



DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

DPWH PROCUREMENT MANUAL

Volume I – Guidelines on the Establishment of
Procurement Systems and Organization

JUNE 2016

MESSAGE


From 2010 and 2011, the infrastructure budget of the DPWH sharply rose from Php 90 Billion to over Php 360 Billion in 2016. With such a large capital outlay, management should be efficient and effective to avoid wastage of government resources. For this reason, we had to review and revise existing policies and rules in procurement and project implementation to improve transparency, efficiency, and to reduce opportunities for corruption.

In addition, we also decentralized many of our procurement policies and levels of authorities to Regional and District Offices for them to accommodate the procurement of a large number of contracts. This decentralization and delegation was necessary for improved efficiency, and accountability in project execution

To make sure that these management reforms are done properly and in a sustained manner, the improvements and revisions in procurement policies and rules introduced over the last five years have been integrated and incorporated in a revised manual that will promote transparency, accountability, and consistency in all levels from Central to Regional & District Offices. The bottom-line: the same rules apply across regions and offices and lessen the confusion on the procedures of procurement. This consistency will certainly put the private sector at ease, and there will not be undue discretion by the procuring and implementing offices.

All of these are embodied in this DPWH Procurement Manual for Infrastructure, Consulting Services, and Goods that shall be applicable across all entities of this Department. This will make our procurement more transparent to the public, hold our procurement officers responsible for their actions, make project implementation more efficient and consistent, and importantly prevent corruption in government.

I would like to thank the World Bank and the Australian Government for extending technical assistance to the DPWH in crafting this Manual. I also express my appreciation to the external stakeholders from the construction, consultancy, and supplies sectors for their useful inputs in the preparation of this Manual. Finally, I acknowledge the valuable efforts of the DPWH staff in putting together this important Manual.



ROGELIO L. SINGSON
Secretary

Preface

The Department of Public Works and Highways (DPWH) has prepared this Procurement Manual to guide it in effectively carrying out its heavy procurement workload involving contracts for around 14,000 projects a year under its regular infrastructure budget which in 2016 alone totaled P360 billion. Added to this is the procurement by the DPWH for contracts of around 7,000 infrastructure projects costing about P50 billion a year of non-infrastructure agencies, such as the Department of Education and the Department Agriculture. The DPWH has to efficiently manage the implementation of this extensive procurement program through its Procuring Entities in the Central Office (CO), 17 Regional Offices (ROs), and 182 District Engineering Offices (DEOs).

This DPWH Procurement Manual (DPM) seeks to address the problems in the procurement regime brought about by rules and procedures dispersed in separate documents, such as Republic Act (RA) No. 9184 (Government Procurement Reform Act) and its Implementing Rules and Regulations (IRR), various orders and issuances of the Government Procurement Policy Board (GPPB) and the DPWH, Bidding Documents, and old/incomplete manuals. Some of these documents have unclear, outdated, or conflicting provisions. Consequently, DPWH staff in the CO, ROs and DEOs, as well as private contractors, consultants, and suppliers, have found it difficult to interpret and carry out the procurement process in a clear, unambiguous, and consistent manner. This situation tends to contribute to delays, overruns, substandard work, conflicting interpretations, procedural lapses, and even corrupt acts in the procurement and implementation of projects and services.

The DPM, therefore, aims to put together a coherent set of clear, complete, up-to-date, streamlined, and simple operational rules and procedures, to serve as common reference and guide for DPWH and private contractors, consultants, and suppliers in the procurement of contracts for infrastructure, consulting services, and goods, consistent with RA 9184 and its IRR.

This Procurement Manual is expected to enhance the quality of DPWH procurement, by making it simpler, quicker, consistent (across all DPWH offices), more transparent, more competitive, with greater accountability, and capable of public monitoring - in line with the procurement principles in RA 9184. In turn, this will result in faster and more economical provision of infrastructure works and services needed to accelerate socio-economic development.

The DPM consists of four volumes, viz., Volume I - Systems and Organizations, Volume II - Infrastructure, Volume III - Consulting Services, and Volume IV ó Goods and Services. Apart from the Main Guidelines, the DPM also includes Standard Bidding Documents and Standard Bidding Forms for each of Volumes II, III, and IV.

This DPM is applicable to procurement for (a) projects funded and implemented by the DPWH, (b) projects funded by other agencies but procured/implemented by the DPWH, and (c) foreign-assisted projects in accordance with the approved loan agreements.

In preparing the Manual, the DPWH has evaluated existing procurement policies, rules and practices in the DPWH and elsewhere in the Government, conducted a series of focus group discussions with stakeholders, both internal and external to the Department. The DPWH has also aligned the Manual with the latest amendments (June 2016) of the IRR of RA 9184 adopted by the GPPB. The Department has likewise referred to other relevant GPPB Resolutions and issuances, DPWH Orders, GPPB Generic Procurement Manuals, the Philippine Bidding

Documents harmonized with the Asian Development Bank (ADB), Japan International Cooperation Agency (JICA) and the World Bank (WB), and procurement guidelines of the Official Development Assistance (ODA) agencies.

To ensure that concerned interest groups were properly consulted, the DPWH held a Stakeholders' Workshop in January 2016, where Department officials and consultants discussed with key stakeholders the draft Manual and secured their comments and suggestions to improve the Manual. External stakeholders that participated included representatives from the WB, ADB, JICA, Philippine Constructors Association, National Constructors Association of the Philippines, GPPB, Department of Budget and Management, Philippine Government Electronic Procurement System (PhilGEPS), Council of Engineering Consultants of the Philippines, Confederation of Filipino Consulting Organizations, Association of Suppliers, American Chamber of Commerce in the Philippines, and European Chamber of Commerce in the Philippines. Participating internal stakeholders were procurement-related staff from the DPWH CO, Unified Project Management Office (UPMO), five ROs, and four DEOs.

To test the usability of the draft Procurement Manual, the DPWH conducted a Pilot Technical Workshop in January 2016, involving DPWH technical staff from the CO, UPMO, five ROs, and four DEOs.

