procuring Entity (Central Office or CO/Regional Office or RO/District Office or DO) shall use **Form DPWH-INFR-02** in presenting the PPMP for each contract to be bid. It shall use **Form DPWH-INFR-03** in presenting the APP which consolidates all PPMPs.

2.2.2.2 **Detailed Engineering as Prerequisite to Bidding**

The Procuring Entity shall initiate procurement only after the detailed engineering for the project, including technical investigations, surveys and designs, and acquisition of the right-of-way (ROW), has been sufficiently carried out. The detailed engineering must be undertaken in accordance with the standards and specifications prescribed by the Secretary of the DPWH or his duly authorized representative, and in accordance with the provisions of Annex "A" of IRR-A. The only exceptions to this are design-and-build schemes wherein bidders are allowed to submit detailed engineering designs as part of their bids (**IRR-A Section 17.6**).

2.2.2.3 **Scope of Detailed Engineering**

Detailed engineering shall include the following activities:

- a. **Setting of Design Standards** – Design standards shall be based on (1 the DPWH Design Guidelines, Criteria and Standards (Orange Book), (2) American Association of the State Highway and Transportation Officials (AASHTO) Standard Specifications for Highways and Bridges, latest edition, (3) American Concrete Institute (ACI) Standards, latest edition, (4) Technical Standards and Guidelines for Planning and Design of Flood Control and Sabo Works, Volumes I and II, March 2002, by the Flood Control and Sabo Engineering Center, DPWH, and (5) National Structure Code of the Philippines, 4th Edition, Volume II, among others.
- b. **Conduct of Field Surveys and Investigations** – Necessary field surveys and investigations, which may include aerial, topographic, hydrographic, hydrologic, geological, soils and materials, parcellary and other surveys, shall be carried out

in accordance with the guidelines, criteria and standards adopted by the DPWH as cited in item a above. All survey and investigation works shall be done so as to provide input data for the design and production of plans that will permit quantity estimates to be made within plus or minus ten percent (10%) of the final quantities of the completed structure.

- c. Conduct of Design Analyses, and Preparation of Design Plans and Design Report – These shall conform to DPWH design guidelines, criteria and standards cited in item a above.
- d. Preparation of Contract Plans – Plans shall be prepared for each construction contract in accordance with guidelines and standards adopted by the DPWH, as cited in item a above, incorporating at least the following:
 - (1) Site development plan
 - (2) Plans and profile sheet
 - (3) Typical sections and details
 - (4) Structural plans at appropriate scales indicating all details necessary in order that the complete structure can be set out and constructed
- e. Preparation of Technical Specifications – These shall adopt the 1995/2004 DPWH Standard Specifications for Public Works and Highways (Blue Book). Supplemental Specifications shall be prepared for specific items of work or methods of construction, measurement and payment, which are not covered by or will modify the DPWH Standard Specifications.
- f. Preparation of Quantity Estimates – All construction quantities shall be estimated with a degree of accuracy of not more than plus or minus ten percent (10%) of the final quantities of the built structure.
- g. Preparation of Cost Estimates and Approved Budget for the Contract – Unit prices for the different work items shall be prepared for each contract using costs based on current market prices as projected over the proposed construction period, divided into local and foreign exchange costs, as the case may be. The Approved Budget for the Contract (ABC) shall be prepared by the official duly designated by the Head of the Procuring Entity. The ABC shall be approved by the Head of the Procuring Entity or his duly designated official. The ABC is further discussed in the succeeding parts of this Manual.
- h. Preparation of Program of Work including Schedule – The program of work must include estimates of the work items, quantities and costs, the general methods, arrangements, order and timing of the project activities, including a Program Evaluation Review Technique/ Critical Path method (PERT/CPM) diagram and bar chart with S-curve. The program of work must cover at least a usable portion of the project.
- i. Determination of Contract Packages. The number and sizes of the contracts into which the project is to be packaged depend on the kind, complexity, magnitude, cost and timetable of the project. A large infrastructure project, say, costing P100 million or more may, where feasible, be packaged into smaller contracts covering separate sections or work components, provided that the technical integrity of the structure is not impaired, and that the contracts are within the capabilities of Filipino contractors. This is in line with the objective of Executive Order (E.O.) 278, series of 2004. There shall be no splitting of contracts,

however, as defined in E.O. 109-A for the purpose of circumventing the provisions of law and existing rules and regulations.

- j. Preparation of Site or Right-of-Way (ROW) Plans, Schedule of Acquisition and Resettlement Action Plans – This shall be based on parcellary surveys and socio-economic surveys on households affected by the project.
- k. Preparation of Utilities Relocation Plan – As necessary, these shall include electric, water, sewerage, telephone, drainage, and other utilities that will be affected by the project.
- l. Preparation of Environmental Impact Statement – This shall be done for a critical project or a project in a critical area, as defined by the Department of Environment and Natural Resources.
- m. Preparation of Minimum Requirements for a Construction Safety and Health Program – These shall conform to the standards of the Department of Labor and Employment (DOLE).
- n. Conduct of Value Engineering Studies – Value engineering shall be undertaken for all projects costing P15 million or more. Value engineering shall analyze alternative schemes of achieving the project objectives in order to delete or reduce the non-essential features and lessen life cycle costs of the project without sacrificing the quality and integrity of the structure, while attaining its essential function, performance, and safety.
- o. Contract Time or Duration – The proposed contract time in calendar days shall be calculated by first estimating the number of working days required to complete the works through a PERT/CPM analysis of the project activities. Then, added to this will be (1) the non-working days (Sundays and holidays) and (2) the estimated number of rainy/unworkable days considered unfavorable for implementing the works at the site, based on the records of the PAGASA. Item (2) shall be made known before the date of bidding through the Instructions to Bidders (ITB) for the purpose of guiding both the government and winning contractor in taking action on requests for time extensions.
- p. Warranty Period – This shall be specified from two (2) to fifteen (15) years, depending upon the type of project in accordance with the provisions of the IRR-A of R.A. 9184.
- q. Preparation of Bidding Documents – This is discussed in Section 2.3, Volume III of this Manual.

The above rules shall apply to the implementation of infrastructure projects under normal or ordinary conditions. Under emergency or extraordinary cases involving major calamities and disasters as declared by the President of the Philippines, where time is of the essence to save lives and properties and restore damaged infrastructures, however, detailed engineering may be conducted in accordance with the guidelines and procedures prescribed by the DPWH Secretary and approved by the Infrastructure Committee of the National Economic and Development Authority (NEDA) Board. This will enable quick response in such cases, while maintaining the safety and integrity of the structure.

The DPWH shall implement, at the Central, Regional, and District Offices, a system for the review and assurance of the quality of detailed engineering outputs to ensure that they conform to the prescribed design standards and will allow estimates of quantities to be made within plus or minus ten percent (10%) of the final values of the completed structure. The survey and design data of structural components that are prone to

significant overstatement and variation, such as earthworks and base course, shall be especially scrutinized to assure the integrity of the design and estimates.

2.2.2.4 Definition of Approved Budget for the Contract (ABC)

The ABC is the budget for the contract duly approved by the Head of the Procuring Entity, as included in the DPWH Budget reflected in the approved or proposed General Appropriations Act (GAA). The Procuring Entity shall use **Form SF-INFRR-01** in presenting the ABC.

2.2.2.5 Factors in Determining ABC

The Procuring Entity shall consider the following factors in determining the ABC:

- a. Complete and adequate detailed engineering which enable estimates of quantities to be made within plus or minus ten percent (10%) of the final value of the finished works.
- b. Compliance with the DPWH Standard Specifications for Public Works and Highways Projects, particularly Volume II for Highways, Bridges and Airports, 2004, and Volume III for Buildings, Flood Control and Drainage, and Water Supply, 1995.
- c. Use of appropriate construction methods.
- d. Use of applicable construction industry norms and practices, including minimum production rates of construction equipment and labor and components of direct and indirect costs.
- e. Use of identified feasible sources of construction materials.
- f. Use of market prices of component labor, materials and equipment and monitored as-built costs of contract work items.
- g. Reasonable risks and contingencies.
- h. Inclusion of all relevant and legitimate cost items to be incurred by the contractor.
- i. Compliance with Department Order (D.O.) No. 57, series of 2002, as amended, regarding the ABC.

The ABC must be based on the detailed engineering of the project which passes the quality assurance system for design of the Department and is duly approved by authorized officials (District Engineer/Regional Director/Secretary or Undersecretary).

The ABC shall consist of the following cost elements, based on D.O. No. 57, series of 2002, as amended.

- a. Direct Cost (DC)
 - (1) Cost of materials – cost at source (including processing), hauling, handling, storage, and allowance for waste/losses not exceeding 5% of the materials requirement.

- (2) Cost of labor – salaries/wages and fringe benefits in accordance with law and based on market rates in the locality, and considering the minimum production rate for labor set by the DPWH.
- (3) Cost of equipment – rental, mobilization/demobilization, considering minimum production rates for equipment set by the DPWH.

b. Indirect Cost (IC)

- (1) Overhead expenses – engineering and administrative supervision, transportation allowances, office expenses, and premiums on Comprehensive All-Risk Insurance (CARI) and Warranty Security, not exceeding five percent (5%) to ten percent (10%) of the Estimated Direct Cost (EDC), following the schedule of overhead, contingencies and miscellaneous (OCM) expenses for different costs, duration, and warranty periods set by the DPWH based on industry norms as embodied in a Department Order.
- (2) Contingencies – not exceeding five-tenths percent (0.5%) to two percent (2%) of the EDC, following the said schedule of OCM expenses.
- (3) Miscellaneous – laboratory tests, etc., not exceeding three-tenths percent (0.3%) to one percent (1%) of the EDC.
- (4) Profit per year – not exceeding $OCC(n+2)/12$ multiplied by the EDC, where OCC is the opportunity cost of capital in the Philippines in percent per annum as determined by the NEDA (presently fifteen percent or 15%), and n is the contract duration in months, provided that the profit shall be (a) at least one-half (1/2) of the OCC multiplied by the OCC and (b) at most two-thirds (2/3) of the OCC multiplied by the EDC.
- (5) Value Added Tax (VAT) – ten percent (10%) of (EDC + Estimated IC for items (1) to (4) above).

Since the contract cost is fixed, the estimated unit price for each work item must allow for the projected inflation and foreign exchange fluctuation during the implementation period, especially for construction with a duration of more than one year. The estimator shall refer to the NEDA for estimates of likely inflation rates and to the Bangko Sentral ng Pilipinas for estimates of probable foreign exchange fluctuation.

In preparing, reviewing, and approving the ABC, the Procuring Entity shall refer to the computerized DPWH database which monitors and posts (a) prices of component materials, labor, and equipment based on market prices in the project locality, and (b) prices of completed work items in place, e.g., base course, based on as-built costs for similar projects in the project locality.

2.3 PREPARING THE BIDDING DOCUMENTS

2.3.1 LEGAL REFERENCE

IRR-A Section 17 provides the rules in relation to the preparation of the Bidding Documents (BDs).

2.3.2 Policies and Guidelines

2.3.2.1 Purpose of Bidding Documents

The BDs are documents issued by the DPWH Procuring Entity to provide the prospective bidders all the necessary information that they need to prepare responsive bids (**IRR-A Section 5 [f]**). These should clearly and adequately define, among other things (**IRR-A Section 17.2**):

- a. the scope of work, approved budget, duration, and expected outputs of the proposed contract;
- b. the minimum legal, technical, and financial requirements that the bidder must meet to be eligible to bid;
- d. the documents and other requirements that the bidder must include in its bid; and
- e. the process and rules for the submission and receipt of bids, evaluation of bids, postqualification, and award of contract; and
- f. the terms and conditions of the contract between the winning bidder and the DPWH, including their prospective obligations;

2.3.2.2 Contents of Bidding Documents

The BDs for the specific contract to bid shall consist of the following:

Part I

Section I - Invitation to Apply for Eligibility and to Bid (IAEB)

Section II - Eligibility Requirements

Part II

Section I - Instructions to Bidders (ITB), including Documents comprising the Bid

Section II - Bid Data Sheet (BDS)

Section III - General Conditions of Contract (GCC)

Section IV - Special Conditions of Contract (SCC)

Section V - Specifications

Section VI - Drawings

Section VII - Bill of Quantities (BOQ)

Section VIII - Forms

For every contract to be bid, the Procuring Entity shall prepare the BDs by adopting, unchanged, the **Standard Bidding Documents (SBDs)** shown in Annex "B." The Procuring Entity, however, shall insert in the SBDs the information specific to the contract, particularly in the IAEB, BDS, SCC, Specifications, Drawings, and BOQ, in order to produce the complete BDs. The Central Bids and Awards Committee (BAC) shall post the SBDs in the DPWH website for easy reference of the Procuring Entities and bidders/contractors.

The specifications and other terms in the BDs shall reflect minimum requirements. A bidder may, therefore, be allowed to submit a superior offer. In the evaluation of the bids, however, no premium or bonus must be given as a result of this superior offer. (**IRR-A Section 17.4**).

2.3.2.3 Accountability for Bidding Documents

For each contract to be bid, the contract-specific information to be inserted in the SBDs to produce the BDs as stated in Section 2.3.2.2 above shall be prepared by the Technical working Group (TWG) in coordination with the Implementing Unit (IU) concerned (e.g., District Office or DO, Regional Office or RO, or Project Management Office or PMO), submitted by the BAC Secretariat, and approved by the BAC Chairman. The BAC Chairman shall submit to the Central BAC a soft copy of the said contract-specific information, together with a certification that this information has been approved by him.

The TWG with the IU shall be responsible for reviewing the said information as posted in the DPWH website and for preparing the necessary corrections and proposed Bid Bulletins and submitting these, through the BAC Secretariat, to the BAC Chairman for approval. The BAC Chairman shall transmit the approved corrections and Bid Bulletins to the website and issue them to the concerned bidders.

The TWG with the IU shall also prepare the changes in the BDs and Bid Bulletins that may result from the Pre-Procurement Conference, Pre-Bid Conference, and as the need arises. These shall also be submitted, through the BAC Secretariat, to the BAC Chairman for approval, posting in the website, and issuance as stated in the preceding paragraph.

2.3.2.4 Readiness of Bidding Documents

The Procuring Entity must complete the BDs in time for presentation at the Pre-Procurement Conference. After the Conference, and before the advertisement and/or posting of the IAEB, the BAC, with the assistance of the BAC Secretariat and the PMO/IU concerned, must finalize the BDs.