The DPWH used the results of these two workshops as inputs to improve the quality and practicability of the Manual in its different aspects and components.

The DPWH has produced the DPM under the overall direction of Secretary Rogelio L. Singson. Assisting him was a DPWH Steering Committee chaired by Undersecretary Ardeliza R. Medenilla and composed of members of the DPWH Management Committee and selected Directors, which provided policy and operational guidance in the development and review of the Manual. Actual crafting of the Manual was managed by the DPWH Procurement Service under Director Nimfa E. Potante, aided by a Technical Working Group composed of her staff and representatives of different procurement-related units of the DPWH.

The Australia-World Bank Philippines Development Trust Fund (PH-PTF) provided technical assistance to the DPWH through the engagement of consultants who worked closely with the Department staff in developing the DPM.

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS PROCUREMENT MANUAL

VOLUME I - GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

16 June 2016

TABLE OF CONTENTS

ACRONYMS AND ABBREVIATIONS	5
1. GENERAL PROVISIONS.....	6
1.1 LEGAL BASIS FOR PROCUREMENT MANUAL.....	7
1.1.1 Legal Reference	7
1.1.2 Policies and Guidelines	7
1.2 COVERAGE, SCOPE AND APPLICATION.....	7
1.2.1 Legal Reference	7
1.2.2 Coverage.....	7
1.2.3 Scope	8
1.2.4 Application	8
1.2.5 Component Volumes.....	9
1.3 PRINCIPLES OF GOVERNMENT PROCUREMENT	9
1.3.1 Legal Reference	9
1.3.2 Transparency.....	9
1.3.3 Competitiveness	9
1.3.4 Streamlining and Use of Technology in Procurement	10
1.3.5 Accountability.....	10
1.3.6 Public Monitoring	10
1.4 DEFINITION OF COMMONLY USED TERMS.....	10
1.5 ORDER OR PRIORITY IN GOVERNMENT RULES, REGULATIONS AND ISSUANCES	12
1.6. HOW TO USE THESE MANUALS.....	12
2. PROCUREMENT ORGANIZATIONS	14
2.1 ORGANIZATIONAL STRUCTURE	15
2.1.1 Legal Reference	15
2.1.2 Procuring Entities and Procurement Units	15
2.1.3 Bids and Awards Committee (BAC).....	19
2.1.4 BAC Members	20
2.1.5 Technical Working Group (TWG).....	25
2.1.6 Observers	26
2.2 ROLES AND RESPONSIBILITIES	28
2.2.1 Legal Reference	28
2.2.2 Policies and Guidelines	28
2.3 CONDITIONS FOR GRANTING HONORARIA	35
2.3.1 Legal Reference	35
2.3.2 Policies and Guidelines	35
2.3.3 Sources of Honorariaí ...	35
2.4 PROFFESIONALIZATION OF PROCUREMENT UNITS, BAC, AND TWG....	38
2.4.1 Legal Reference	38
2.4.2 Policies and Guidelines	38
3. PROCUREMENT PLANNING.....	39
3.1 PROCUREMENT PLANNING AND BUDGET LINKAGE.....	40
3.1.1 Legal Reference	40
3.1.2 Policies and Guidelines	40

3.1.3 Overall Procedures for Preparing PPMP and APP	40
3.2 PREPARATION OF PROJECT PROCUREMENT MANAGEMENT PLAN (PPMP).....	42
3.2.1 Legal Reference	42
3.2.2 Policies and Guidelines	42
3.3 PREPARATION OF ANNUAL PROCUREMENT PLAN (APP)	46
3.3.1 Legal Reference	46
3.3.2 Policies and Guidelines	46
4. GENERAL PROCUREMENT ACTIVITIES AND TIMELINES	50
4.1 SCHEDULE OF PROCUREMENT ACTIVITIES	51
5. VARIOUS METHODS OF PROCUREMENT	54
5.1 COMPETITIVE BIDDING	55
5.1.1 Legal Reference	55
5.1.2 General Rule	55
5.2 ALTERNATIVE METHODS OF PROCUREMENT	55
5.2.1 Legal Reference	55
5.2.2 Conditions for Use of Alternative Methods of Procurement.....	55
5.2.3 Different Alternative Methods.....	56
5.2.4 Special Provisions for Alternative Methods.....	58
6. PROCUREMENT BY ELECTRONIC MEANS AND PHILGEPS	61
6.1 ELECTRONIC PROCUREMENT AND PHILGEPS	62
6.1.1 Legal Reference	62
6.1.2 PhilGEPS	62
6.1.3 Features of PhilGEPS	62
7. GUIDELINES FOR FOREIGN-ASSISTED PROJECTS.....	69
7.1 FOREIGN-ASSISTED PROJECTS (FAPs).....	70
8. PENAL, CIVIL, AND ADMINISTRATIVE LIABILITIES AND SANCTIONS	71
8.1 STANDARD OF ETHICS	72
8.1.1 Definition of Corrupt, Fraudulent, Collusive, and Collusive Practices	72
8.1.2 Applicable Penalty for Fraud, Misrepresentation, and Collusion.....	72
8.2 CONFLICT OF INTEREST	73
8.3 PENAL LIABILITIES AND SANCTIONS	74
8.3.1 Penal Liabilities of Public Officers	74
8.3.2 Penal Sanctions for Public Officers	75
8.3.3 Penal Liabilities of Private Individuals	75
8.3.4 Penal Sanctions for Private Individuals.....	76
8.4 CIVIL LIABILITY	77
8.4.1 Civil Liability in Case of Conviction	77
8.4.2 Liquidated Damages.....	77
8.5 ADMINISTRATIVE LIABILITIES AND SANCTIONS	77
8.5.1 Administrative Liabilities	77
8.5.2 Administrative Sanctions.....	78
8.6 BLACKLISTING GUIDELINES	79
8.6.1 Legal Reference	79