2.3.3 PROCEDURE (PREPARING THE BIDDING DOCUMENTS (BD))

Activity	Responsible Performer	Time Frame	Rules
1. Obtain the SBDs	BAC-Sec of Procuring Entity (PE)	½ cd	Use SBDs in Annex "B" as posted at DPWH website
2. Prepare the information specific to the contract to be bid, to be inserted into the SBDs format	IU to prepare the contract info, BAC-Sec to collate, BAC to approve	2 cd	- d o - .
a. <u>Invitation to Apply for Eligibility and to Bid (IAEB)</u> <ul style="list-style-type: none"> • Contract ID, name, location, brief description and major 			Sec. 3.2.2.3, Vol. III of DPM, and Sec. 1, Part I of SBDs

<p>work items</p> <ul style="list-style-type: none"> • ABC & source of funds • Contract duration • Deadline/time/place for Letter of Intent, issuance of BDs, receipt & opening of bids <p>b. <u>Bid Data Sheet (BDS)</u></p> <ul style="list-style-type: none"> • Contract ID & name • Funding source • Date & place of Pre-Bid Conference • ABC • Min. personnel experience reqts. • Min. eqpt. reqts. • Bid validity period • Bid Security validity period • Deadline & place for receipt of bids • Date, time & place of opening of bids <p>c. <u>Special Conditions of Contract (SCC)</u></p> <ul style="list-style-type: none"> • Intended completion date • Procuring Entity • Procuring Entity’s Representative • Site of Works • Start date of Works • Description of Works • Date of site delivery • Date of delivery of govt. materials • Key personnel • Site investigation reports • Warranty period • Deadline for Progress Reports vs PERT/CPM • Deadline for “as-built” Drawings <p>d. <u>Specifications</u></p> <p>e. <u>Drawings</u></p>			<p>Sec. II, Part II of SBDs</p> <p>Sec. IV, Part II of SBDs</p> <p>Sec. V, Part II of SBDs. Use DPWH Standard Specs for Public Works and Highways, 1995 and 2004. Attach Supplemental Specs</p> <p>Sec. VI, Part II of</p>
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<p>f. <u>Bill of Quantities</u></p> <ul style="list-style-type: none"> • Pay Item No. • Description of Item • Units • Quantities <p>g. <u>Forms</u></p> <ul style="list-style-type: none"> • Qualifications of key personnel (min reqts) • List of equipment (minimum reqts) <p>3. Approve contract-specific information</p> <p>4. Transmit soft copy of approved contract-specific info to Central BAC</p> <p>5. Insert contract-specific info in SBDs to produce BDs and post BDs at DPWH website</p> <p>6. Prepare hard copies of BDs based on SBDs w/ inserted contract-specific info</p>	<p>PE BAC Chairman, thru BAC-Sec</p> <p>BAC-Sec of PE</p> <p>Central BAC-Sec with MIS</p> <p>BAC-Sec of PE</p>	<p>SBDs. Attach approved Drawings</p> <p>Sec. VII, Part II of SBDs. Consistent with Specifications, Drawings and ABC.</p> <p>Sec. VIII, Part II of SBDs.</p> <p>With certification that the BAC Chairman has approved the info.</p> <p>TWG with IU must check info as posted.</p>
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2.4 CONDUCT OF THE PRE-PROCUREMENT CONFERENCE

2.4.1 LEGAL REFERENCE

IRR-A Section 20 specifies the rules and guidelines in relation to the conduct of a Pre-Procurement Conference (PPC).

2.4.2 POLICIES AND GUIDELINES

2.4.2.1 Purpose of Pre-Procurement Conference

The PPC is the forum where all DPWH officials involved in the procurement of a contract shall meet and discuss all aspects of the transaction and check whether the contract is ready for procurement in terms of the legal, technical and financial requirements. The PPC shall confirm the scope of work under the proposed contract, ensure that the procurement is consistent with the PPMP and the APP, check the budget for the contract, and review and approve the Bidding Documents (BDs), making sure that they are complete and comply with the set standards and rules. The PPC will also review the criteria for eligibility screening, bid evaluation, postqualification, and award, and agree on the mode and schedule of procurement.

For every infrastructure contract involving an ABC amounting to more than Five Million Pesos (₱5 Million), the BAC must conduct a PPC. Even when the contract has an ABC of ₱5 million or less, the BAC is encouraged to conduct a PPC if the circumstances, like the complexity of the technical specifications, warrant holding such a conference before the Procuring Entity proceeds with the procurement.

2.4.2.2 Time Frame for Pre-Procurement Conference

The BAC must conduct the PPC at least three (3) days before the advertisement or posting of the IAEB (**IRR-A Section 20.1**). This will give the technical staff sufficient time to incorporate the necessary changes in the BDs that may arise from the PPC. In no case shall the advertisement or posting of the IAEB be made unless all such changes in the BDs have been made.

2.4.2.3 Participants of Pre-Procurement Conference

The participants in a Pre-Procurement Conference are:

- a. members of the BAC;
- b. its Secretariat;
- c. representatives of the IU;
- d. members of the TWG, staff, consultants, end-users and other persons who prepared, reviewed, or approved the BDs or parts thereof;
- e. other officials concerned, as may be required.

The BAC Chairman shall preside over the PPC.

2.4.2.4 Agenda for Pre-Procurement Conference

In conducting the PPC, the BAC Chairman shall generally follow the agenda shown in **Form DPWH-INFR-04**. Thus, the PPC should cover the following items (**IRR-A Section 20.1**):

- a. Confirm the description and scope of the contract, ABC, and contract duration.

- b. Ensure that the procurement for the contract is in accordance with the PPMP and APP.
- c. Determine the state of readiness of the contract for procurement by checking, among other things:
- (1) the completion of the detailed engineering according to the prescribed standards;
 - (2) the completeness of the BDs, including the IAEB, Eligibility Requirements, ITB, BDS, GCC, SCC, Specifications, Drawings, BOQ, and Forms and their adherence to relevant procurement guidelines;
 - (3) the inclusion of the contract in the DPWH budget as reflected in the existing or proposed GAA, or funded by the ABM/SARO; and
 - (4) the availability of right-of-way, with at least a "permit to enter."
- d. Review, modify and agree on the criteria for eligibility check/screening, preliminary examination and detailed evaluation of bids, and postqualification, and ensure that these criteria are fair, reasonable, and of the "pass/fail" type.
- e. Review and adopt the procurement schedule, including the deadline or timing for the IAEB, Pre-Bid Conference (PBC), receipt and processing of Letters of Intent (LOI) for Eligibility, issuance of BDs, receipt and opening of bids, evaluation of bids, postqualification, award, contract processing and approval, and Notice to Proceed;
- f. Finalize and approve the IAEB.
- g. Discuss other important matters, such as emphasizing the "no contact rule" during the bid evaluation process, and applicable sanctions and penalties for violations of the procurement rules.

2.4.3 PROCEDURE (CONDUCT OF THE PRE-PROCUREMENT CONFERENCE)

Activity	Responsible Performer	Time Frame	Rules
1. Prepare agenda for the Pre-Procurement Conference (PPC)	BAC Sec	1 cd	Use Form DPWH-INFR-04 . Include the following items in the agenda: (1) Basic Contract data – including contract ID, name, location, description, ABC, and contract duration (2) Consistency of contract procurement with PPMP and APP (3) Readiness of the contract for procurement <ul style="list-style-type: none"> • Detailed engineering • BDs

			<ul style="list-style-type: none"> • Inclusion of contract in DPWH budget • Right-of-way <p>(4) Criteria for eligibility screening, bids evaluation, post-qualification, and award</p> <p>(5) Deadlines, times and places for IAEB, LOI, issuance of BDs, PBC, receipt and opening of bids, bids evaluation, etc.</p> <p>(6) Approval of IAEB</p> <p>(7) Other matters</p>
2. Issue Notice for PPC	BAC Chair	1/2 cd	Use Form DPWH-INFR-05 for Notice. Invite BAC members, Secretariat, IU, TWG members, and others concerned.
3. Conduct PPC	BAC Chair with BAC-Sec to record proceedings	1 cd	Be guided by the agenda. Use audio/video records and notes to record proceedings.
4. Prepare Minutes of PPC	BAC-Sec	1 cd	Use Form DPWH-INFR-06 .
5. Approve Minutes	BAC-Chair	1/2cd	
6. Distribute Minutes	BAC-Sec	½ cd	To all PPC participants
7. Revise BDs as necessary per PPC	TWG with IU to prepare, Sec to submit, BAC Chair to approve	1-3 cd	Based on agreements in PPC

SECTION 3
INSTRUCTIONS ON THE
PROCEDURAL STEPS FOR THE
PROCUREMENT OF
INFRASTRUCTURE PROJECTS
THROUGH COMPETITIVE
BIDDING

3.1 COMPETITIVE BIDDING

3.1.1 SCOPE OF COMPETITIVE BIDDING

Competitive or Public Bidding is a method of procurement that is open to any interested and qualified party. It is preferred over other methods of procurement. A Procuring Entity should, therefore, see to it that its procurement program allows enough time to conduct such Public Bidding (**IRR-A Section 10**).

Competitive Bidding consists of the following processes: advertisement, eligibility check/screening of prospective bidders with prior registration in the DPWH Registry, Pre-Bid Conference, receipt of bids, opening and preliminary examination of bids, evaluation of bids, postqualification, and award of contract (**IRR-A Section 5 [h]**).

3.1.2 TIMELINE FOR COMPETITIVE BIDDING

The procurement process through competitive bidding, from the opening of bids up to the award of contract, shall not exceed three (3) months, or a shorter period to be determined by the DPWH Procuring Entity concerned (**IRR-A Section 38**).

For a typical infrastructure contract costing P25 million or less, the Procuring Entity and the bidders shall be guided by the schedule of procurement activities shown in **Table 1**, which shows the earliest and latest allowable times for each activity, from advertisement up to Notice to Proceed. The procurement schedule is also depicted by the bar chart in **Figure 1**.

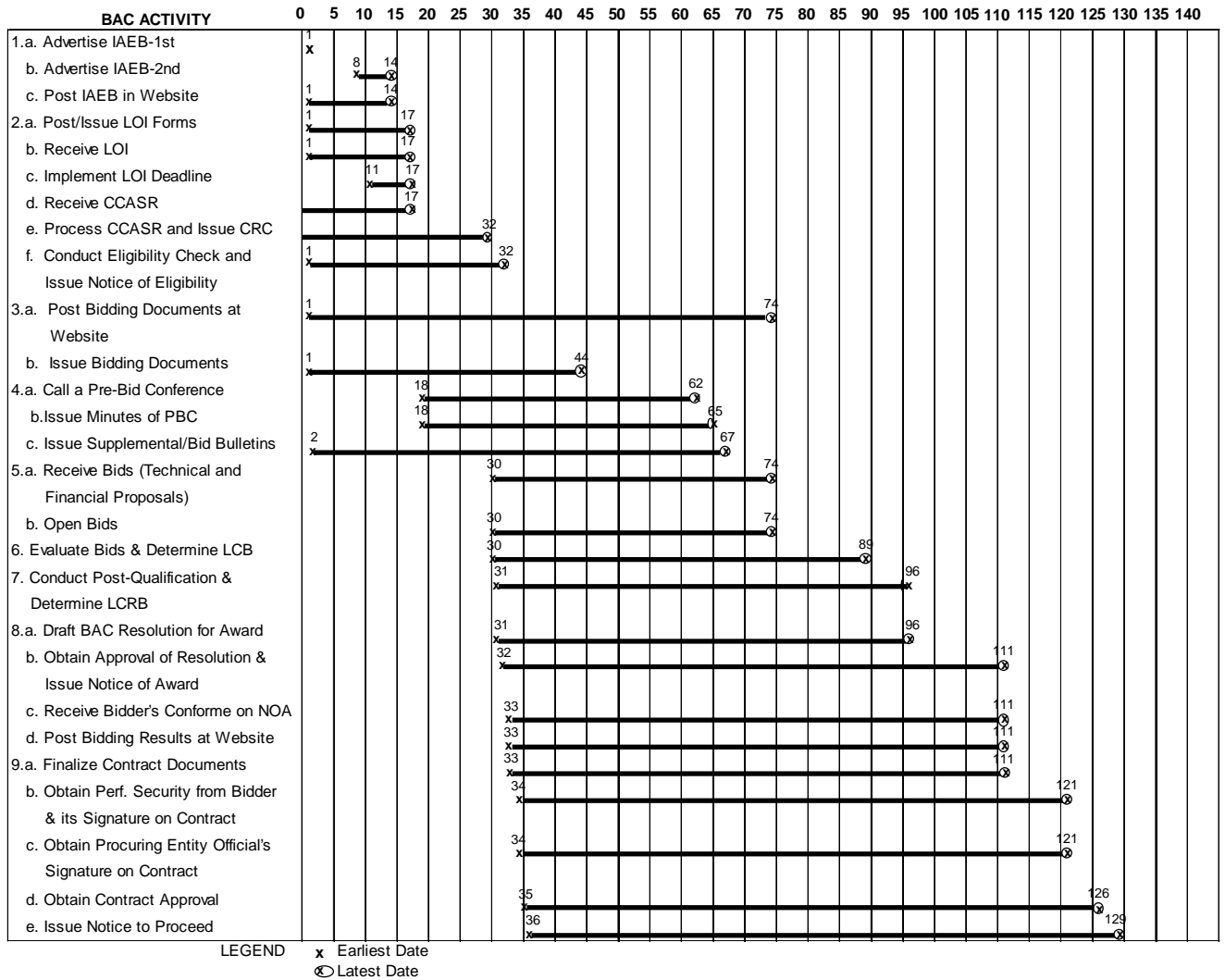
From these, it can be seen that the entire procurement process should be completed in 36 days at the earliest, and 129 days at the latest.

**TABLE 1: SCHEDULE OF PROCUREMENT ACTIVITIES FOR AN
INFRASTRUCTURE CONTRACT WITH AN ABC OF UP TO P25
MILLION**

ACTIVITY	EARLIEST DAY	LATEST DAY
1.a. Advertise Invitation to Apply for Eligibility and to Bid (IAEB) in the newspaper – 1 st	1	1
b. Advertise IAEB – 2 nd	8 : 6 days between advertisements	14 : 2 advertisements within max. of 14 days
c. Post IAEB at DPWH website	1 : same as 1.a	14 : within 14 days maximum. in 1.b
2.a. Post/issue forms for Letter of Intent (LOI) for Eligibility	1 : same as 1.a	17 : 3 days after 1.b/1.c
b. Receive LOIs	1 : same as 1.a	17 : 3 days after 1.b/1.c
c. Implement deadline for receipt of LOIs	11 : 3 days after 2 nd advertisement of IAEB	17 : same as 2.b
d. Receive Contractor’s Confidential Application Statements for Registration (CCASRs)	Even before 1.a	17 : same as 2.b
e. Process CCASR and issue Contractor’s Certificates of Registration (CRC)	Even before 1.a	32 : same as 2.f
f. Conduct eligibility check and issue Notices of Eligibility/Ineligibility	1 : same as 1.a.	32 : 15 days after 2.b
3.a. Post Bidding Documents at DPWH website	1 : same as 1.a.	74 : same as 5.a
b. Issue Bidding Documents	1 : same as 2.f	44 : 30 days after 1.b
4.a. Call Pre-Bid Conference (PBC)	18 : 7 days after 2.c	62 : 12 days before 5.a
b. Issue minutes of PBC	18 : same as 4.a	65 : 3 days after 4.a
c. Issue Bid Bulletins	2 : 1 day after 3.b	67 : 7 days before 5.a
5.a. Receive Bids (Technical and Financial Proposals)	30 : 12 days after PBC	74 : 30 days after 3.b
b. Open Bids (Technical and Financial Proposals)	30 : same as 5.a	74 : same as 5.a
6. Evaluate Bids and determine Lowest Calculated Bid	30 : same as 5.a	89 : 15 days after 5.a
7. Conduct postqualification and determine Lowest Calculated Responsive Bid (LCRB)	31 : 1 day after 6	96 : 7 days after 6
8.a. Draft BAC Resolution of Award	31 : same as 7	96 : same as 7
b. Obtain approval of Resolution and issue Notice of Award (NOA)	32 : 1 day after 8.a.	111 : 15 days after 8.a
c. Receive Bidder’s “conforme” on NOA	33 : 1 day after 8.b	111 : same as 8.b
d. Post bidding results at website	33 : same as 8.c	111 : same as 8.c
9.a. Finalize Contract documents	33 : same as 8.c	111 : same as 8.c
b. Obtain Performance Security from the Bidder with LCRB and its signature on the Contract	34 : 1 day after 9.a	121 : 10 days after 9.a.
c. Obtain Procuring Entity official’s signature on the Contract	34 : same as 9.b	121 : same as 9.b
d. Obtain Contract approval	35 : 1 day after 9.c	126 : 5 days after 9.c
e. Issue Notice to Proceed	36 : 1 day after 9.b	129 : 3 days after 9.d.

FIGURE 1 TIMELINE OF PROCUREMENT ACTIVITIES FOR INFRASTRUCTURE CONTRACTS
(WITH AN ESTIMATED COST OF UP TO P 25 M)

In Calendar Days



3.2 STEP 1: ADVERTISE AND POST AN INVITATION TO APPLY FOR ELIGIBILITY AND TO BID (IAEB)

3.2.1 LEGAL REFERENCE

IRR-A Section 21 specifies the rules in relation to the advertising and posting of the Invitation to Apply for Eligibility and to Bid (IAEB).

3.2.2 POLICIES AND GUIDELINES

3.2.2.1 Purpose of IAEB

The IAEB serves as the notice to interested contractors and to the general public and other interested parties of the proposed procurement for a specific contract of the Procuring Entity. It provides basic information that will enable prospective bidders to decide whether or not to participate in the procurement at hand.