8.6.2 Prohibition on Blacklisted Persons/Entities to Participate in Bidding.....	79
8.6.3 Sanctions and Grounds for Blacklisting	79
8.6.4 Three-Strike Policy	89
9. LEGAL ASSISTANCE AND INDEMNIFICATION	91
9.1 GENERAL CONDITIONS.....	92
9.1.1 Purpose	92
9.1.2 Free Legal Assistance.....	92
9.1.3 Liability Insurance	93
9.1.4 Medical Assistance.....	93
9.2 PROCEDURE FOR GRANTING LEGAL ASSISTANCE AND INDEMNIFICATION	94
10. PROCUREMENT MONITORING.....	95
10.1 PROCUREMENT MONITORING	96
10.2 DPWH PROCUREMENT MONITORING REPORT	96
10.3 OTHER PROCUREMENT MONITORING REPORTS.....	97
10.4 AGENCY PROCUREMENT COMPLIANCE AND PERFORMANCE INDICATORS (APCPI)	97
10.4.1 Purpose of APCPI	97
10.4.2 General Considerations in the Conduct of APCPI Assessment.....	98
10.4.3 Conduct of APCPI Assessment.....	99
10.4.4 Additional Infrastructure Performance Indicators.....	100
11. ADDENDA AND REVISIONS TO THE PROCUREMENT MANUAL	105
11.1 ADDENDA AND REVISIONS.....	106

LIST OF TABLES:

Table 1. Period of Actions on Procurement Activities	51
Table 2. Selected Indicators of Infrastructure Project Procurement Performance.....	104

LIST OF FIGURES:

Figure 1. Organizational Chart of DPWH Procurement Service	18
Figure 2. Organizational Chart of Procurement Unit of Regional Office	19
Figure 3. Organizational Chart of Procurement Unit of District Engineering Office	19

ANNEX A: GLOSSARY OF PROCUREMENT TERMS

ACRONYMS AND ABBREVIATIONS

ABC	Approved Budget for the Contract
ADB	Asian Development Bank
AMO	Authorized Managing Officer
APP	Annual Procurement Plan
BAC	Bids and Awards Committee
BDs	Contract-Specific Bidding Documents of the DPWH
CO	Central Office
COA	Commission on Audit
DBM	Department of Budget and Management
DBM-PS	Department of Budget and Management-Procurement Service
DEO	District Engineering Office
DoTS	Document Tracking System
DPWH	Department of Public Works and Highways
FAPS	Foreign Assisted Projects
GAA	General Appropriations Act
GOP	Government of the Philippines
GPM	Generic Procurement Manual
GPPB	Government Procurement Policy Board
GPRA	Government Procurement Reform Act
HoPE	Head of Procuring Entity
HRB	Highest Rated Bid
HRRB	Highest Rated Responsive Bid
IB	Invitation to Bid
IFI	International Financing Institution
IRR	Implementing Rules and Regulations of RA 9184
IO/U	Implementing Office/Unit
JICA	Japan International Cooperation Agency
LCB	Lowest Calculated Bid
LCRB	Lowest Calculated Responsive Bid
NGO	Non-Government Organization
PBDs	Philippine Bidding Documents
PhilGEPS	Philippine Government Electronic Procurement System
UPMO	Project Management Office
PPMP	Project Procurement Management Plan
PS	Procurement Service
RA	Republic Act
RO	Regional Office
SBDs	Standard Bidding Documents of the DPWH
SBF	Standard Bidding Forms
SOW	Scope of Work
TOR	Terms of Reference
TS	Technical Specifications
TSO	Technical Support Office of the GPPB
TWG	Technical Working Group
UPMO	Unified Project Management Office
WB	World Bank
WFP	Work and Financial Plan

SECTION 1

GENERAL PROVISIONS

1.1 LEGAL BASIS FOR PROCUREMENT MANUAL

1.1.1 Legal Reference

Section 6 of the Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184 provides the legal basis for the Generic Procurement Manual (GPM) and, by extension, the specific Procurement Manual for the Department of Public Works and Highways (DPWH) based on the GPM.

1.1.2 Policies and Guidelines

The GPM was developed by the Government Procurement Policy Board (GPPB) pursuant to **Section 6 of RA 9184**, otherwise known as the Government Procurement Reform Act (GPRA). The Section provides for the development of generic procurement manuals and standard bidding forms that, once issued by the GPPB, must be used by all Procuring Entities.

To suit the particular needs of the DPWH, the GPM has been customized to produce this **DPWH Procurement Manual (DPM)**. Like the GPM, this DPM aims to standardize the procurement process, thereby preventing confusion, ensuring transparency, and enabling the DPWH to conform to the principles that govern government procurement activities.

The DPWH will review this **DPM** periodically and, whenever necessary, update and revise it to ensure its applicability to existing conditions. Specific revisions to the **DPM** are subject to the approval of the DPWH Secretary and must be consistent with existing procurement laws, rules, regulations, and policies, including the GPM. The last section of each volume shall provide the updated versions of all resolutions and circulars issued by the GPPB and the latest DPWH Department Orders (DO) and other guidelines issued by the Secretary for ready reference.

1.2 COVERAGE, SCOPE AND APPLICATION

1.2.1 Legal Reference

IRR Sections 1, 4, and 5 provide the legal reference for the coverage, scope and application of the GPM, and by extension, the **DPM** based on the GPM.

1.2.2 Coverage

This **DPM** must be used for all procurement activities of the DPWH, including its component units, as follows:

- a. Central Office, with its Bureaus, Services, Unified Project Management Office (UPMO), and other units.
- b. Regional Offices (ROs)
- c. District Engineering Offices (DEOs)

The **DPM** shall apply to the procurement of infrastructure, consulting services, and goods funded under the DPWH budget, as well as those funded from the budget of other government departments and agencies whose procurement is undertaken by the DPWH in accordance with the provisions of law or inter-agency agreements. The latter includes the procurement of school building projects funded by the Department of Education, farm-to-market road projects funded by the Department of Agriculture and Department of Agrarian Reform, and building projects of non-infrastructure agencies, among others.