Advertising and posting the IAEB and ensuring its widest possible dissemination will increase the number of prospective bidders and intensify competition for the procurement activity or project. Intensified competition, in turn, will ensure that the government, in general, and the Procuring Entity in particular, will get the lowest-priced bids for the specified works.

3.2.2.2 Content of IAEB

The IAEB must contain the following (**IRR-A Section 21.1**):

- a. Contract ID, name and location, brief description of the contract, ABC and contract duration.
- b. Statement that the procurement is through public bidding using the rules, criteria and procedures in R.A. 9184 and its IRR-A.
- c. Major eligibility criteria, viz., registration with DPWH, and legal (Filipino citizen or seventy five percent (75%) Filipino-owned partnership or corporation with applicable license from the Philippine Contractors' Accreditation Board or PCAB), technical (completed similar work costing at least fifty percent (50%) of ABC), and financial (credit line commitment/cash deposit or Net Financial Contracting Capacity) requirements.
- d. Requirement for unregistered contractors to first register with the DPWH Registry of Contractors for Civil Works before their LOIs can be processed.
- e. Statement that prospective bidders may download the LOI Form and BDs from the DPWH website.
- f. Reservation Clause, to accept/reject any/all bids or annul the bidding process; and
- g. Dates, times or deadlines for receipt of the LOIs for eligibility, issuance of results of eligibility check, issuance of BDs, Pre-Bid Conference, and receipt and opening of bids.

The Procuring Entity shall use **Form DPWH-INFR-07** for the IAEB.

3.2.2.3 Time and Place for Posting IAEB

For every contract with an ABC of more than Five Million Pesos (₱5 million), the BAC must (**IRR-A Section 21.2.2**):

- a. advertise the IAEB at least twice within a maximum period of fourteen (14) calendar days (preferably from the seventh (7th) calendar day after the Pre-Procurement Conference), with at least six (6) calendar days in between publications, in a newspaper of general nationwide circulation which has been regularly published for at least two (2) years before the date of the advertisement;
- b. through the Central BAC Secretariat, post the IAEB continuously on the website of the DPWH at www.dpwh.gov.ph and the G-EPS during the maximum period of fourteen (14) calendar days stated above; and
- c. post the IAEB at any conspicuous place reserved for this purpose in the premises of the Procuring Entity concerned, as certified by the Head of the BAC Secretariat of the Procuring Entity during the same 14-day calendar day period stated above; post the IAEB at the city/municipal hall and/or provincial capitol where the project is located; and send the IAEB to the heads of contractors' organizations in the area.

For every contract with an ABC of ₱5 million or less, the BAC shall:

- a. post the IAEB continuously on the website of the DPWH and the G-EPS during a maximum period of fourteen (14) calendar days;
- b. post the IAEB at any conspicuous place reserved for this purpose in the premises of the Procuring Entity concerned, as certified by the Head of the BAC Secretariat of the Procuring Entity, for the same 14-day calendar day period stated above; post the IAEB at the city/municipal hall and/or provincial capitol where the project is located; and send the IAEB to the heads of contractors' organizations in the area; and
- c. in the case of a provincial project as defined in Section 44 of the IRR-A (Section 3.12, Volume III of this Manual) with an ABC of P2 million to P5 million, advertise the IAEB within the same 14-calendar day period in a local provincial newspaper.

3.2.3 PROCEDURE (ADVERTISE AND POST AN IAEB)

Activity		Responsible Performer	Time Frame	Rules
1.	Get IAEB form and fill in data for the contract to be bid.	BAC Secretariat	1/2 cd	Use Form DPWH-INFRA-07 for the IAEB. Refer to data from PPMP and Bid Data Sheet.
2.	Sign the IAEB.	BAC Chairman	1 cd	
3.	Send soft copy of IAEB by e-mail/diskette, plus one hard copy, to CO-BAC-Sec.	BAC Secretariat	1 cd	Signed IAEB is part of contract-specific info to be inserted in the SBDs for posting (Sec. 2.3.2, Vol.III,

				DPM).
4.	Post IAEB in DPWH website and G-EPS.	Central BAC Secretariat	1/2 cd	Post continuously during the same max period of 14 cd as in Activity 5 below.
5.	If ABC is more than P5M, send IAEB to a newspaper for advertisement.	BAC Secretariat	1 cd	Advertise at least 2 times w/in a max. period of 14 cd w/ at least 6 cd between advts. Newspaper must be of national circulation published for at least 2 years.
6.	Post IAEB in conspicuous bulletin board of Procuring Entity and municipal/city/provincial hall; send copies to contractors' associations.	-do-	1 cd	Post during the same maximum period of 14 cd as in Activity 5 above.

3.3 STEP 2: RECEIVE LOI AND CONDUCT ELIGIBILITY CHECK

3.3.1 LEGAL REFERENCE

IRR-A Section 23 specifies the rules in relation to the eligibility criteria and requirements. **D.O. No. 2, series of 2001**, entitled "Guidelines on the Eligibility Processing of Contractors for Civil Works Projects" states that the DPWH, through the Central BAC-TWG, has installed a computerized national DPWH Registry of Contractors for Civil Works Projects and will do electronic eligibility processing.

3.3.2 POLICIES AND GUIDELINES

3.3.2.1 Submission of Letter of Intent (LOI) for Eligibility

In response to the Invitation (IAEB) for a particular contract, a contractor (prospective bidder) that desires to participate in the bidding may download the form of the LOI for Eligibility (**Form DPWH-INFRA-15**) from the DPWH website, or obtain, upon payment of the prescribed fee, a hard copy of the LOI Form from the BAC Secretariat. The prospective bidder shall then prepare its LOI for Eligibility, using the said **Form DPWH-INFRA-15**. Upon presentation of its original Contractor's Registration Certificate (CRC) issued by the DPWH, the prospective bidder shall have the LOI received by the BAC of the Procuring Entity not later than three (3) calendar days after the last day of the period for posting of the IAEB, i.e., on the 17th day after the first day of advertisement and posting of the IAEB (**IRR-A Section 21.3.1**). Prospective bidders that download the LOI forms shall pay the fee therefor upon submission of their LOIs to the BAC.

In case the Procuring Entity is the District Office and if the prospective bidder finds it difficult or inconvenient to submit its LOI to the District BAC, it may submit it to either the BAC of the Region where the contract is located or the Central Office BAC for processing. Prospective bidders that will submit LOIs using forms downloaded from the DPWH website shall pay the fee for the LOI upon submission of their LOIs.

LOIs shall be signed by the person authorized in the contractor's License issued by the PCAB. The LOIs shall be submitted by the authorized liaison officer as specified in the Contractor's Information (CI) which is part of its CRC. Submission of LOIs by persons with a Special Power of Attorney shall not be allowed.

If the prospective bidder/contractor does not possess a CRC, i.e., it is still unregistered with the DPWH, then it must first officially register with the DPWH Registry of Contractors for Civil Works in accordance with the requirements and procedures stated in Section 3.3.2.4, Volume III of this DPM, as a prerequisite to the processing of its LOI. The unregistered contractor may submit its LOI simultaneously with its application for registration to the BAC before the deadline set for the receipt of the LOIs, but the Central BAC-TWG/Secretariat will first process its application for registration and issue its CRC before the Central/Regional BAC-Secretariat processes its LOI.

3.3.2.2 Content of LOI

The prospective bidder's LOI shall indicate (a) its intention to apply for eligibility for the contract to be bid and, (b) if found eligible, its commitment to submit a bid and purchase the Bidding Documents for the contract.

The LOI shall state the following:

- (a) The prospective bidder has the key personnel available for the contract if awarded to it.
- (b) It has the construction equipment available for the contract if awarded to it.
- (c) It is not included in the government blacklist of contractors.
- (d) It does not fall within the degree of relationships with DPWH personnel prohibited by R.A. 9184.
- (e) If its Net Financial Contracting Capacity is less than the ABC, it is submitting a credit line commitment or cash deposit certificate from a licensed bank equal to at least ten percent (10%) of the ABC.
- (f) It has updated its Contractor's Information (CI) in the DPWH Registry of Contractors, including its on-going projects.
- (g) If deemed necessary, it is nominating its subcontractors for the contract indicating the portions of the contract works to be done by each subcontractor, using **Form DPWH-INFR-20**.
- (h) In the case of a Joint Venture (JV), it is submitting its JV Agreement and Special JV License from the PCAB.

3.3.2.3 Eligibility Requirements or Criteria

A prospective bidder, aside from being registered with the DPWH Registry of Contractors for Civil Works Projects, must meet the following requirements or criteria to be declared by the DPWH as eligible for a particular contract to be bid (**IRR-A Section 23.11.2.1**):

a. Legal Requirements

(1) Citizenship

The prospective bidder must be either of the following:

- (a) A Filipino citizen/sole proprietorship;
- (b) A partnership duly organized under the laws of the Philippines and of which at least seventy five percent (75%) of the interest belongs to citizens of the Philippines; or
- (c) A corporation duly organized under the laws of the Philippines and of which at least seventy five percent (75%) of the outstanding capital stock belongs to citizens of the Philippines; or
- (d) A person/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 that, in accordance with Letter of Instructions No. 630, Filipino ownership or interest in the joint venture concerned shall be at least seventy five percent (75%); or
- (e) A cooperative duly registered with Cooperative Development Authority.

(2) PCAB License

The prospective bidder must possess a valid license issued by the PCAB in accordance with the provisions of R.A. 4566 (**IRR-A Section 23.11.2.2**) for the Allowable Range of Contract Cost (ARCC) applicable to the type

and cost of the contract to be bid. According to PCAB Board Resolution No. 001, series of 2004, and GPPB Resolution No. 012-2004, the ARCC is as follows:

Registration Particulars				
Category	Allowable Range of Contract Cost (in Million Pesos)			
	Prior and up to 2003-2004 (For projects advertised for bidding prior and to June 30, 2004)	2004-2005 & 2005-2006 (For projects advertised for bidding from July 1, 2004 to June 30, 2006)	2006-2007 & 2007-2008 (For projects advertised for bidding from July 1, 2006 to June 30, 2008)	2008-2009 & 2009-2010 (For projects advertised for bidding from July 1, 2008 to June 30, 2010)
Small A	Up to 0.5	Up to 0.5	Up to 0.5	Up to 0.5
Small B	Up to 3	Up to 10	Up to 20	Up to 30
Medium A	Up to 15	Up to 50	Up to 100	Up to 150
Medium B	Up to 30	Up to 100	Up to 200	Up to 300
Large A	Up to 50	Up to 150	Up to 300	Up to 500
Large B	Less than or above 50	Less than or above 150	Less than or above 300	Less than or above 500

(3) Business Permit

The prospective bidder must have a valid Business Permit from the City or Municipality, using **Form DPWH-INFR-11**.

(4) BIR Tax Clearance

The prospective bidder must have a Bureau of Internal Revenue (BIR) Tax Clearance, using **Form DPWH-INFR-12**, which shows that it has no tax liability. The BIR Tax Clearance also gives the Tax Identification Number (TIN) of the prospective bidder.

(5) Non-Inclusion in Blacklist

The prospective bidder must not be "blacklisted" or barred from bidding by the government, as shown in its Affidavit using **Form DPWH-INFR-18**.

(6) Restrictions on Relations with DPWH Personnel Concerned

In accordance with **Section 47 of the IRR-A**, the prospective bidder should not be related to the Head of the Procuring Entity by consanguinity or affinity up to the third civil degree or to any of the officers or employees of the Procuring Entity having direct access to information that may substantially affect the result of the bidding, such as, but not limited to, the members of the BAC, the members of the TWG, the BAC Secretariat, the members of the IU, and the designers of the project. This prohibition shall apply to the following persons:

- (a) If the bidder is an individual or a sole proprietorship, to the bidder himself.
- (b) If the bidder is a partnership, to all its officers and members.
- (c) If the bidder is a corporation, to all its officers, directors and controlling stockholders.

- (d) If the bidder is a joint venture, items a through c above for each member of the joint venture.

To establish the non-existence of the above relationship, and to bind the Bidders to its representation relating to the foregoing, all bids must be accompanied by a Disclosure Affidavit of the bidder to that effect, using **Form DPWH-INFR-19 (IRR-A Section 47 and Section 25.3.B.14)**.

The information and data for the requirements under items a-1 to a-3 above should be available in the Contractor's Information (CI) stored in the computerized DPWH Registry of Contractors and, therefore, do not have to be resubmitted by the prospective bidder in its LOI. The documents for the requirements under items a-4 and a-5 above shall be submitted to the BAC by the prospective bidder as part of its LOI.

b. Technical Requirements

Work Experience

The prospective bidder must have satisfactorily completed a single contract similar to that to be bid, and whose value, adjusted to current prices using the consumer price indices of the National Statistics Office available at the G-EPS website, is at least fifty percent (50%) of the ABC to be bid. **(IRR-A Section 23.11.2.3)**. Small A and Small B contractors without similar experience on the contract to be bid, however, may be allowed to bid if the cost of such contract is not more than fifty percent (50%) of the range of contract cost allowed for them in their PCAB license.

The required work experience can be obtained by computer processing of the CI already stored in the DPWH Registry of Contractors and, thus, does not have to be resubmitted by the prospective bidder in its LOI.

c. Financial Requirements

The prospective bidder must meet the requirement for Net Financial Contracting Capacity (NFCC) in item (1) below. If its NFCC is not sufficient to meet the requirement, it must meet the requirement for either the credit line commitment in item (2) or the cash deposit certificate in item (3) below.

(1) Net Financial Contracting Capacity (NFCC)

The prospective bidder must have an NFCC at least equal to the ABC of the contract to be bid, calculated as follows **(IRR-A Section 23.11.2.5)**:

NFCC = [(current assets minus current liabilities) multiplied by K] minus the value of all outstanding works or projects under ongoing contracts, including awarded contracts yet to be started, coinciding with the contract to be bid,

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

Example:

ABC	= P20,000,000
Current assets	= P 3,000,000
Current liabilities	= P 500,000

Value of outstanding works = P 4,000,000
 Contract duration = 1 year
 NFCC = [(P 3,000,000 – P 500,000) x 10] – P4,000,000
 = P 25,000,000 – P 4,000,000
 = P 21,000,000

Since the NFCC is more than the ABC, the NFCC is sufficient.

(2) Credit Line Commitment

The prospective bidder must have a certificate of commitment from a licensed bank to extend to it a credit line which shall be used exclusively to finance the contract at hand, if awarded to the bidder, and which shall be at least equal to ten percent (10%) of the ABC, as indicated in its accomplished **Form DPWH-INFR-16**.

(3) Certificate of Cash Deposit

The prospective bidder must have a certificate of cash deposit, issued by a licensed bank, which shall be used exclusively to finance the contract at hand, if awarded to the bidder, and which shall be at least equal to ten percent (10%) of the ABC, as indicated in its accomplished **Form DPWH-INFR-17**.

The data needed under item C-1 above to derive the NFCC are already in the CI filed in the computerized DPWH Registry of Contractors and, therefore, do not have to be resubmitted by the prospective bidder in its LOI. If the NFCC is insufficient, however, the document needed under item C-2 or C-3 shall be submitted by the prospective bidder as part of its LOI.

Each sub-contractor nominated by a prospective bidder in its LOI must also meet the foregoing eligibility criteria under Section 3.3.2.3 for the portions of the contract works to be done by that sub-contractor. Notwithstanding the nomination of its sub-contractors, however, the prospective bidder must meet all eligibility criteria for the entire contract works as if it were to undertake the contract by itself without any sub-contractors.

3.3.2.4 Registration in the DPWH Registry of Contractors

To be registered with the DPWH Registry of Contractors for Civil Works Projects, which is a prerequisite to LOI processing, a contractor/prospective bidder must submit to the Central BAC Secretariat its Contractor's Confidential Application Statement for Registration or CCASR (**Form DPWH-INFR-08**) which includes the Class "A" Documents required under **IRR-A Section 23.6**, as follows:

a. Legal Documents

- (1) Valid PCAB license and registration for the type and cost of contract to be bid (See **Form DPWH-INFR-09**). In the case of a joint venture, the license and registration must be those of the joint venture, and not of any of its members.
- (2) Department of Trade and Industry (DTI) business name registration in the case of a Single Proprietorship (See **Form DPWH-INFR-10**); or SEC registration certificate, in the case of a Partnership or Corporation.