1.2.3 Scope

The provisions of RA 9184 shall apply to the procurement of goods, infrastructure projects, and consulting services, regardless of source of funds, whether local or foreign. For procurements funded partly or fully by International Financing Institutions (IFIs), however, the guidelines and procedures specified under the loan or grant agreement shall be followed, provided that in the absence of such guidelines, or if the guidelines are silent on specific procurement procedures, the procurement procedures provided in RA 9184 and its IRR shall apply suppletorily.

Because of the above, and considering the joint efforts of the Government of the Philippines (GOP), the Asian Development Bank (ADB), the Japan International Cooperation Agency (JICA), and the World Bank (WB) to harmonize their procurement procedures which led to the Philippine Bidding Documents (PBDs), this DPM shall cover not only RA 9184 and its IRR, but also the harmonized PBDs. Thus, unless otherwise indicated in this **DPM**, the DPWH Manual shall be used for the procurement of foreign-assisted projects to the extent consistent with the provisions of the approved loan agreements.

This Manual does not cover the following:

- a. Procurement of goods, infrastructure projects, and consulting services funded from Foreign Grants covered by R.A. 8182, as amended by R.A. 8555, entitled "An Act Excluding Official Development Assistance (ODA) from the Foreign Debt Limit in order to Facilitate the Absorption and Optimize the Utilization of ODA Resources, Amending for the Purpose Paragraph 1, Section 2 of Republic Act No. 4860, As Amended", unless the GOP and the foreign grantor/foreign or international financing institution agree otherwise;
- b. Acquisition of real property which shall be governed by R.A. 8974, entitled "An Act to Facilitate the Acquisition of Right-of-Way Site or Location for National Government Infrastructure Projects and for Other Purposes", and other applicable laws, rules and regulations; and
- c. Public-Private sector infrastructure or development projects and other procurement covered by R.A. 6957, as amended by R.A. 7718, entitled "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes", as amended: Provided, however, That for the portions financed by the GOP, in whole or in part, regardless of source of funds, whether local or foreign, the provisions of RA 9184 and its IRR shall apply.

1.2.4 Application

This **DPM** shall apply to the procurement of the following:

- a. Infrastructure Projects
- b. Consulting Services
- c. Goods and Services

1.2.5 Component Volumes

The DPWH Procurement Manual (DPM) shall refer to the following four (4) volumes:

This Volume I - Guidelines on the Establishment of Procurement Systems and Organizations

Separate Volume II - Infrastructure Projects

Separate Volume III - Consulting Services

Separate Volume IV - Goods and Services

This Manual shall be used together with the **DPWH Standard Bidding Documents (SBDs)** and the **DPWH Standard Bidding Forms (SBFs)**. The DPWH SBDs and SBFs have been adapted from the **PBDs** prescribed by the GPPB, but customized to fit the procurement environment and requirements of the DPWH. The **SBDs** and **SBFs** for Infrastructure Projects, Consulting Services, and Goods are presented in **Volumes II, III, and IV**, respectively.

1.3 PRINCIPLES OF GOVERNMENT PROCUREMENT

1.3.1 Legal Reference

IRR Section 3 provides the legal reference for the principles of government procurement.

Procurement by the DPWH shall be governed by the following principles:

1.3.2 Transparency

The entire procurement process must be transparent. Procuring entities of the DPWH must provide for the widest dissemination of bid opportunities and the participation of pertinent non-government organizations (NGOs). Towards this end, posting in the DPWH website and in the Philippine Government Electronic Procurement System (PhilGEPS) website shall be done for all procurements. The Procuring Entities must invite Observers from eligible and qualified professional associations and non-government organizations (NGOs) to observe all stages of the procurement process. Each procurement transaction must be properly documented and the records must be maintained and made available to proper parties.

1.3.3 Competitiveness

Procurement in the DPWH must be competitive and, as a rule, be conducted through public bidding, except as otherwise provided under RA 9184, its IRR and this Manual. A competitive bidding process treats bidders equitably and provides even grounds for competition among themselves, thereby ensuring that no single bidder significantly influences the outcome of the bidding and only eligible and qualified bidders are allowed to participate in public bidding. Competition among proponents will induce them to offer lower prices and more beneficial terms to the government than where only one or a few bidders participate. Hence, alternative methods of procurement must be resorted to only when competitive bidding is not a feasible option, in accordance with the conditions laid down in RA 9184, its IRR and this Manual.

1.3.4 Streamlining and Use of Technology in Procurement

A streamlined procurement process that will uniformly apply to all DPWH procurement must be adopted. The process must be simple and made adaptable to advances in modern technology to ensure effective and efficient procurement. The DPWH, in coordination with the GPPB, shall conduct a periodic review of government procurement procedures, and where necessary, formulate, recommend and implement appropriate changes thereto.

1.3.5 Accountability

A system of accountability must be established. Thus, both the DPWH officials directly or indirectly involved in the procurement process and in the implementation of procurement contracts, and the private parties that deal with the DPWH shall, when warranted by circumstances, be investigated and held liable for their actions. The Heads of the Procuring Entities are responsible for establishing and maintaining a transparent, effective, and efficient procurement system in their respective entities. The responsibilities of each official involved in the procurement process must be clear and legally identifiable.

1.3.6 Public Monitoring

Public monitoring of the procurement process and the implementation of awarded contracts are provided for in RA 9184. This is to guarantee that these contracts are awarded pursuant to the provisions of the RA 9184 and its IRR, and that all these contracts are performed strictly according to the prescribed standards and specifications. A system of reporting to the DPWH and the GPPB is provided for, while qualified Civil Society Organizations such as NGOs, Professionals' Associations, academic institutions, and religious groups are allowed to observe and monitor the procurement process and contract implementation.

1.4. Definition of Commonly Used Terms

For purposes of this DPM, the following terms, words or phrases shall mean or be understood as follows:

- a. **Agency Procurement Compliance and Performance Indicator (APCPI)** is a methodology to assess the performance of a government agency's procurement activities and to compare its effectiveness against that of the national public procurement systems and international best practices and standards using baseline standards and indicators as approved by the GPPB.