- (3) Valid and current City/Municipal Business permit to operate (See **Form DPWH-INFR-11**). In the case of a joint venture, the business permit or municipal license must be of the joint venture, not any of its members.
- (4) BIR Tax Clearance per E.O. 298, Series of 2005, which also contains the Taxpayer's Identification Number or TIN (See **Form DPWH-INFR-12**: BIR Form No. 17.14B).

b. Technical Documents

- (1) Record of the prospective bidder's completed contracts, both government and private, including the following information for each contract:
 - (a) Contract ID, name and location.
 - (b) Contract start and actual completion dates.
 - (c) Owner's name and address.
 - (d) Nature of work and size/dimensions.
 - (e) Contractor's role (whether sole contractor, sub-contractor, or partner in a joint venture) and participation percentage.
 - (f) Total as-built cost at completion.
- (2) Record of the prospective bidder's on-going contracts, including awarded but not yet started, both in government and the private sector, indicating the following for each contract.
 - (a) Contract ID, name and location.
 - (b) Contract start and completion date.
 - (c) Owner's name and address.
 - (d) Nature of work and size/dimension.
 - (e) Contractor's role and participation percentage.
 - (f) Percentage work accomplished.
 - (g) Percentage time elapsed.

c. Financial Document

The prospective bidder's audited financial statement, stamped "received" by the BIR or its duly accredited and authorized institutions, for the immediately preceding calendar year, showing, among others, the prospective bidder's total and current assets and liabilities.

Prospective bidders may obtain hard copies of the CCASR forms from the Central BAC-Secretariat or download the forms from the DPWH website.

The Central BAC-Secretariat shall only process CCASRs with complete registration requirements. It shall enter the data from the CCASR into the computer and run the computer program to generate the CRC (**Form DPWH-INFR-13**) and the accompanying CI (**Form DPWH-INFR-14**). The CRC will state that the contractor is recognized to undertake specific types of civil works projects with their respective cost ranges. The CI will show part of the eligibility data required in this Section, particularly the contractor's capability in terms of its legal (PCAB license, classification and validity, business permit, etc.), financial (total and current assets and liabilities, net worth, and annual turnover), and technical (completed and on-going projects with nature, costs, and status) aspects.

At any time, a contractor may update its CI by submitting the appropriate CCASR documents to the BAC concerned. It is the responsibility of that BAC to promptly

transmit the said documents to the Central BAC-Secretariat which shall immediately process the same and issue the updated CI.

3.3.2.5 Determination of Eligibility

The BAC that receives the prospective bidder's LOI shall immediately transmit it to the Regional BAC through its Secretariat for processing if the ABC is P30 million or less, or to Central BAC through its Secretariat for processing if the ABC is more than P30 million. The BAC of the Procuring Entity shall also submit to the Regional BAC-Secretariat or Central BAC-Secretariat - depending on the same cost criterion - the Contract Profile (CP), using **Form DPWH-INFR-21**. The CP will give the basic contract data, including the ABC, works similar to those of the contract to be bid, and contract duration.

The Regional BAC-Secretariat or Central BAC-Secretariat, as the case may be, shall enter the data from the LOI and CP into the computer and run the computer program which will combine these data with the CI already stored in the computerized DPWH Registry of Contractors. By matching the prospective bidder's capability or eligibility data in its LOI and CI, against the eligibility requirements for the contract derived from the CP, the computer program will automatically determine whether or not the prospective bidder meets the eligibility requirements and, therefore, generate the Notice of Eligibility (**Form DPWH-INFR-22**) or Notice of Ineligibility (**Form DPWH-INFR-23**). The reasons for ineligibility will also be automatically shown in the Notice of Ineligibility.

During the postqualification of the bidder with the lowest calculated bid, the BAC shall also complete the eligibility screening and postqualification of the subcontractors nominated by that bidder in its LOI, following the same criteria and procedure described above for the eligibility screening and postqualification of the said bidder. The subcontractors must be found eligible and postqualified for the portions of the contract works that they will do, as a prerequisite to award to the bidder. Should any subcontractor be found ineligible or postdisqualified, the said bidder shall directly undertake the portions of the works intended to be done by that subcontractor.

3.3.2.6 Sanctions on BAC Personnel for Failure to Record and Transmit LOIs

The BAC concerned is obliged to immediately record all LOIs and transmit them to the Regional or Central BAC for processing if the ABC is up to P30 million and above P30 million, respectively. Failure of the BAC to do so will subject the erring personnel concerned, including those of the Secretariat, to the following sanctions:

- | | | |
|----|--------------------------|-------------------------------|
| a. | For first offense ----- | Reprimand |
| b. | For second offense ----- | Suspension for six (6) months |
| c. | For third offense ----- | Dismissal from the service |

For this purpose, within one (1) day after the deadline set for the receipt of the LOIs, the BAC shall submit to the Head of the Procuring Entity a report, using **Form DPWH-INFR-24**, showing the names of the contractors that had their LOIs received, withdrawn, and transmitted to the Regional/Central BAC-Secretariat for processing.

3.3.2.7 Sanctions on Contractors for Non-Submittal or Withdrawal of LOIs

If a contractor withdraws its LOI, or, if found eligible, fails to submit a bid or withdraws its bid, or submits an incomplete bid, without a justifiable reason, in three separate instances within twelve (12) months in the entire DPWH, that contractor shall be liable

for suspension for one (1) year for the first three-time offense, and suspension of two (2) years for the second three-time offense (**Section 69.1-9**).

3.3.2.8 One or No LOI

Even if only one prospective bidder submits an LOI, the bidding process shall continue. If that bidder is later declared as eligible, its bid is found to be responsive to the bidding requirements and it passes the postqualification, its bid shall be declared as the Single Calculated and Responsive Bid (SCRB) or winning bidder and considered for contract award (**IRR-A Section 36**).

If no prospective bidder submits an LOI, the BAC shall declare the bidding a failure. It shall review the provisions of the original BDs, and, where warranted, may modify the scope of work, specifications, terms, conditions, and other provisions of the BDs, and adjust the quantity and cost estimates without increasing the ABC. It must then conduct a re-bidding, in the process formulating a new IAEB and advertising and posting this as required. All bidders that have initially responded to the IAEB and declared eligible in the first bidding shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules as in the first bidding. (**IRR-A Section 35**)

Should a second failure of bidding occur, the Procuring Entity may enter into a negotiated procurement as provided for in IRR-A Section 53 (**IRR-A Section 35.3**).

3.3.2.9 Request for Reconsideration of Ineligible Bidder

A prospective bidder that is found ineligible has seven (7) calendar days from receipt of the Notice of Ineligibility, within which to file a written request for reconsideration before the BAC. The BAC shall resolve such request within seven (7) calendar days after it receives it. In so doing, it can request the prospective bidder to clarify its eligibility documents, if necessary. (**IRR-A Section 23.3**).

If its request for reconsideration is denied, the ineligible bidder may protest the decision in writing to the Head of the Procuring Entity within seven (7) calendar days from receipt of the BAC decision. A protest may be made by filing a verified position paper with the Head of the Procuring Entity concerned, accompanied by the payment of a non-refundable protest fee equivalent to no less than one percent (1%) of the ABC (**IRR-A Section 55.1**).

The protests shall be resolved strictly based on records of the BAC. The Head of the Procuring Entity shall resolve a protest within seven (7) calendar days from receipt thereof. Subject to the provisions of existing laws on the authority of the DPWH Secretary and the heads of agencies to approve contracts, the decisions of the Head of the Procuring Entity shall be final up to the limit of his contract approving authority (**IRR-A Section 56**).

3.3.2.10 Misrepresentation or Change in Capability of Bidder

Notwithstanding the eligibility of a prospective bidder, the Procuring Entity 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 prospective bidder, or that there has been a change in the capability of the prospective bidder to undertake the contract from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility requirements, statements or documents, or any changes in the situation of the prospective bidder that will affect its capability to undertake the contract so that it fails the preset eligibility

criteria, the Procuring Entity shall declare the said prospective bidder ineligible and disqualify it from submitting a bid or from obtaining an award or contract (**IRR-A Section 23.4**). A prospective bidder found guilty of false information faces imprisonment of not less than six (6) years and one (1) day but not more than 15 years (**IRR-A Section 65.3**).

3.3.2.11 One or No Eligible Bidder

Even if only one bidder passes the eligibility check, the bidding process shall continue. If that lone eligible bidder submits a bid that is found to be responsive to the bidding requirements and it passes the postqualification, its bid shall be declared as the SCRB and considered for contract award (**IRR-A Section 36**).

If no prospective bidder is found to be eligible, the BAC shall declare the bidding a failure. It shall review the provisions of the original BDs, and, where warranted, may modify the scope of work, specifications, terms, conditions, and other provisions of the BDs, and adjust the quantity and cost estimates without increasing the ABC. It must then conduct a re-bidding, in the process formulating a new IAEB and advertising and posting this as required. All bidders that have initially responded to the IAEB and declared eligible in the first bidding shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules as in the first bidding. (**IRR-A Section 35**)

Should a second failure of bidding occur, the Procuring Entity may enter into a negotiated procurement as provided for in IRR-A Section 53 (**IRR-A Section 35.3**).

3.3.3 PROCEDURE (STEP 2: RECEIVE LOI AND CONDUCT ELIGIBILITY CHECK)

Activity	Performer	Time Frame	Rules
1. Prepare CP for eligibility processing and transmit it to: <ul style="list-style-type: none"> a. Region BAC-Sec if ABC is up to P30 M b. Central BAC-Sec if ABC is more than P30 M 	½ cd	Use Form DPWH-INFR-21 .	
2. Issue LOI form to prospective bidder/contractor	< ½ cd; starting from 1 st advt	Use Form DPWH-INFR-15 .	
3. If contractor is not registered with DPWH:			
3a. Issue CCASR form to contractor-applicant	Immediately upon request	Use Form DPWH-INFR-09 .	
3b. Receive from the contractor-applicant its accomplished CCASR	Before LOI deadline	Check to ensure accomplished CCASR is complete as to info and documents required.	
3c. Forward CCASR to Central BAC-Secretariat for electronic	½ cd		

processing		
3d. Enter data of CCASR in the computer, and electronically process the same to generate CRC with CI	½ cd	Use the prescribed DPWH computer program for electronic processing of CCASR. Output will be CRC (Form DPWH-INFR-13) with CI (Form DPWH-INFR-14).
3e. Issue CRC with CI to contractor through BAC-Secretariat concerned	1 cd	
3f. Transmit CRC with CI to contractor	1 cd	
4. Receive accomplished LOI form from prospective bidder upon presentation of CRC	From advt to LOI deadline	
5. Transmit LOI for electronic processing to:	½ cd immediately upon receipt	
a. Regional BAC-Sec if ABC is up to P30 M		
b. Central BAC-Sec if ABC is more than P30 M		
6. Submit to the Head of Procuring Entity a report on LOIs received and transmitted	1 cd after deadline for receipt of LOIs	Use Form DPWH-INFR-24 .
6. Enter data from received LOIs and CP into computer program and process to determine eligibility or non-eligibility of prospective bidder	1 cd after receipt	Use the prescribed DPWH computer program. Output will be Notices of Eligibility (Form DPWH- INFR-22) and Notices of Ineligibility (Form DPWH- INFR-23).
a. If ABC is up to P30 M		
b. If ABC is more than P30 M		
7. Issue Notices of Eligibility and Notices of Ineligibility to prospective bidders	1 cd after receiving Notices of Eligibility and Ineligibility	
a. If ABC is up to P30 M		
b. If ABC is more than P30 M		Thru District BAC if ABC is not more than P15 M.
8. Submit to the Head of Procuring Entity a report on LOIs received and transmitted.	BAC-Sec to prepare and BAC Chair to submit	Use Form DPWH-INFR-24 .

3.4 ISSUE THE BIDDING DOCUMENTS

3.4.1 LEGAL REFERENCE

IRR-A Sections 17 and 21 provide the rules in relation to the issuance of the Bidding Documents (BDs).

3.4.2 POLICIES AND GUIDELINES

3.4.2.1 Availability of Bidding Documents

The Procuring Entity shall issue hard copies of the BDs to eligible bidders, upon payment of the fee therefor, within thirty (30) calendar days from the last day of the period of advertising and/or posting of the IAEB (**IRR-A Section 2.1.2.2**). The last day for issuance of BDs shall be within the following period before the opening of bids:

<u>Approved Budget for the Contract</u>	<u>Minimum Period Before Bids Opening (Calendar Days)</u>
Up to P25 M	15-30
Above P25 M up to P50 M	15-45
Above P50 M up to P200 M	30-60
Above P200 M	60-90

The Procuring Entity shall also post the BDs at the DPWH website starting on the first day of advertisement and posting of the IAEB. Thus, eligible bidders, as well as other interested parties, may download the BDs from the DPWH website. They shall pay the fee for the BDs when they submit their bids to the BAC.

Before their official release, the BDs are strictly confidential and shall not be divulged or released to any person except to those officially authorized in the handling of the documents. However, after their official release, they shall be made available to the public.

3.4.2.2 Fee for Bidding Documents

The BAC shall require eligible bidders that obtain the BDs to pay a fee that will recover the costs of producing the BDs. These costs may include the following:

- a. Direct costs, which consist of the following:
 - (1) Development costs, incurred in preparing the content of the BDs, including designs, drawings and specifications. The design cost shall be excluded if it is included in the capitalized cost of the project to be recovered from the use of the completed facility.
 - (2) Reproduction costs, covering labor, supplies and equipment rental costs incurred in reproducing the documents.
 - (3) Communication costs, including costs of mail, advertising, meetings, internet/web posting, and other costs incurred in disseminating information about the bidding.
- b. Indirect costs, such as overhead, supervision, and administrative costs, allocated to the bidding activities. This may include honoraria to BAC and TWG members,

authorized under DBM Budget Circular No. 2004-5 pursuant to Section 15 of RA 9184, for successfully completed procurement projects, at the rates provided therein, provided that the average monthly honorarium over one year granted a personnel shall not exceed twenty-five percent (25%) of his basic monthly salary. Agencies are allowed to retain fifty percent (50%) of their collections from the sale of BDs, to be used to pay such honoraria,

The fee to be paid shall be calculated by getting the sum of Direct and Indirect Costs and dividing this by the expected number of prospective bidders that will purchase the BDs.

3.4.2.3 Responsibilities of Eligible Bidder on Bidding Documents

An eligible bidder must be responsible for having (**IRR-A Section 17.7.1**):

- a. examined all of the BDs;
- b. acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
- c. made an estimate of the facilities available and needed for the contract; and
- d. complied with its responsibility under **IRR-A Section 22.5.1**, which provides that all those who have obtained the BDs shall be responsible for inquiring and securing Bid Bulletins (Addenda) that may be issued by the BAC.

The Procuring Entity shall not be responsible for any erroneous interpretation or conclusions by the prospective or eligible bidders on the data it furnished (**IRR-A Section 17.7.3**).

Eligible bidders are deemed to be familiar with all existing Philippine laws, decrees, ordinances, acts and regulations that may affect the contract in any way. If the contract is affected by new laws, ordinances, regulations or other acts of government promulgated after the date of the bidding, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis, provided such is not covered by the contract provisions on price adjustment (**IRR-A Section 17.7.4**).

3.4.3 PROCEDURE (ISSUE THE BIDDING DOCUMENTS)

	Activity	Performer	Time Frame	Rules
1.	Post BDs at DPWH website for info of, and downloading by, prospective bidders and other parties (See Activity 5 in Sec. 2.3.3, Vol. III, DPM, on Preparing the BDs).	Central BAC with MIS	From 1 st day of advt/posting of IAEB up to deadline for bids receipt	Eligible bidders that downloaded the BDs from the website shall pay the fee for the BDs when they submit the bids.
2.	Issue hard copies of BDs to eligible bidders upon payment of fees and issue Official Receipt.	BAC-Secretariat	1 st day of advt/posting of IAEB up to 15-90 cd before bids receipt	Observe prescribed period for issuance of BDs (Sec. 3.4.2.1, Vol. III, DPM).
3.	Record all eligible bidders that purchased and paid for the BDs	BAC-Secretariat	-do-	

3.5 STEP 4: CALL PRE-BID CONFERENCE AND, IF NECESSARY, ISSUE BID BULLETINS

3.5.1 LEGAL REFERENCE

IRR-A Section 22 specifies the rules in relation to the conduct of a Pre-Bid Conference (PBC).

3.5.2 POLICIES AND GUIDELINES

3.5.2.1 Purpose of Pre-Bid Conference

A PBC is the initial forum where the representatives of the DPWH Procuring Entity and the eligible bidders discuss the different aspects of the procurement at hand. These include the ground rules that will govern the procurement. In particular, the participants may discuss the technical and financial components of the contract to be bid. The PBC is also an opportunity for the eligible bidders to request clarifications about the BDs. Any statement made at the PBC, however, should not modify the terms of the BDs, unless such statement is specifically identified in writing as an amendment of the BDs and issued as a Bid Bulletin or Addendum (**IRR-A Sec. 22.4**).

The agenda of the PBC shall be based on **Form DPWH-INFR-24** and include the following items:

- a. Basic contract data
- b. Requirements of the BDs
- c. Documents to be submitted by the bidder (including Technical and Financial Proposals)
- d. Criteria and procedures for the preliminary examination of bids, detailed evaluation of bids, postqualification, and award.
- e. Other matters
- f. Summary of proceedings, including Bid Bulletins (Addenda) to be issued

It is important that responsible and knowledgeable officials attend the conference. The persons who actually formulated the scope of work, drawings/plans and specifications for the project shall be present among those representing the Procuring Entity. Eligible bidders, on the other hand, should be encouraged to send representatives who are legally and technically knowledgeable about the requirements of the procurement at hand. It is also important that the eligible bidders are given ample time to review the BDs before the PBC is held.

3.5.2.2 Conditions for Holding Pre-Bid Conference

The BAC must hold the PBC for every contract with an ABC of at least One Million Pesos (₱1 million). For a contract with an ABC of less than P1 million, the BAC may or may not hold a PBC. The BAC may also hold a PBC upon the written request of a prospective bidder (**IRR-A Section 22.1**).

The PBC must be held at least twelve (12) calendar days before the deadline for the receipt of bids (**IRR-A Section 22.2**).

3.5.2.3 Conduct of Participants in Pre-Bid Conference

The BAC, BAC Secretariat, TWG, and other officials involved in procurement are expected to act in an impartial, courteous and professional manner in all their dealings

and interactions with the bidders during all stages of the procurement. The representatives of the bidder are likewise enjoined to adopt the same professional manner in their dealings with the officials of the Procuring Entity. Communications between the parties must, as much as possible, be made in writing, except during the PBC when verbal clarifications may be allowed, keeping in mind, however, that any statement made at the PBC would not modify the terms of the BDs, unless it is specifically written as an amendment of the BDs and issued as a Bid Bulletin.

3.5.2.4 Clarification of Bidding Documents

Eligible bidders may request clarification or interpretation of any part of the BDs, provided that this request is in writing and submitted to the BAC at least ten (10) calendar days before the deadline for the receipt of bids. In this case, the BAC shall issue its response by issuing a Bid Bulletin (Addendum), to be made available to all those that have secured the BDs at least seven (7) calendar days before the deadline for the receipt of bids (**IRR-A Section 22.5.1**).

The BAC may, at its own initiative, also issue Bid Bulletins to clarify or modify any provision of the BDs not later than seven (7) calendar days before the deadline for the receipt of bids. Any modification to the BDs must be identified as an "AMENDMENT" in the Bid Bulletin (**IRR-A Section 22.5.2**).

The BAC shall, through the Central BAC Secretariat, also post the Bid Bulletins on the DPWH website and on the G-EPS within the same timetable.

Nonetheless, it shall be the responsibility of eligible bidders to ask for, and secure, these bulletins.

A Bid Bulletin must contain a brief but comprehensive and accurate summary of the issue that the BAC wishes to address. If an eligible bidder raises the issue addressed by the Bulletin, then the Bulletin ought to contain a summary of the request of that bidder for clarification or interpretation, without identifying the bidder.

Bidders that have submitted bids before a Bid Bulletin is issued must be informed in writing by the BAC of the Bulletin and allowed to modify or withdraw their respective bids (**IRR-A Section 22.5.2**).

3.5.3 PROCEDURE (CALL PRE-BID CONFERENCE AND, IF NECESSARY, ISSUE SUPPLEMENTAL/BID BULLETINS)

Activity	Performer	Time Frame	Rules
1. Prepare the agenda for the Pre-Bid Conference (PBC)	BAC-Secretariat	1 cd	1. Use Form DPWH-INFR-25 .
2. Issue Notices for the PBC, with the agenda, to the participants	BAC-Secretariat	1 cd ≥ 3 cd before PBC	2. Use Form DPWH-INFR-26 . Send Notices to the following who must attend the PBC: a. BAC Members b. BAC Secretariat c. TWG Members and Consultant, if any d. IU Send Notices to the following whose attendance is not mandatory: a. Eligible bidders, and ineligible bidders with pending requests for reconsideration or

			protests with the Head of the Procuring Entity b. Observers
3.	Conduct the PBC	BAC Chairman assisted by BAC-Secretariat	1 cd ≥12 cd before deadline for bids receipt
			Follow the agenda. The BAC Chairman may call on any concerned officials – BAC, TWG, IU, and Secretariat, to explain/clarify items in the agenda and respond to queries/ comments from bidders. The BAC-Secretariat will record the proceedings by tape recorder/ video recorder and manually.
4.	Prepare the Minutes of the PBC	BAC-Secretariat	<3 cd after PBC
			Use Form DPWH-INFR-27 .
5.	Receive written requests for clarification after the PBC from prospective bidders	BAC-Secretariat	≤ 10 cd before deadline for bids receipt
6.	Prepare replies to written requests for clarification	BAC-Secretariat with BAC-TWG	1 cd after receipt of request
7.	Prepare Bid Bulletins, if any	BAC-TWG with IU and BAC-Secretariat	≤2 cd after PBC & ≤8 cd before deadline for bids receipt
			These are issued (a) in accordance with PBC discussions, (b) in response to written requests for clarification, and (c) at the initiative of the Procuring Entity – to clarify or modify any provision of the BDs. Use Form DPWH-INFR-28 .
8.	Sign the Minutes of PBC, with Bid Bulletins, and replies to written requests for clarification	BAC Chairman	≤3 cd after PBC and <7 cd before deadline for bids receipt
9.	Issue signed Minutes of PBC, Bid Bulletins, and replies to written requests for clarification	BAC-Secretariat	Upon signing
			Send to all eligible bidders, PBC participants, and the parties that sent written requests for clarification
10.	Post Bid Bulletins on DPWH website and G-EPS	Central BAC-Sec upon request of BAC-Sec of Procuring Entity	Upon signing up to Notice to Proceed

3.6 STEP 5: RECEIVE AND OPEN THE TECHNICAL AND FINANCIAL ENVELOPES

3.6.1 LEGAL REFERENCE

IRR-A Sections 25 to 31 specify the rules in relation to the submission and receipt of bids.

3.6.2 POLICIES AND GUIDELINES

3.6.2.1 Definition and Components of Bid

A Bid refers to a signed offer or proposal to undertake a contract submitted by a bidder in response to, and in consonance with, the requirements stated in the Bidding Documents (BDs). A Bid has two components: the Technical Proposal and the Financial Proposal. The Technical Proposal and Financial Proposal must each be contained in separate sealed bid envelopes called Technical Envelope and Financial Envelope, respectively.

For the guidance of the prospective bidder, the BAC shall issue to the bidders, as part of the Instructions to Bidders in the BDs, a checklist of information/documents that must comprise the Technical and Financial Proposals, as shown in **Form DPWH-INFR-29**.

The eligible bidder shall submit its Bid using **Form DPWH-INFR-30**, together with its Technical and Financial Proposals as discussed below.

3.6.2.2 Contents of the Technical Proposal of the Bid

The Technical Proposal shall contain the following technical information/documents for the contract to be bid:

- a. Bid Security in its required form, amount and validity period. Use **Form DPWH-INFR-31** for Irrevocable Letter of Credit or **DPWH-INFR-32** for Bank Guarantee.
- b. Authority of signing official to sign, on behalf of the bidder, all documents pertaining to the bid and the contract, which must be contained in an Affidavit of the Proprietor if the bidder is a sole proprietorship (using **Form DPWH-INFR-33**), a Board Resolution if the bidder is a corporation or cooperative (using **Form DPWH-INFR-34**), a Joint Venture Resolution if the bidder is a Joint Venture, or a Partnership Resolution if the bidder is a Partnership.
- c. Construction schedule and S-curve, with the schedule in the form of a bar chart. Use **Form DPWH-INFR-35**.
- d. Construction methods, through a narrative description of how the contractor will undertake the works under the contract, including arrangements for subcontracting portions of the works, if any. Use **Form DPWH-INFR-36**.
- e. Organizational chart for the contract to be bid (not of the firm), with the subcontracting arrangements, if any, to be reflected in this chart. Use **Form DPWH-INFR-37**.
- f. Contractor's certification on key personnel for the contract (viz., Project Manager, Project Engineers, Materials Engineers, and Foremen), with their qualification and experience records, using **Form DPWH-INFR-38**, enclosing the key personnel's

Affidavits of Commitment to Work on the Contract, using **Form DPWH-INFR-39**. These personnel must meet the minimum requirements in the Bid Data Sheet (BDS) which are also indicated in **Form DPWH-INFR-38**.

- g. Manpower utilization schedule, weekly or monthly, for skilled and unskilled workers, including the Project Manager, Project Engineers, Materials Engineers, and Foremen. Use **Form DPWH-INFR-40**.
- h. List of contractor's equipment pledged to the contract, which is owned by the bidder (supported by proofs of ownership), leased and/or under purchase agreements (supported by certification of availability of equipment from the equipment lessor/vendor), with corresponding engine numbers, chassis numbers and/or serial numbers, using **Form DPWH-INFR-41**. These equipment units must meet the minimum equipment requirements in the BDS.
- i. Equipment utilization schedule, weekly or monthly, for the minimum equipment required for the Contract. Use **Form DPWH-INFR-42**.
- j. Affidavit of site inspection from the contractor. Use **Form DPWH-INFR-43**.
- k. Written credit line commitment or a certificate of cash deposit, issued by a licensed bank, to be used exclusively to finance the contract at hand, if awarded to the bidder, in an amount at least equal to ten percent (10%) of the ABC, using **Form DPWH-INFR-16** or **DPWH-INFR-17**. If the bidder has previously submitted the original of this document as part of its LOI for the contract, it shall submit a certified copy thereof as part of the Technical Proposal of its Bid.
- l. Construction safety and health program of the contractor, specific to the contract to be bid, in accordance with DOLE Order No. 13, using **Form DPWH-INFR-44**. (If awarded the contract, the bidder shall submit this program to the Bureau of Working Conditions of the DOLE for approval before construction is allowed to start).
- m. Affidavit of compliance with existing labor laws and standards. Use **Form DPWH-INFR-45**.
- n. Affidavit of compliance with responsibilities under IRR-A Section 17.7.1, particularly that the bidder has carefully examined all of the BDs, acknowledged all conditions affecting the implementation of the contract, made an estimate of the facilities available and needed for the contract, and complied with its responsibility of inquiring for and securing all Bid Bulletins issued by the BAC. Use **Form DPWH-INFR-46**.

3.6.2.3 Contents of the Financial Proposal of the Bid

The Financial Proposal shall contain the following financial information/documents for the contract to be bid:

- a. Bid prices for the Bill of Quantities, using **Forms DPWH-INFR-47** and **48**.
- b. Detailed estimates, including a summary sheet indicating the unit prices of construction materials, labor rates and equipment rental, and the direct and indirect costs used, in coming up with the bid.
- c. Cash flow by quarter and payments schedule. Use **Form DPWH-INFR-49**.

3.6.2.4 Definition of Bid Security

A Bid Security is a guarantee that the successful bidder will:

- a. not default on its bid; and
- b. within ten (10) calendar days, or less as indicated in the ITB, from receipt of the Notice of Award, furnish the Performance Security prescribed in the ITB and enter into contract with the Procuring Entity **(IRR-A Section 27.1)**.

A Bid Security must be submitted together with every bid. It must be operative on the date of bid opening, and payable to the Procuring Entity.

3.6.2.5 Forms and Amount of Bid Security

The Bid Security shall be in any of the following forms, with the corresponding required amount **(IRR-A Section 27.2)**:

FORM OF BID SECURITY	AMOUNT
a. Cash, certified check, cashier's check/manager's check, or bank draft issued by a reputable bank, or irrevocable letter of credit issued by a reputable bank (Use Form DPWH-INFR-31)	1.0% of ABC
b. Bank guarantee confirmed by a reputable bank (Use Form DPWH-INFR-31) ; or	1.5% of ABC
c. Any combination of the foregoing forms	1.5% of ABC

3.6.2.6 Period of Validity of Bids and Bid Security

Bids and Bid Securities must be valid for a reasonable period of time as determined by the Head of the Procuring Entity. This time period must be indicated in the BDS, particularly in the BDS but in no case shall it exceed one hundred twenty (120) calendar days from the date of the opening of bids. **(IRR-A Section 28)**

Should it become necessary to extend the validity of the bids and the Bid Securities, the Procuring Entity shall, before the expiry date thereof, request in writing all those who submitted bids to grant such extension. Bidders shall have the right to refuse to grant such extension without forfeiting their Bid Securities. The BAC shall return the Bid Securities of bidders who refuse to grant such extension **(IRR-A Section 37.2.2)**. However, they are deemed to have waived their right to further participate in the bidding.

3.6.2.7 Return of Bid Securities

No Bid Securities shall be returned to bidders after the opening of bids and before contract signing, except to those that failed to comply with any of the requirements submitted in the Technical Envelope (Technical Proposal) of the bids. Without prejudice to the provisions of the law allowing forfeiture of Bid Securities, Bid Securities shall be returned only after the bidder with the Lowest Calculated Responsive Bid (LCRB) 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 the ITB. **(IRR-A Section 27.4)**

3.6.2.8 Forfeiture of Bid Security

The Procuring Entity shall forfeit a bidder's Bid Security when:

- a. the bidder withdraws its bid beyond the deadline therefor; or
- b. the bidder does not accept corrections of arithmetical errors; or
- c. the bidder being considered for award does not accept the award or does not sign the contract within the period prescribed in the BDs; or
- d. the bidder being postqualified is suspended for not providing the BAC required clarifications within the prescribed period; or
- e. the bidder is proven to commit any of the acts under Sections 65 and 69 of R.A. 9184 and its IRR-A.

3.6.2.9 Time Frame for Receipt of Bids

Bids should be received by the BAC on or before the specified time and date of the deadline stated in the BDs (**IRR-A Section 29**), and within the following periods from the last day of the issuance of the BDs (**IRR-A Section 21.2.2 [ii]**):

Approved Budget for the Contract (in Pesos)	Period
Up to twenty five (25) million	15 to 30 calendar days
Above twenty five (25) million up to fifty (50) million	15 to 45 calendar days
Above fifty (50) million up to two hundred (200) million	30 to 60 calendar days
Above two hundred (200) million	60 to 90 calendar days

In case of simple or repetitive or standardized works where time is of the essence, the Head of the Procuring Entity may reduce the abovestated periods of issuance to not less than fifty percent (50%). However, the periods for conducting the eligibility check, the Pre-Bid Conference, and the issuance of BDs must still be followed.

Bids submitted after the specified deadline shall not be received by the BAC (**IRR-A Section 25.2**).