- b. **Annual Procurement Plan (APP)** ó A document showing the consolidated list of items to be procured by the DPWH annually which serves as basis for all procurements. There are two (2) types of Annual Procurement Plan: (a) the Indicative APP prepared for purposes of formulating the DPWH budget proposal for the succeeding calendar year for inclusion in the National Expenditure Program (NEP), and (b) the Final APP based on the approved budget under the General Appropriations Act (GAA) and approved by the HOPE.
- c. **Approved Budget for the Contract** ó The budget for the contract duly approved by the Head of the Procuring Entity, as provided for in the General Appropriations Act (GAA), and/or continuing appropriations, and the estimated contract cost in the case of foreign-funded procurement based on the procurement plan consistent with the loan or grant agreement. For multi-year contracts, for which a Multi-Year Obligational Authority (MYOA) or an equivalent document is required, the ABC shall be that incorporated in the project cost reflected in the MYOA. There are two (2) types of ABC: (a) the Indicative ABC or estimated project cost for inclusion in the Indicative PPMP and APP for budgetary purposes, (b) the Final ABC or the revised and updated budget based on the approved budget under the General Appropriations Act (GAA) and approved by the HOPE
- d. **Bids and Awards Committee (BAC)** ó Committee of the Procuring Entity which is responsible for the conduct of eligibility screening of applicants, bidding and recommending award of Contracts.
- e. **Blacklisting** ó An administrative penalty disqualifying a person or an entity from participating in any government procurement for a given period.
- f. **DPWH Procurement Manual** ó All four (4) volumes of the DPWH Procurement Manual, its standard bidding documents and prescribed forms.
- g. **Head of the Procuring Entity (HOPE)** ó The DPWH Secretary or his duly authorized representative in the case of the DPWH Central Office, the Regional Director in the case of the Regional Office, or the District Engineer in the case of the District Engineering Office.
- h. **PhilGEPS (G-EPS)** - The Philippine Government Electronic Procurement System as provided in Section 8 of RA 9184 IRR.
- i. **Procurement** - The contracting of works, or infrastructure projects acquisition of goods, consulting services, by the Procuring Entity.
- j. **Procuring Entity** - The DPWH Office directly undertaking the procurement within its delegated authority, which may be either the Central Office (CO), the Regional Office (RO) or the District Engineering Office (DEO).
- k. **Project Procurement Management Plan (PPMP)** – A document prepared by a DPWH Implementing Unit (IU) or End-User Unit that lists the basic requirements of a particular infrastructure, consulting services, or good to be acquired or contracted. There are two (2)

types of Project Procurement Management Plan: (a) the Indicative PPMP prepared for purposes of formulating the DPWH budget proposal in the NEP and included in the Indicative APP, (b) the Final PPMP based on the approved budget under the GAA, and included in the Final APP.

Annex A provides an extensive list of procurement related terms commonly used in the DPM.

1.5. Order of Priority in Government Rules, Regulations and Issuances

The provisions discussed in this Manual and its standard bidding documents shall be taken as mutually explanatory of one another. In case of ambiguities or discrepancies, the same shall be explained and adjusted by the DPWH Secretary through the issuance of appropriate instructions, or Department Orders and unless otherwise provided in the Manual, the priority of documents forming this Manual shall be as follows:

- a. Provisions of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act and its latest Implementing Rules and Regulations (IRR) as issued by the Government Procurement Policy Board (GPPB);
- b. Most recent GPPB Circulars and Resolutions explaining further, clarifying and revising various provisions of the Procurement Law;
- c. DPWH Procurement Manual;
- d. Most recent Department Orders, and issuances;
- e. Contract Documents
 - (1) Contract Agreement
 - (2) Notice of Award (NOA) with the Supplier~~s~~/Consultant~~s~~/Contractor~~s~~ signed
õconformeö
 - (3) Supplier~~s~~/Consultant~~s~~/Contractor~~s~~ Bid in the Form of Bid, including its Technical and Financial Proposals, as corrected and calculated by the Procuring Entity
 - (4) Standard Bidding Documents with Bulletins
 - (5) Standard Bidding Forms (General and Specific Conditions)
 - (6) Drawings, Plans, Technical Specifications, Terms of Reference and related documents

1.6. How to Use and Maintain these Manuals

The four (4) volumes of these Manuals, its standard bidding documents and forms shall be used by the Bids and Awards Committees (BACs) of the Central Office, Regional Offices and District Engineering Offices, the Procurement Service at the Central Office, Procurement Units, BAC

Secretariats at the Regional and District Engineering Offices, members of the Technical Working Groups (TWGs), implementing offices, project management offices, end user units and all other concerned personnel for all its procurement related activities.

The Main Guidelines, standard bidding documents and forms are all interrelated and complementary and users are advised to refer first to the relevant provisions in the Main Guidelines, then to the standard bidding documents and forms to ensure clarity and consistency in interpretation.

In case there are changes in the procedures, forms, policies or new circulars, amendments to the implementing rules and regulation of RA 9184, GPPB resolutions, Department Orders issued in the future (after approval and release of this original Manual), the corresponding revision shall be made in the last section of each Main Guidelines entitled: Addenda on New Guidelines and Issuances. The Procurement Service shall be responsible for updating the contents of the Manual, whenever new issuances or resolutions are issued by the relevant government agencies. It shall maintain a data base of these issuances and guidelines in the DPWH website. Users are advised to refer to the last section of the guidelines from time to time and as needed.

SECTION 2

PROCUREMENT ORGANIZATIONS

2.1 **ORGANIZATIONAL STRUCTURE**

2.1.1 **Legal Reference**

IRR Sections 5(q), 11, 13, and 14 provide the legal reference for the organizational structure.