In case the deadline for the receipt of the bids falls on a Special Holiday which is not known or declared before the BDs are issued, the BAC shall reset the deadline, giving the bidders ample time to extend the validity periods of their Bid Securities.

3.6.2.10 Checklist of Technical and Financial Proposals for the Bids

In the Preliminary Examination of Bids after they are opened, the BAC shall use the checklists for the Technical Proposal and Financial Proposal Requirements given in **Forms DPWH-INFR-50** and **DPWH-INFR-51**, respectively, in determining the presence or absence of the required documents in the respective envelopes.

3.6.2.11 One or No Eligible Bidder

Even if only one eligible bidder submits a bid, the bidding process shall proceed. If after going through the bid opening, evaluation and postqualification, its bid is found to be responsive to the bidding requirements, its bid will be declared as the Single Calculated and Responsive Bid (SCRB) and considered for contract award (**IRR-A Section 36**).

If no eligible bidder submits a bid, the BAC shall declare the bidding a failure. It shall review the provisions of the original BDs, and, where warranted, may modify the scope of work, specifications, terms, conditions, and other provisions of the BDs, and adjust the quantity and cost estimates without increasing the ABC. It must then conduct a re-bidding, in the process formulating a new IAEB and advertising and posting this as required. All bidders that have initially responded to the IAEB and declared eligible in the first bidding shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules as in the first bidding. **(IRR-A Section 35)**

Should a second failure of bidding occur, the Procuring Entity may enter into a negotiated procurement as provided for in IRR-A Section 53 **(IRR-A Section 35.3)**.

3.6.2.12 Non-Compliance with Technical and Financial Requirements

An eligible bidder that has failed to comply with any of the Technical or Financial Proposal requirements of the Bid shall be rated as “non-complying” by the BAC and disqualified from participating therein. Similar to the case of ineligible bidders, it may file with the BAC a written request for reconsideration within seven (7) calendar days from the receipt of notice of its non-compliance **(IRR-A Section 30.3)**.

3.6.2.13 Subcontracting

A contractor may engage general subcontractors in the areas of manual and semi-skilled labor or construction materials, provided that the contractor undertakes not less than fifty percent (50%) of the value of the contracted works. As mentioned in Section 3.2.2.2, Volume III of this DPM, the bidder must have nominated its subcontractors as part of its LOI, and the subcontractors must be found during postqualification by the BAC as eligible for the portions of the contract works that they will undertake before being actually engaged for the contract works. Unless otherwise provided by the contract, the bidder cannot subcontract any part of the works without the prior consent of the Head of the Procuring Entity. However, subcontracting shall not relieve the contractor of any liability or obligation under the contract. It shall be fully responsible for any act, default or negligence of any of its subcontractors, agents, servants or workmen, as if the same was its own act, default or negligence.

3.6.3 PROCEDURE (RECEIVE AND OPEN THE TECHNICAL AND FINANCIAL PROPOSALS)

Activity	Performer	Time Frame	Rules
1.Receive Bids a. Stamp-receive and record bids as they are submitted.	BAC-Secretariat	Up to deadline for bids receipt per BDs	Use official logbook to record bids/documents. Eligible bidders must submit their bids signed by their authorized signing officials (stated in the Technical Proposal) and submitted by their authorized liaison officers (IRR-A Section 25.1) in two separate sealed bid envelopes: the first containing the Technical Proposal, and the second containing the Financial Proposal. The two envelopes shall be placed in an outer envelope or appropriate container, which shall be sealed, addressed to the BAC and marked as specified in the ITB. The BAC will receive the bids

			not later than the time and date and at the place specified in the BDs. Upon receipt of the bid envelope or container containing the Technical and Financial Proposals, the BAC Secretariat must stamp "received" on the face of the outer envelope/ container, indicating thereon the date and time of receipt, and have the stamp countersigned by an authorized representative of the bidder.
b. Stamp-receive and record modification of bids submitted	BAC-Secretariat	-do-	A bidder may modify its bid, provided that this is done before the deadline for the receipt of bids. If 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 or related to its original bid and marked as a "modification" of the original, and stamped "received" by the BAC. (IRR-A Section 26.1) Any discount shall form part of the bid submission in the Financial Envelope.
c. Stamp-receive and record letter of withdrawal of bids	BAC-Secretariat	-do-	Before the deadline for the receipt of bids, a bidder may, through a letter, withdraw its bid (IRR-A Section 26.2) . If that bidder withdraws its bid without any justifiable cause, it shall be subject to the administrative sanctions in IRR-A Section 69.1. After the deadline for receipt of bids, a bidder that withdraws its bids must be subject to applicable sanctions in IRR-A Sections 65 and 69. A bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.
d. Stamp-receive and record letter of non-participation	BAC-Secretariat	-do-	A bidder may express its intention not to participate in the bidding through a letter which should reach and be stamped "Received" by the BAC before the deadline for the receipt of bids. (IRR-A Section 26.2)
e. Record late bids, modifications, letters of withdrawal and letters of non-participant	BAC-Secretariat	Immediately upon presentation	All bids, modifications, letters of withdrawal and letters of non-participation presented after the set deadline shall not be considered, but shall be recorded as "Late" and returned unopened, subject to appropriate sanctions provided in IRR-A Section 65.
f. Drop or store received bids & modifications in designated Bids Box or Container with padlocks	BAC-Secretariat	Immediately after receipt & recording	Bids Box or Container must be secured by by two padlocks, with keys held by the BAC Chairman and the COA representative
2. Open Bids and Conduct Preliminary Examination	BAC-Secretariat	1 cd	

a.	Convene, on Bids Opening Date, the BAC Members, Observers, Secretariat, TWG, and representative of eligible bidder.	BAC-Chair with BAC-Secretariat		The presence of the majority of the BAC members shall constitute a quorum, provided that the Chairman or the Vice-Chairman is present. The bid opening shall be open to the public.
b.	Record all proceedings of Bids Opening	BAC-Secretariat		Use tape recorder/video recorder and notes
c.	Prepare Checklist of Bid Requirements for Technical & Financial Envelopes.	BAC-Secretariat		Use Forms DPWH-INFR-50 and DPWH-INFR-51.
d.	Open Bids Box/Container and take out all bids	BAC-Secretariat		
e.	Open the Technical Envelope (Technical Proposal) of the first bidder	BAC-Secretariat		
f.	Determine the presence of each of the required documents in this Technical Envelope vs. the checklist (1) Check Bid Security if present in/with allowable form, amount, validity period and, in case of a security bond, if callable on demand. (2) Check each of the other required documents is present	BAC Members assisted by BAC-Secretariat BAC Members BAC Members		The BAC shall check the submitted documents in the Technical Proposal of each bidder against the checklist of the required documents in Form DPWH-INFR-50 to ascertain if they are all present, using non-discretionary "pass/fail" criteria. (IRR-A Section 30.1) If the Bid Security is present in/with allowable form, amount, validity period and, if Surety Bond, is callable on demand, consider the Bid Security as "passed" and initial in the appropriate box in the checklist. If not, consider the Bid Security as "failed" and mark "x" in the box and write reason for failure. If the document is present, consider it as "passed" and initial in the corresponding box in the checklist. If not, consider it as "failed" and mark "x" in the box. Do not consider the quality of the document at this stage; quality will be considered in the post-qualification of the Lowest Calculated Bid.
g.	Determine if, overall, the Technical Proposal of the first bidder "passes" ("complying") or "fails" ("non-complying")	BAC Members		Check the box marked "complying" (i.e., "passed") if all documents in the checklist "passed" (i.e., initialed by the BAC Members). If not, check the box marked "non-complying" (i.e., "failed").
h.	Repeat the process, viz., activities e to g, for each of the other bids	BAC Members with BAC-Secretariat		
i.	Announce the results of the Preliminary Examination of all Technical Envelopes – both complying and non-complying	BAC Chairman		
j.	Return the Technical Envelopes of the bidders found non-complying (i.e., "failed") with the Technical Proposal requirements, together with the Financial Envelope unopened.	BAC-Secretariat		Indicate "non-complying" bids in the Abstract of Bids as Read
k.	Open the Financial Envelope	BAC-		

(Financial Proposal) of the first bidder that complied with the Technical Proposal requirement	Secretariat		
<p>l. Determine the presence of each of the three required documents in this Financial Envelope vs. the checklist</p> <p>(1) Check if the first document – i.e., prescribed Bid Form with the bid prices indicated in the Bill of Quantities, is present, and if the Total Bid Price does not exceed the ABC</p> <p>(2) Check if the two other documents - viz., Detailed Estimates and Cash Flow, are present.</p>	<p>BAC Members with BAC-Secretariat</p> <p>BAC Members</p> <p>BAC Members</p>		<p>Use Form DPWH-INFR-51.</p> <p>If the prescribed Bid Form with the bid prices is present, and if the Total Bid price does not exceed the ABC, consider this document “passed” and initial in the corresponding box in the checklist. If not, consider the document “failed” and put “x” in the box.</p> <p>If present, initial in the appropriate boxes in the checklist. If not, put “x” in the boxes.</p>
m. Determine if, overall, the Financial Proposal of the first bidder “passes” (“complying”) or “fails” (“non-complying”)	BAC Members		Check the box marked “complying” if all documents in the checklist “passed” (i.e., initialed by the BAC Members). If not, check the box “marked non-complying” (i.e., “failed”)
n. Repeat the process, viz., activities k to m for each of the other bidder that complied with the Technical Proposal requirements.	BAC Members		
o. Announce the results of the Preliminary Examination of the Financial Envelopes, both “complying” and “non-complying”	BAC Chairman		
p. Return the Financial Envelopes of the bidders found non-complying with the Financial Proposal requirements.	BAC-Secretariat		Indicate “non-complying” bids in the Abstract of Bids as Read
q. Read the Total Bid prices and Bid Security of the bidders found “complying” with both Technical and Financial Proposal requirements and enter the information in the Abstract of Bids as Read	BAC-Secretariat		Use Form DPWH-INFR-52 .
r. Initial every page of all bids received and opened	BAC Members		
s. Sign the Abstract of Bids as Read	BAC Members and Observers		Observers may sign if they concur in the proceedings. They should submit their Procurement Observation Report to the BAC Chairman.
3. Prepare Minutes of the Bid Opening and send copies to BAC Members, Observers, bidders, and other interested parties.	BAC-Secretariat		<p>Use Form DPWH-INFR-53. Attach Observers’ Procurement Observation Reports.</p> <p>Copies of the minutes shall also be made available to the public upon written request and payment of a specified fee to recover cost of materials.</p>

3.7 STEP 7: EVALUATE THE BIDS

3.7.1 LEGAL REFERENCE

IRR-A Section 32 specifies the rules and guidelines relative to the evaluation of bids.

3.7.2 POLICIES AND GUIDELINES

3.7.2.1 Purpose of Bid Evaluation

The BAC shall evaluate the complying bids to determine the "Lowest Calculated Bid" (LCB) (**IRR-A Section 32.1**). This is done by:

- a. establishing the correct calculated prices of the bids, through a detailed evaluation of the Financial Proposal of the bids; and
- b. ranking the total bid prices so calculated from the lowest to the highest.

The bid with the lowest price shall be identified as the LCB.

3.7.2.2 Criteria for Evaluation of Bids

The BAC shall apply non-discretionary criteria in the detailed evaluation of the bids, including the following:

- a. The bid must be complete, i.e., all required items in the Bidding Documents (BDs), including the pay items in the Bill of Quantities (BOQ), must be priced, unless the Instructions to Bidders (ITB) allow partial bids.
- b. The bid shall be corrected for any arithmetical errors, discrepancies, omissions, and allowed discounts, in order to arrive at the total "calculated" bid.
- c. With regard to discrepancies, the decision rules stated in item 1-b of Section 3.7.3-1b shall be applied.
- c. Any total calculated bid which exceeds the ABC shall be not be considered, i.e., it shall automatically be disqualified.

3.7.2.3 Time Frame for Bids Evaluation

After the Preliminary Examination of bids, the BAC, through the TWG, shall immediately conduct a detailed evaluation of all bids rated "complying" with both the Technical and Financial Proposals requirements (Step 5).

The BAC must complete the entire process for Bids Evaluation within fifteen (15) days from the deadline for receipt of the bids (**IRR-A Section 32.3**). However, the BAC should exert effort to complete the Bids Evaluation even before the lapse of the 15-day period, as this will expedite the procurement process and, thus, also the project implementation.

3.7.2.4 Non-Acceptance of Arithmetical Corrections in the Bid

If a bidder does not accept the arithmetical corrections done by the BAC in its bid, the BAC must disqualify the bid and forfeit its Bid Security.

3.7.2.5 Lone or No Complying Bid

Even if there is only one complying bid, the bidding process shall proceed. If the bidder with the lone complying bid passes the postqualification, its bid will be declared as the Single Calculated and Responsive Bid (SCRB) and considered for contract award (**IRR-A Section 36**).

If no bid complies with all bid requirements, the BAC shall declare the bidding a failure. It shall review the provisions of the original BDs, and, where warranted, may modify the scope of work, specifications, terms, conditions, and other provisions of the BDs, and adjust the quantity and cost estimates without increasing the ABC. It must then conduct a re-bidding, in the process formulating a new IAEB and advertising and posting this as required. All bidders that have initially responded to the IAEB and declared eligible in the first bidding shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules as in the first bidding. (**IRR-A Section 35**)

Should a second failure of bidding occur, the Procuring Entity may enter into a negotiated procurement as provided for in IRR-A Section 53 (**IRR-A Section 35.3**).

3.7.3 PROCEDURE (EVALUATE THE BID)

Activity	Responsible Performer	Time Frame	Rules
1. Evaluate the Financial Component of the first bid:	BAC-TWG	1-2 days for Activities 1-3	
a. Check if the Financial Component of the bid is complete	BAC-TWG		Unless the ITB specifically allow partial bids, bids not providing all of the required items in the BDs including, where applicable, the BOQ, shall be automatically disqualified. Where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) for the said item would mean that it is offered for free to the Government.
b. Check and correct/adjust the bid prices for any computational errors, discrepancies, omissions or discounts	BAC-TWG		Any adjustment shall be calculated in monetary terms to determine the calculated prices (IRR-A Section 32.4.1 [b]). In case of discrepancies between: (a) bid prices in figures and in words; (b) total prices per item and unit prices as applied to the quantities per item; (c) stated total price and actual sum of prices of component items; (d) unit cost in the detailed estimate and unit cost in the BOQ; the latter shall prevail (IRR-A Sections 32.4.3).
c. Determine the total calculated bids.	BAC-TWG		These are the total bid prices after making the above corrections and adjustments.

d. Check if any total calculated bid exceeds the ABC.	BAC-TWG		Total calculated bid prices which exceed the ABC shall be disqualified (IRR-A Sections 32.4.4).
e. Rank the total calculated bids from the lowest to the highest	BAC-TWG		
2. Prepare Abstract of Bids as Calculated	BAC-TWG reviewed by BAC-Sec		Use Form DPWH-INFR-53 .
3. Sign Abstract of Bids as Calculated	BAC		All BAC members shall sign the Abstract of Bids as Calculated and attach thereto all the bids with their Bid Securities and the minutes or proceedings of the bidding (IRR-A Section 32.5). The Observers shall also sign the Abstract if, in their observation, the bidding followed the correct procedure under R.A. 9184 and its IRR-A. They shall submit their Procurement Observation Reports.
4. Prepare Bid Evaluation Report (BER) and submit it to BAC Chairman	BAC-TWG to prepare, BAC-Sec to review and submit	≤ 3 days after Activity 3	Use Form DPWH-INFR-55 .

3.8 STEP 7: POSTQUALIFY THE BIDDER WITH THE LOWEST CALCULATED BID

3.8.1 LEGAL REFERENCE

IRR-A Section 34 specifies the rules and guidelines for the conduct of postqualification.

3.8.2 POLICIES AND GUIDELINES

3.8.2.1 Definition of Postqualification

Postqualification is the process of verifying, validating and ascertaining all the statements made and documents submitted by the bidder with the Lowest Calculated Bid (LCB), which includes ascertaining the said bidder's compliance with the legal, financial and technical requirements of the bid.