2.1.2 **Procuring Entities and Procurement Units**

a. **Procuring Entities**

The Procuring Entities of the DPWH include the Central Office (CO), the Regional Offices (ROs), and the District Engineering Offices (DEOs). The respective Heads of these Procuring Entities are the DPWH Secretary, the Regional Director, and the District Engineer.

b. **Limits of Procurement Authority**

The DPWH Secretary shall issue from time to time a Department Order on the omnibus levels of authorities of DPWH Officials in accordance with the pertinent provisions of Executive Order No. 124, series of 1987, Executive Order No. 292, otherwise known as the Administrative Code of 1987, RA 9184, and other similar circulars which shall serve as basis for delegating authorities on procurement related activities.

The delegated levels of authority shall not in any way prevent the Secretary as Head of Procuring Entity (HOPE) from exercising directly such authorities. The delegated authorities may also be modified, expanded or withdrawn by the Secretary at any time as public interest so demands. The user of this Manual shall refer to the latest Department Orders issued on the omnibus levels of authorities of DPWH officials for any updates and amendments. It is understood that an authority delegated cannot be further delegated by other officials of the Department, unless done by the Secretary. The authorities being delegated herein to District Engineers shall also apply to Heads of Sub-District Engineering Offices and Officer-in-Charge of District and Sub-District Engineering Offices in this Department who have been duly designated as such by the Secretary, in so far as their respective areas of jurisdiction are concerned.

The following are the duly delegated levels of authority:

- (1) For infrastructure, considering the large number of locally-funded projects procured by the DPWH, the DPWH Secretary has delegated the authority to conduct the procurement of these projects thru public bidding, including the approval of awards and contracts, to the three levels of Procuring Entities within the following ranges of project costs, in accordance with Department Order (DO) No. 54, series of 2011:

<u>Procuring Entity</u>	<u>Range of Costs of Projects Authorized for Procurement</u>
-------------------------	--

DEO	Up to Php 50 million, except for school buildings which the DEOs are authorized to procure without any limit on project costs in accordance with DO 115-A, series of 2015
RO	Above Php 50 million up to Php 150 million
CO	Above Php 150 million

In exceptional meritorious cases such as calamities, emergencies or where time is of the essence as provided for in the appropriate Department Orders, the DPWH Secretary may authorize ROs and DEOs to conduct the procurement of locally-funded infrastructure projects thru public bidding beyond the abovementioned limits.

In the case of foreign-assisted projects (FAPs), the CO BAC for Civil Works usually handles their procurement, regardless of costs, considering that FAPs are fewer and generally larger in scale.

- (2) For consulting services, the DPWH Secretary has delegated the authority to undertake the procurement of these services thru public bidding, including the approval of awards and contracts, to the three (3) levels of Procuring Entities within the following ranges of project costs, in accordance with DO 24, series of 2007:

<u>Procuring Entity</u>	<u>Range of Project Costs Authorized for Procurement</u>
DEO	Up to Php 1.2 million
RO	Up to Php 3.0 million
CO	No limit

In exceptional meritorious cases such as calamities, emergencies or where time is of the essence as provided for in the appropriate Department Orders, the DPWH Secretary may authorize ROs and DEOs to conduct the procurement of consulting services thru public bidding beyond the abovementioned limits.

- (3) For goods and services, the DPWH Secretary has delegated the authority to undertake the procurement of these services thru public bidding, including the approval of awards and contracts, to the three (3) levels of Procuring Entities within the following ranges of project costs, in accordance with DO 184, series of 2015:

<u>Procuring Entity</u>	<u>Range of Project Costs Authorized for Procurement</u>
DEO	Up to Php 3.0 million
RO	Up to Php 5.0 million
CO	No limit

In exceptional meritorious cases such as calamities, emergencies or where time is of the essence as provided for in the appropriate Department Orders, the DPWH Secretary may authorize ROs and DEOs to conduct the procurement of goods and services thru public bidding beyond the abovementioned limits.

DEOs, ROs and CO are also authorized to procure goods and services thru shopping and small value procurement up to the following amounts per contract, as authorized in RA 9184-IRR Sections 52.1 and 53.9 and Annex H:

- (a) Thru shopping in case of an unforeseen contingency requiring immediate purchase: PhP 100,000.
- (b) Thru shopping in case of procurement of ordinary or regular supplies and equipment not available in the DBM-Procurement Service, or thru small value procurement in case of procurement not falling under shopping: PhP 500,000.

c. Procurement Unit and BAC Secretariat

The HOPE must create a new office or designate an existing organic office that will serve as its Procurement Unit and as the Secretariat of the Bids and Awards Committee (BAC). This is to ensure continuity as well as professionalization of the procurement function.

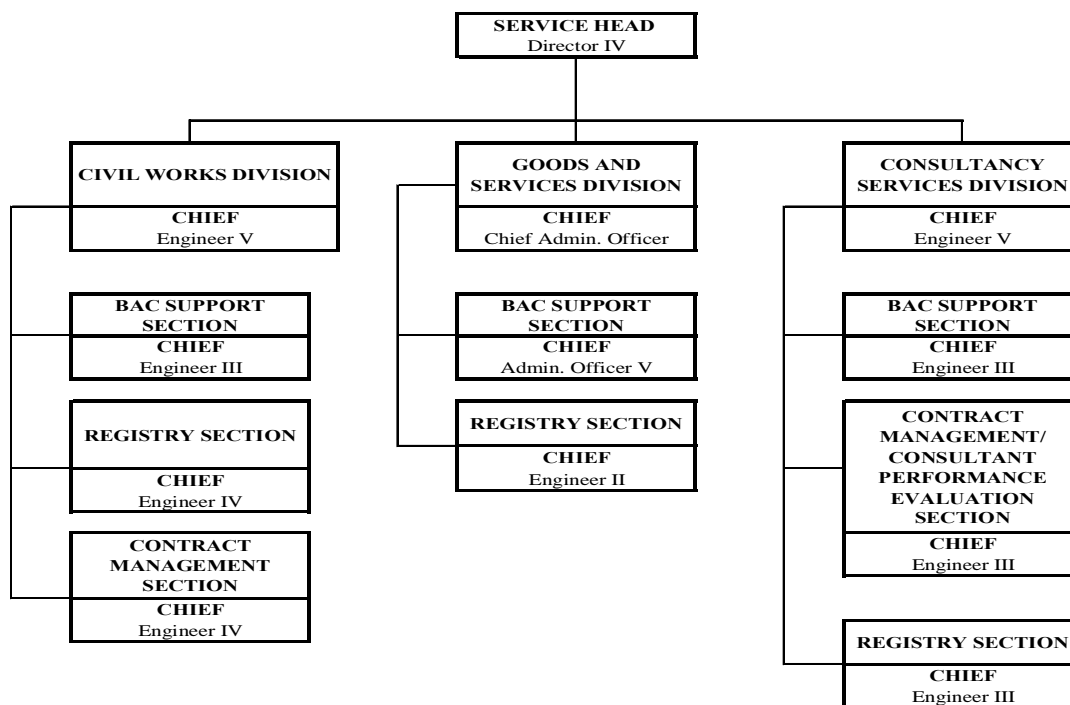
In the DPWH CO, the Procurement Unit is the Procurement Service. In the RO, the Procurement Unit is attached to the Office of the Regional Director. In the DEO, the Procurement Unit is attached to the Office of the District Engineer. The size of the Procurement Unit and the number of personnel shall be dictated by the volume of transactions done by and the level of expertise required from the Procurement Officers.