If its eligibility documents have been verified and validated, and its compliance with the legal, financial, and technical requirements of the bid have been ascertained, the bidder shall be considered as "postqualified" and declared as the bidder with the "Lowest Calculated Responsive Bid" or LCRB (**IRR-A Section 34.1**).

3.8.2.2 Timeline for Postqualification

The BAC must conduct and complete the postqualification process within seven (7) calendar days from the determination of the LCB (**IRR-A Section 34.1**).

3.8.2.3 Fraud, Misrepresentation and Collusion

If a bidder is found to have committed an act that constitutes fraud or misrepresentation or to have colluded with others for the purpose of influencing the outcome of the bidding, such a bidder will be disqualified by the BAC, its Bid Security forfeited and, upon conviction, will suffer the penalty of imprisonment of not less than six (6) and one (1) day and not more than fifteen (15) years (**IRR-A Section 65.2**). It will likewise suffer the administrative penalties of suspension for one (1) year from participation in government procurement for the first offense, and suspension for two (2) years for the second offense (**IRR-A Section 69.1**).

3.8.2.4 Failure of Bidder with LCB in Postqualification

If the bidder with the LCB fails to pass the postqualification, the BAC shall immediately notify that bidder in writing of its postdisqualification and the grounds for it. The post-disqualified bidder shall have seven (7) calendar days from receipt of the said notice to request from the BAC, if it so wishes, a reconsideration of this decision. The BAC shall evaluate the request for reconsideration, if any, using the same non-discretionary criteria as in the postqualification process, and shall issue its final determination of the request within seven (7) calendar days from receipt thereof (**IRR-A 34.4**). In case the BAC denies its request for reconsideration, the postdisqualified bidder may file with the Head of the Procuring Entity a protest with the corresponding fee.

Immediately after the BAC has notified the first bidder of its postdisqualification, and notwithstanding any pending request for reconsideration thereof, the BAC shall initiate and complete the same postqualification process on the bidder with the second LCB. If the second bidder passes the postqualification, and provided that the request for reconsideration of the first bidder has been denied, the BAC shall declare the second

bidder as the bidder with the LCRB. The Head of the Procuring Entity shall then award the contract to it (**IRR-A Section 34.5**).

If the second bidder fails the postqualification, however, the procedure for post-qualification shall be repeated for the bidder with the next LCB, and so on until the LCRB, is determined for award (**IRR-A Section 34.7**).

3.8.2.5 Failure of All Bidders in Postqualification

If no bidder passes the postqualification, the BAC shall declare a failure of bidding. It shall review the provisions of the original BDs, and, where warranted, may modify the scope of work, specifications, terms, conditions, and other provisions of the BDs, and adjust the quantity and cost estimates without increasing the ABC. It must then conduct a re-bidding, in the process formulating a new IAEB and advertising and posting this as required. All bidders that have initially responded to the IAEB and declared eligible in the first bidding shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules as in the first bidding. (**IRR-A Section 35**)

If a second failure of bidding occurs, the Procuring Entity may enter into a negotiated procurement as provided under IRR-A Section 53 (**IRR-A Section 35.3**).

3.8.3 PROCEDURE (POSTQUALIFY THE BIDDER WITH THE LOWEST CALCULATED BID)

Activity	Responsible Performer	Time Frame	Rules
1. Obtain the Postqualification Report Form, Contractor's Information (CI), LOI, Technical Proposal and Financial Proposal of the bidder with the LCB	BAC-Sec	½ cd	Use Form DPWH-INFR-56 . Download bidder's CI from DPWH Registry of Contractors
2. Verify and validate the following items in the <u>CI</u> and record findings in the Postqualification Report Form a. <u>Legal Aspects</u> <ul style="list-style-type: none"> • PCAB License • DTI Registration, if single/ proprietorship • SEC Registration, if partnership or corporation • Business Permit • BIR Tax Clearance 	BAC-TWG	1 cd	Refer to CI in the computerized DPWH Registry of Contractors. Enter findings in Form DPWH-INFR-56 . For each item below, if the finding is favorable or positive, mark "passed" in the form. If adverse, mark "failed" and indicate the reasons. Verify with PCAB if license is valid, current and applicable to the subject contract Verify validity with DTI Verify validity with SEC Verify validity with Municipal/City Government Verify with BIR (through website)

<p>b. <u>Technical Aspects</u></p> <ul style="list-style-type: none"> • Completed projects, including largest similar contract • On-going projects <p>c. <u>Financial Aspects</u></p> <ul style="list-style-type: none"> • Financial Statement • NFCC 			<p>Verify with project owner if the bidder's declared largest completed similar project is indeed similar, was completed satisfactorily, and with as-built cost of at least 50% of ABC.</p> <p>Verify with project owners and by inspection if any on-going project has a negative slippage of 15% or more or is sub-standard, or the bidder's performance is unsatisfactory to the owner</p> <p>Check the value of other contracts of the bidder that coincide with the subject contract (for Item c below)</p> <p>Verify with Auditor et al if there are changes in current assets and liabilities</p> <p>Verify and compute updated NFCC, considering changes in current assets and liabilities and in value of on-going works coinciding with subject contract (from Item b above), and check if at least equal to ABC.</p>
<p>3. Verify and validate the following information in the <u>LOI</u> and record findings in the Postqualification Report Form</p> <p>a. <u>Legal Aspects</u></p> <ul style="list-style-type: none"> • Affidavit of Non-Inclusion in the Blacklist • Affidavit of No Prohibited Relations <p>b. <u>Financial Aspects</u></p> <p>Credit line commitment or cash deposit certificate</p>	<p>BAC-TWG</p>	<p>½ cd</p>	<p>Enter findings in Form DPWH-INF-56. For each item below, if the finding is favorable or positive, mark "passed" in the form. If adverse, mark "failed" and indicate the reasons.</p> <p>Verify with GPPB Blacklist (through website)</p> <p>Verify with DPWH personnel records</p> <p>Confirm with the issuing bank the validity of its credit line commitment or cash deposit certificate for the contract of at least 10% of ABC.</p>
<p>4. Verify and validate information in the <u>Technical Proposal</u> and record findings in the Postqualification Report Form</p>	<p>BAC-TWG</p>	<p>1 cd</p>	<p>Enter findings in Form DPWH-INF-56. For each item, if finding is favorable or positive, mark "passed" in the form. If adverse, mark "failed" and indicate the reasons.</p>

<p>a. Bid Security</p> <p>b. Authority of Signing Official</p> <p>c. Construction Schedule and S-curve</p> <p>d. Construction Methods</p> <p>e. Organizational Chart for the Contract</p> <p>f. Contractor’s certification on key personnel for the contract</p> <p>g. Manpower Utilization Schedule</p> <p>h. List of equipment pledged to the contract</p> <p>i. Equipment utilization schedule</p> <p>j. Affidavit of site inspection</p> <p>k. Credit line commitment or cash deposit certificate(unless submitted as part of the LOI in Item 3-b above)</p>			<p>Verify with issuing bank/company, OIC, and DPWH if bank/company is not blacklisted, if Bid Security is authentic, and if the form, amount, validity period and terms (including being callable on demand) are sufficient.</p> <p>If single proprietorship, check owner’s affidavit. If partnership, check designation of authorized signatory. If corporation, check authority from the Board or certification of Board Secretary.</p> <p>Check if consistent with the prescribed contract duration.</p> <p>Check if line with accepted industry practices.</p> <p>Check if specific to the contract.</p> <p>Check if all required key personnel (Project Manager et al) are identified in the Bid. Verify if key personnel meet the minimum requirements in the BDs (largest similar project handled satisfactorily with as-built cost of at least 50% of ABC).</p> <p>Check if there are overlaps in schedule of key personnel with other projects.</p> <p>Check if contractor’s pledged equipment meets the minimum requirements in the BDs. Verify availability, condition, capacity, production rate, ownership, and validity of lease and purchase agreements. Conduct actual inspection as necessary.</p> <p>Check if there are overlaps with other projects.</p> <p>Check if provided.</p> <p>Confirm with the issuing bank the validity of its issued credit line commitment or cash deposit certificate for the subject contract, amounting to at least 10% of ABC.</p>
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<p>l. Contractor's safety and health program</p>			<p>Check if the five items required in Form DPWH-INFR-44 are provided.</p>
<p>m. Certification of compliance with labor laws</p>			<p>Verify if complete, signed and under oath.</p>
<p>5. Verify and validate information in the <u>Financial Proposal</u> and record findings in the Postqualification Report Form</p>	BAC-TWG	½ cd	<p>Enter findings in Form DPWH-INFR-56. For each item, if the finding is favorable or positive, mark "passed" in the form. If adverse, mark "failed" and indicate the reasons.</p>
<p>a. Bid prices in the Bill of Quantities</p>			<p>Verify if complete and arithmetically correct, and without inconsistencies.</p>
<p>b. Detailed estimates</p>			<p>Verify if consistent with bid prices.</p>
<p>c. Cash flow by quarter and payment schedule</p>			<p>Check if complete.</p>
<p>6. Indicate overall findings in Postqualification Report Form</p>	BAC-TWG	½ cd	<p>Enter findings in Form DPWH-INFR-56. If the bidder with the LCB passes all of above post-qualification requirements, check box marked "responsive." If the bidder fails in one or more of above postqualification requirements, check box marked "non-responsive."</p>
<p>7. If the bidder has a nominated subcontractor in its LOI, conduct the same process in Activities 2-6 for each subcontractor.</p>	BAC-TWG	same as for 2-6	<p>Indicate the findings in Form DPWH-INFR-56. In case the subcontractor is declared ineligible or postdisqualified, the bidder with the LCB shall directly undertake the portions of the work supposed to be done by that subcontractor.</p>
<p>8. Sign Postqualification Report (PQR) and submit it to BAC Chairman</p>	BAC-TWG with BAC-Sec	½ cd	<p>Use Form DPWH-INFR-56.</p>
<p>9. Review PQR and declare bidder with LCB as "postqualified" and its bid as "LCRB," or declare the bidder as "postdisqualified," as the case may be, and sign PQR</p>	BAC	½ cd	<p>a. If PQR shows that the LCB is "responsive," declare its bidder as "postqualified" and its bid as the LCRB.</p> <p>b. If PQR shows that the LCB is "non-responsive," declare its bidder as "postdisqualified," citing the reasons therefor.</p>
<p>10. If the bidder with LCB is postqualified and its bid declared as LCRB, send Notice of Post-</p>	BAC	½ cd	<p>Use Form DPWH-INFR-57.</p>

qualification to that bidder			
11. If the bidder with LCB is postdisqualified, send Notice of Post-disqualification (NPD) to the bidder	BAC	½ cd	Use Form DPWH-INFR-58.
12. In case of No. 11, repeat the process in Activities 2-11 for the bidder with the second LCB, and so on, until the LCRB is determined	BAC-TWG and BAC	same as 2-11	same as 2-11
13. Receive request for reconsideration, if any, from postdisqualified bidder.	BAC -Sec.	≤ 7 cd after bidder's receipt of NPD	
14. Evaluate the request for reconsideration, decide, and repeat activities 9-11	BAC	7 cd after receipt of request	Use non-discretionary criteria and decide based on verifiable facts.

3.9 STEP 8: AWARD THE CONTRACT

3.9.1 LEGAL REFERENCE

IRR-A Section 37 specifies the rules and guidelines for awarding the contract.

3.9.2 POLICIES AND GUIDELINES

3.9.2.1 Rule on Contract Award

The Procuring Entity shall award the contract to the bidder with the Lowest Calculated Responsive Bid (LCRB) (or the Single Calculated and Responsive Bid or SCRB), i.e., the winning bidder, at its submitted bid price or its calculated bid price, whichever is lower (**IRR-A Section 37.1**).

Before the expiration of the period of bid validity, the Procuring Entity shall notify the winning bidder in writing that its bid has been accepted, through a Notice of Award (NOA) received by the bidder personally or by registered mail or electronically. In case the NOA is not received personally, its receipt must be confirmed in writing within two (2) days by the successful bidder and submitted personally or sent by registered mail or electronically to the Procuring Entity.

3.9.2.2 Timeline for Contract Award

Based on the Bid Evaluation Report and Postqualification Report, the BAC shall declare the LCRB and recommend the award of the contract to the Bidder with the LCRB. This decision shall be embodied in a BAC Resolution using **Form DPWH-INFR-59**, to be submitted to the Head of the Procuring Entity for approval.

The Head of the Procuring Entity shall approve or disapprove the said BAC Resolution recommending the award within fifteen (15) calendar days from the date of that Resolution (**IRR-A Section 37.2**).

The NOA shall be given to the bidder with the LCRB (winning bidder) immediately after approval of the BAC Resolution for award and before the expiration of the period of bid validity as specified in the BDS of the BDs. Simultaneously, a copy of the Notice shall be furnished to all losing bidders, and posted in the DPWH website and the G-EPS.

3.9.2.3 Non-Acceptance by Bidder Considered for Award

If the bidder with the LCRB refuses to accept the NOA, the BAC must disqualify that bidder and forfeit its Bid Security. The BAC must then initiate and complete the post-qualification of the bidder with the second lowest calculated bid. This bidder shall then be awarded the contract, if found to be postqualified. This procedure is repeated until the LCRB is determined.

Should all eligible bidders fail the postqualification, the BAC must declare the bidding a failure. It shall review the provisions of the original BDs, and, where warranted, may modify the scope of work, specifications, terms, conditions, and other provisions of the BDs, and adjust the quantity and cost estimates without increasing the ABC. It must then conduct a re-bidding, in the process formulating a new IAEB and advertising and posting this as required. All bidders that have initially responded to the IAEB and declared eligible in the first bidding shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules as in the first bidding. (**IRR-A Section 35**)

If a second failure of bidding occurs, the Procuring Entity may enter into a negotiated procurement as provided under IRR-A Section 53 (**IRR-A Section 35.3**).

Refusal by the bidder with the LCRB to accept an award, without just cause or for the purpose of forcing the Procuring Entity to award the contract to another bidder, if proven, is meted a penalty of imprisonment of not less than six (6) years and one (1) day by not more than fifteen (15) years (**IRR-A Section 65.3.4**). In addition, administrative penalties of suspension for one (1) year from participation in government procurement for the first offense, and suspension for two (2) years for the second offense shall be imposed on the bidder (**IRR-A Section 69.1**).

3.9.3 PROCEDURE (AWARD THE CONTRACT)

Activity	Responsible Performer	Time Frame	Rules
1. Obtain Bid Evaluation Report (BER) and Postqualification Report (PQR) for LCB	BAC-Sec	½ cd	
2. Prepare BAC Resolution declaring the LCRB and recommending award thereto, attach BER and PQR, and submit these to the BAC	BAC-Sec	½ cd	Use Form DPWH-INFR-59 .
3. Sign the BAC Resolution and submit it to the Head of the Procuring Entity (HOPE)	BAC	1 cd	
4. Approve or disapprove the BAC Resolution	HOPE	1-15 cd	In case of disapproval, HOPE shall state the reasons and instruct the BAC on subsequent steps to be taken.
5. Prepare (a) Notice of Award (NOA) to the winning bidder and (b) Notification of Bidding Results (NOBR) to the losing bidders	BAC-Sec, reviewed by BAC-Chair	½ cd	For (a) use (a) Form DPWH-INFR-60 . For (b) use (b) Form DPWH-INFR-61 .
6. Sign NOA and NOBR	HOPE	1 cd	
7. Issue NOA to the winning bidder and NOBR to the losing bidders	BAC-Sec	½ cd; within Bid validity period	
8. Post bidding results in the DPWH website and G-EPS	BAC-Sec	½ cd	Use Form DPWH-INFR-62 .

3.10 STEP 9: HAVE THE CONTRACT FINALIZED, SIGNED AND APPROVED AND ISSUE THE NOTICE TO PROCEED

3.10.1 LEGAL REFERENCE

IRR-A Section 37 specifies the rules regarding contract documentation, signing and approval.