The HOPE shall consider the following factors, among others, in selecting the personnel who will be assigned to the Procurement Unit/BAC Secretariat:

- (1) Integrity, no conviction with finality or pending administrative and criminal cases of any crime involving moral turpitude, and graft and corruption;
- (2) Procurement proficiency, as shown by experience and training attended;
- (3) Satisfactory completion of a certification program conducted by the GPPB-Technical Support Office (GPPB-TSO) or its accredited institutions, if any.
- (4) Appropriate Civil Service qualification standards.
- (5) Appropriate rank of the head of the procurement unit, which should be:
 - at least a fifth ranking permanent employee in the CO or if not available, a permanent official of lower rank; or
 - at least a third ranking permanent employee in the RO and DEO, or if not available, a permanent employee of lower rank.

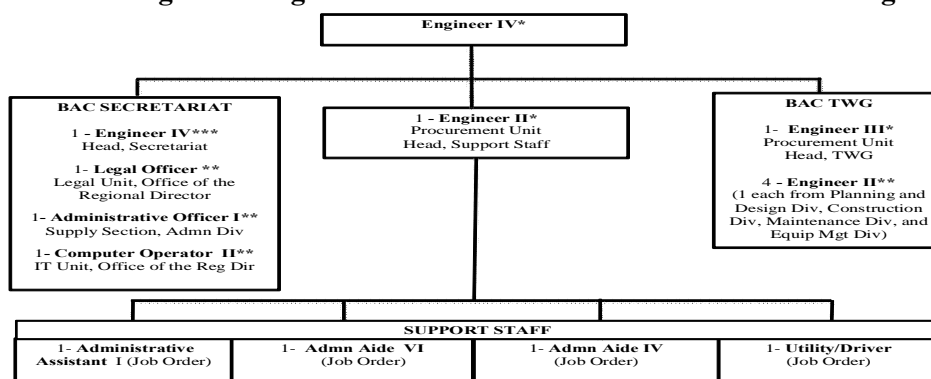
The organization of the DPWH Procurement Service is shown in **Figure 1**. The organization of a typical Procurement Unit of a RO is given in **Figure 2**. The organization of a typical Procurement Unit of a DEO is shown in **Figure 3**. The structure of Procurement Units in the RO and DEO may vary depending on the availability of approved positions under the Rationalization Plan.

Figure 1. Organizational Chart of DPWH Procurement Service
DPWH PROCUREMENT SERVICE



Note: Support staff of the Chiefs of Service, Divisions, and Sections are not shown in this chart.

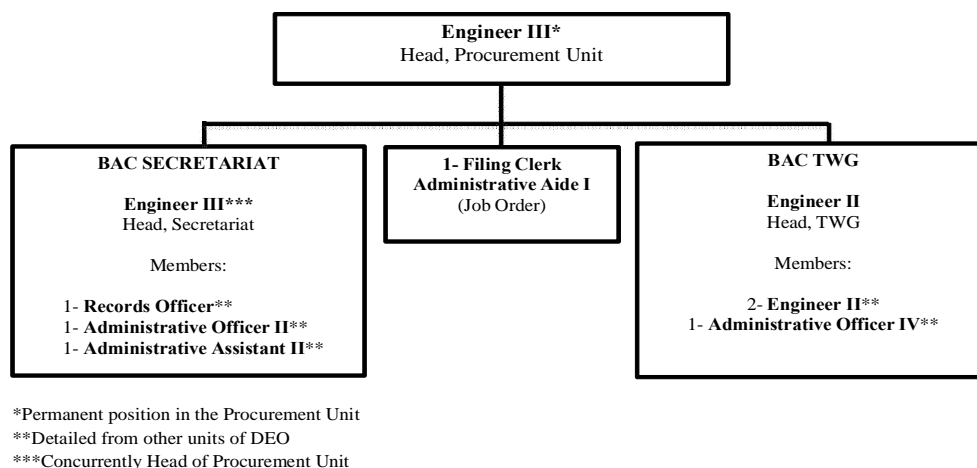
Figure 2. Organizational Chart of Procurement Unit of Regional Office



*Permanent positions

**Detailed from other units of the RO

***Concurrently Head of the Procurement Unit

Figure 3. Organizational Chart of Procurement Unit of District Engineering Office

In designating members of the Procurement Unit and the BAC Secretariat, the HOPE must ensure that check and balance is maintained, and procurement personnel are not given other assignments that may conflict with such designation.

The HOPE shall ensure that the Procurement Unit will have a sufficient number of personnel who will provide secretariat support to the BAC and perform the other functions of the Procurement Unit, as provided in this Manual. The Unit shall be strengthened through continuing procurement training and education of the staff and deployment of additional personnel, if necessary.