3.10.2 POLICIES AND GUIDELINES

3.10.2.1 Contract Documents and Supporting Documents

The Procuring Entity and the winning bidder (i.e., the bidder with the declared LCRB or SCRB) shall use the checklist in **Form DPWH-INFR-63** to ensure the completeness of the documents comprising the Contract as well as the supporting documents.

- a. The **Contract** itself shall consist of the following documents:
- (1) Contract Agreement (Use **Form DPWH-INFR-64**)
 - (2) Documents forming part of the Contract Agreement
 - (a) Bidding Documents for the Contract (Annex "A")
 - (1) General Conditions of Contract (GCC)
 - (2) Special Conditions of Contract (SCC)
 - (3) Drawings/Plans
 - (4) Specifications
 - (5) Invitation to Apply for Eligibility and to Bid (IAEB)
 - (6) Instructions to Bidder (ITB)
 - (7) Bid Data Sheet (BDS)
 - (8) Bid Bulletins (Addenda)
 - (b) Contractor's Calculated Bid in the Bid Form, including the Technical and Financial Proposals (Annex "B")
 - (c) Contractor's Letter of Intent (LOI) for Eligibility and Contractor's Information from the DPWH Registry (Annex "C")
 - (d) Notice of Award with the Contractor's "Conforme" (Annex "D")
 - (e) Performance Security, in accordance with Section 3.10.2.4 of this DPM Volume III (Use **Form DPWH Form 65 or 66**, as applicable) (Annex "E")
 - (f) Credit Line (Use **Form DPWH-INFR-67**) or Cash Deposit Certificate (Use **Form DPWH-INFR-17**) in an amount at least equal to ten percent (10%) of the total Contract price (Annex "F")
 - (g) PERT/CPM diagram and bar chart with S-curve (Annex "G")

The documents in items (1) and (2)-(a) to (2)-(c) above shall be provided by the Procuring Entity. The documents in items (2)-(d) to (2)-(g) shall be submitted by the

winning bidder within ten (10) calendar days from the date of its receipt of the Notice of Award.

- b. The required **supporting documents** for the Contract shall consist of the following:
- (1) Approved Program of Work (Annex "I")
 - (2) Obligation Slip (OS) (Annex "II")
 - (3) Certificate of Availability of Funds (CAF) (Annex "III")
 - (4) Abstract of Bids as Calculated (Annex "IV")
 - (5) Approved BAC Resolution declaring the LCRB and Recommending Award (Annex "V")

3.10.2.2 Definition of Performance Security

A Performance Security is a guarantee that the winning bidder shall faithfully perform its obligations under the contract prepared in accordance with the Bidding Documents (**IRR-A Section 39.1**), up to the end of the Defects Liability Period. The Performance Security shall also guarantee the recoupment of any advance payment to the contractor as authorized in "Annex E" of the IRR-A. The Performance Security must be posted in favor of the Procuring Entity, and shall be forfeited in the latter's favor if it is established that the winning bidder is in default in any of its obligations under the contract. (**IRR-A Section 39.2**)

3.10.2.3 Responsibility of Posting Performance Security

The Performance Security shall be posted by the bidder with the Lowest Calculated Responsive Bid (LCRB) before the signing of the contract by both parties (**IRR-A Section 39.1**). It is one of the requirements to be submitted by the winning bidder to form part of the Contract. (**IRR-A Section 37.2.3**)

3.10.2.4 Forms and Amounts of Performance Security

The Performance Security must be in any of the following forms with the corresponding required amounts:

FORM OF PERFORMANCE SECURITY	AMOUNT
a. Cash, certified check, cashier's/manager's check, or bank draft issued by a reputable bank; or	5% of contract price
b. Irrevocable letter of credit issued by a reputable bank (Use Form DPWH-INFR-65); or	5% of contract price
c. Bank guarantee confirmed by a reputable bank (Use Form DPWH-INFR-66); or	10% of contract price
d. Any combination of the foregoing forms.	10% of contract price

The required amounts of the Performance Security stated above shall be increased by the amount of any advance payment not exceeding fifteen percent (15%) of the contract price that the contractor may avail itself of under the terms of the contract.

3.10.2.5 Conditions of Performance Security

The winning bidder shall post a Performance Security which complies with the following conditions:

- a. The Performance Security must be executed in the form prescribed by the Procuring Entity in the ITB;
- b. The Performance Security must at least be co-terminus with the period of the contract up to the issuance of the Certificate of Acceptance at the end of the Defects Liability Period.
- c. The following provisions shall form part of the Performance Security: "The right to institute action on the penal bond pursuant to Act No. 3688 of any individual, firm, partnership, corporation and association supplying the Contractor with labor and materials for the prosecution of the work is hereby acknowledged and confirmed."

3.10.2.6 Change in Performance Security with Change in Contract Price

During contract implementation, the Contractor shall post an additional Performance Security following the schedule above to cover any cumulative increase of more than ten percent (10%) over the original total contract price as a result of Variation Orders (change orders or extra work orders) (**IRR-A Section 39.5**). The percentages in the schedule above must be applied to increases in the original total contract price. The Contractor must also cause the extension of the validity of the Performance Security to cover approved contract time extensions.

For partially completed works under the Contract which are usable and accepted by the government, and the use of which, in the judgment of the Procuring Entity, will not affect the structural integrity of the entire project, the Procuring Entity shall allow a proportional reduction in the original Performance Security. However, this shall be allowed only when such reductions are more than ten percent (10%) and the aggregate of such reductions is not more than fifty percent (50%) of the original Performance Security. (**IRR-A Section 39.6**)

3.10.2.7 Release of Performance Security

Subject to the conditions of the Contract, the Procuring Entity may release the Performance Security to the Contractor after the issuance of the Certificate of Acceptance of the Contract works, at the end of the Defects Liability Period, provided that there are no claims for labor and materials filed against the contractor or the surety company (**IRR-A Section 39.4**) and provided that it is replaced by a Warranty Security against structural defects and failure over the prescribed period in accordance with **IRR-A Section 62**.

3.10.2.8 Contract Signing

The winning bidder and the Procuring Entity must enter into a Contract immediately after the former has submitted all documentary requirements to perfect the contract within the period specified in the IRR-A. The parties must sign the Contract within ten (10) calendar days from receipt by the winning bidder of the Notice of Award (**IRR-A Section 37.3**).

The authorized contract signatory of the Procuring Entity is encouraged to sign the Contract within the same day as the signing by the bidder as there are penalties against delaying, without justifiable cause, the award of the contract (**IRR-A Section 65.1**). Moreover, it would be best for the winning bidder and the authorized contract signatory, to sign and execute the Contract together – provided that all Contract documents and requirements are complete – so that both may personally appear before a Notary Public.

3.10.2.9 Refusal/Inability of Bidder to Post the Performance Security and Sign the Contract

If the bidder with the LCRB or SCRB refuses to, or is unable, through its own fault, to post the Performance Security and sign the Contract within the prescribed period:

- a. its Bid Security shall be forfeited;
- b. it shall be disqualified from further participating in the bidding at hand;
- c. upon conviction, its Authorized Managing Officer (AMO) shall suffer the penalty of imprisonment of not less than six (6) and one (1) day and not more than fifteen (15) years; and
- d. upon determination of administrative liability, it shall suffer the administrative penalties of suspension for one (1) year from participation in government procurement for the first offense, and suspension for two (2) years for the second offense.

The BAC must then initiate and complete the postqualification of the bidder with the second LCB. This procedure must be repeated until the LCRB is determined for award. If no bidder passes postqualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-posting and re-advertisement. It shall review the provisions of the original BDs, and, where warranted, may modify the scope of work, specifications, terms, conditions, and other provisions of the BDs, and adjust the quantity and cost estimates without increasing the ABC. It must then conduct a re-bidding, in the process formulating a new IAEB and advertising and posting this as required. All bidders that have initially responded to the IAEB and declared eligible in the first bidding shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules as in the first bidding (**IRR-A Section 35**). If a second failure of bidding occurs, the Procuring Entity may enter into a negotiated procurement as provided under IRR-A Section 53 (**IRR-A Section 35.3**).

If the bidder that fails to post the Performance Security and sign the contract is the one with the SCRB, the BAC must declare the bidding a failure. It shall review the provisions of the original BDs, and, where warranted, may modify the scope of work, specifications, terms, conditions, and other provisions of the BDs, and adjust the quantity and cost estimates without increasing the ABC. It must then conduct a re-bidding, in the process formulating a new IAEB and advertising and posting this as required. All bidders that have initially responded to the IAEB and declared eligible in the first bidding shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules as in the first bidding (**IRR-A Section 35**). If a second failure of bidding occurs, the Procuring Entity may enter into a negotiated procurement as provided under IRR-A Section 53 (**IRR-A Section 35.3**). It shall then conduct a re-bidding with re-posting and re-advertisement.

If, however, the failure of the bidder with the LCRB or SCRB to sign the contract within the prescribed period is not due to its fault, the sanctions mentioned above shall not be imposed (**IRR-A Section 40.1**).

3.10.2.10 Contract Approval

When, after contract signing, further approval of a higher authority is required, the approving authority for the contract, or his duly authorized representative, shall be given a maximum of three (3) calendar days if the Procuring Entity is a District Office, five (5) calendar days if the Procuring Entity is a Regional Office, and ten (10) calendar days if the Procuring Entity is the Central Office, from receipt of the signed contract, including all its component documents and required supporting documents (**Section 3.10.2.5**) to approve or disapprove it.

3.10.2.11 Notice to Proceed

The Notice to Proceed (NTP), using **Form DPWH-INFR-68**, must be issued, together with a copy of the approved Contract, to the winning bidder (the Contractor) within three (3) calendar days from the date of approval of the Contract.

3.10.2.12 Contract Effectivity

Unless otherwise specified in the Contract, a Contract is effective on the date indicated in the NTP. All notices called for by the terms of the approved Contract shall be effective only from such effectivity date (**IRR-A Section 37**).

3.10.3 PROCEDURE (HAVE THE CONTRACT FINALIZED, SIGNED AND APPROVED AND ISSUE NTP)

Activity	Responsible Performer	Time Frame	Rules
1. Prepare a checklist of Contract documents and supporting documents	IU	½ cd	Use Form DPWH-INFR-63 .
2. Receive documents 2-(d) to 2-(g) in Section 3.10.2.1-a above from the winning bidder	IU	10 cd	
3. Compile all documents 2-a to 2-g in Section 3.10.2.1-a above to form the Contract	IU	½ cd	
4. Transmit the Contract documents to the Budget Officer for Obligation Slip (OS)	IU	½ cd	
5. Issue OS for the Contract	Chief Budget Officer	½ cd	
6. Transmit the Contract documents to the Chief Accountant for CAF	IU	½ cd	
7. Issue CAF for the Contract	Chief Accountant	½ cd	
8. Submit the Contract	IU	½ cd	

documents with supporting documents to the Chief Legal Officer for review and initial			
9. Review and initial the Contract and transmit this to the authorized DPWH contract signatory	Chief Legal Officer	½ cd	
10. Review and sign, together with the Contractor, the Contract, and send it to the approving authority	Authorized signatories of Proc. Entity & Contractor, witnessed by Chief Acct.	1 cd	DPWH signatory is usually the IU Head for Central Office, ARD for Regional Office, and ADE for District Office.
11. Review and approve the Contract	HOPE	3 cd-DO 5 cd-RO 10 cd-CO	
12. Issue Notice to Proceed (NTP) to the Contractor	HOPE or authorized representative	< 5 cd from Contract approval	Use Form DPWH-INF-68 .

3.11 RESERVATION CLAUSE

3.11.1 LEGAL REFERENCE

IRR-A Section 41 provides the rules governing the Reservation Clause.

3.11.2 POLICIES AND GUIDELINES

3.11.2.1 Right of Procuring Entity to Reject Bids, Declare a Failure of Bidding, or Not Award the Contract

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

- a. If there is prima facie evidence of collusion among appropriate public officers or employees of the Procuring Entity, or between the BAC and any of the bidders, or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition.
- b. If the BAC is found to have failed in following the prescribed bidding procedures, for which the applicable sanctions shall be applied to the erring officers.
- c. If, for any of the following justifiable and reasonable ground, the award of the contract will not redound to the benefit of the Government:
 - (1) The physical and economic conditions have significantly changed so as to render the contract works no longer economically, financially or technically feasible as determined by the Head of the Procuring Entity.
 - (2) The contract works are no longer necessary as determined by the Head of the Procuring Entity.
 - (3) The source of funds for the contract has been cancelled, withheld or reduced through no fault of the Procuring Entity.

If the Head of the Procuring Entity abuses his power to reject any and all bids, as provided by the Reservation Clause, with manifest preference to any bidder who is closely related to him in accordance with IRR-A Section 47, or if it is proven that he exerted undue influence or pressure on any member of the BAC or any officer or employee of the Procuring Entity to take such action, and the same favors or tends to favor a particular bidder, he shall be meted with the penalties provided in IRR-A Section 65 (**IRR-A Section 65.1.5**).

3.11.2.2 Instances of BAC Not Following Procedures

The following are some instances when a BAC fails to follow procedures:

- a. Prescribing an insufficient number of days in the advertisement and/or posting of the IAEB.
- b. Exceeding the required periods for eligibility screening, bid evaluation, postqualification or awarding the contract, without justifiable cause.

- c. Conducting the Pre-Bid Conference or issuing the Bidding Documents in less than the required number of days before the deadline for the receipt and opening of bids.
- d. Requiring or allowing a bidder to submit additional documents which is tantamount to improving its bid.
- e. Allowing a bidder to be declared eligible or pass the postqualification with incomplete documents.

3.12 **BIDDING OF PROVINCIAL PROJECTS**

3.12.1 **LEGAL REFERENCE**

IRR-A Sections 44 and 45 provide the rules regarding the bidding for provincial projects.

3.12.2 **POLICIES AND GUIDELINES**

3.12.2.1 **Definition of Provincial Projects**

"Provincial projects" are infrastructure projects and priority programs that are located in Engineering Districts, are fully funded by the government, and are identified in consultation with the concerned members of Congress. These are priority programs and infrastructure projects that are funded out of the annual GAA and are intended for implementation within the province.

3.12.2.2 **Rules on Procuring Provincial Projects**

The rules on public bidding and procurement processes prescribed in R.A. 9184 and its IRR-A shall apply to provincial projects (**IRR-A Section 44**).

However, special privileges are given to provincial bidders, which are defined as contractors whose principal offices are within the province where a provincial priority program or infrastructure project, as defined above, is being implemented. More specifically, in the bidding of such provincial projects, a provincial bidder is given the privilege of matching the LCB of a bidder that is not a provincial bidder. In implementing this rule, the following shall be observed (**IRR-A Section 45.1**):

- a. The subject bidding is done within five (5) years from the effectivity of R.A. 9184, i.e., not later than January 26, 2008.
- b. If the LCB is submitted by a non-provincial bidder, the provincial bidder that submits the lowest bid among the provincial bidders, although higher than the LCB, is given the privilege of matching the LCB.
- c. The said provincial bidder shall exercise the privilege of matching the LCB within forty-eight (48) hours from receipt of the notice from the BAC asking it to match the LCB.
- d. The provincial bidder must agree to match the LCB in writing, through appropriate adjustments in its unit bid prices without changing the scope of work and work items prescribed by the Procuring Entity in the Bidding Documents.
- e. If the provincial bidder is able to match the LCB within the prescribed period and it passes the postqualification, it will be awarded the contract. If it fails to match the LCB or to pass the postqualification, however, the contract will be awarded to the non-provincial bidder that submitted the LCB, subject to postqualification.

This privilege granted to provincial contractors shall not apply to:

- a. contracts which covers more than one (1) province; and
- b. contracts within Metro Manila.

3.12.2.3 Requirement for Advertisement and Posting of Opportunities for Provincial Projects

The Procuring Entity must comply with the following requirements in publishing or posting the information on the release of funds for provincial projects, during the same period for the advertisement and posting of the IAEB (**IRR-A Section 45.2**):

- a. The notices must be published in a local newspaper with wide regional circulation.
- b. The notices must be posted at any conspicuous place reserved for the purpose in the premises of the Procuring Entity.
- c. The notices must be posted in the website of the DPWH and the G-EPS.