2.1.3 Bids and Awards Committee (BAC)

Because of its decentralized operations and heavy procurement workload, in terms of number, cost, and complexity of procurement transactions, the DPWH has 202¹ regular BACs, as follows:

a. Central Office

- One (1) BAC for Infrastructure or Civil Works (under DO 08, series of 2015) - covering both locally-funded and foreign-assisted projects
- One (1) BAC for Consulting Services (under DO 147, series of 2014) - covering both locally-funded and foreign-assisted projects
- One (1) BAC for Goods (under DO 78, series of 2015 - covering both locally-funded and foreign-assisted projects

¹ Number may vary as new District Engineering Offices are created

- Special BAC for Civil Works, Consultancy Services and Goods for World Bank-assisted National Roads Improvement and Management Project (NRIMP) Phase II

b. Regional Office

- One (1) BAC for Infrastructure (Civil Works), Consulting Services, and Goods per Region x 17 Regions = 17 BACs.

c. District Office

- One (1) BAC for Infrastructure (Civil Works), Consulting Services, and Goods per District Office x 182 District Offices = 182 BACs.

2.1.4 BAC Members

a. Qualifications

As provided in **IRR Section 11.2.2** and DPWH Department Order (DO) No. 16, series of 2010, the BAC Members must have the following qualifications:

Regular Members:

- (1) BAC Chairperson who is at least a third ranking permanent official of the Procuring Entity.
- (2) An officer who is at least a fifth ranking permanent official in the Procuring Entity, or if not available, an officer of the next lower rank with knowledge, experience and/or expertise in procurement who, to the extent possible, represents the legal or administrative area of the Procuring Entity, provided that in the case of regional offices and district engineering offices, BAC members shall be at least a third ranking permanent personnel or if not available, an officer of the next lower rank, and
- (3) An officer, who is at least a fifth ranking official in the Procuring Entity, or if not available, an officer of the next lower rank with knowledge, experience and/or expertise in procurement who, to the extent possible, represents the finance area of the Procuring Entity, provided that in the case of regional offices and district engineering offices, BAC members shall be at least a third ranking permanent personnel or if not available, an officer of the next lower rank;

Provisional Members:

- (4) An officer who has technical expertise relevant to the procurement at hand, and, to the extent possible, has knowledge, experience and/or expertise in procurement; and
- (5) A representative from the IU/end-user unit who has knowledge of procurement laws and procedures.

The HOPE may designate alternate BAC members, who shall have the same qualifications as that of the members originally designated. The alternate members shall

attend meetings of the BAC and receive the proportionate honoraria, whenever the original members are absent. The alternate members shall have the same term as the original members (**IRR Section 11.2.4**).

In the case of a procurement undertaken by the DPWH, as a procurement agent and/or implementing office, of another government agency in accordance with the provisions of law or inter-agency agreements, a representative nominated by the other agency may be designated by the DPWH HOPE as a provisional member of the BAC (**IRR Section 11.2.2**).

b. CO BACs

The DPWH Secretary shall designate the Members of the CO Bids and Awards Committees (BACs) in accordance with the following rules:

- (1) Each BAC must consist of at least five (5) but not more than seven (7) members.

Of the five (5) members, three (3) must be regular members, and two (2) must be provisional members. Should the DPWH Secretary desire to create a seven-member BAC, he may designate two (2) additional regular members, or two (2) additional provisional members, or one (1) additional regular or provisional member.

Provisional members will only participate in the deliberations of the BAC for procurements over which they have a direct interest.

- (2) The BAC members must be designated for a term of one (1) year only, reckoned from the date of designation unless sooner revoked for a cause. However, the DPWH Secretary may renew such designation at his discretion. Appointment to the BAC is a designation, in addition to the regular duties of the subject official, and is not an appointment contemplated under the Civil Service rules. In accordance with the thrust to professionalize the procurement organization, Heads of Procuring Entities are encouraged to re-appoint BAC members who have shown efficiency and probity in the performance of their duties.
- (3) In case of resignation, retirement, separation, transfer, re-assignment, or removal of a BAC member, the DPWH Secretary may designate a replacement, who shall be similarly qualified as the official replaced, and shall have the required ranking as provided for in RA 9184 and its IRR. The replacement shall serve for the unexpired term. In case of leave or suspension, the replacement shall serve only for the duration of the leave or suspension.
- (4) The DPWH Secretary may suspend or remove a member of the BAC for justifiable causes, including, but not limited to, violations of the provisions of the RA 9184 or its IRR and DO 28 s. 2013. A DPWH officer who has been formally charged with administrative or criminal offense and designated as Chairperson, Vice Chairperson or member of the BAC or its Secretariat shall be replaced and the replacement shall serve only for the unexpired term. If the entire BAC of a Procuring Entity has been formally charged, the procurement function of the entity may be performed by the BAC of a higher unit, e.g. Regional BAC to perform functions of DEO BAC or CO BAC for Regional BAC.

- (5) The following officers of the Procuring Entity are disqualified from membership in the Central Office BAC to avoid any conflict of interest:
- a. DPWH Secretary.
 - b. Official who enters into/approves contracts².
 - c. Director of the Financial Management Service, Chief of the Accounting Division, and their staff.
 - d. Any officer within the third degree of consanguinity or affinity of the Head of the Procuring Entity or of another BAC member.
- (6) All BAC members shall submit a signed Integrity Pledge upon assumption of office.

c. RO BACs

The RO shall generally have a single BAC handling Infrastructure, Consulting Services, and Goods. The Regional Director shall designate the members of the RO BAC, subject to the approval of the Secretary/Undersecretary in accordance with the following rules:

- (1) The BAC must consist of at least five (5) but not more than seven (7) members. Of the five (5) members, three must be regular members, and the two (2) must be provisional members. Should the Regional Director desire to create a seven-member BAC, he may designate two (2) additional regular members, or two (2) additional provisional members, or one (1) additional regular or provisional member.

The single BAC for the RO shall be composed of the following officials:

Regular Members

- (a) Assistant Regional Director/Division Chief í í í í í ..Chairperson
- (b) Division Chief í í í í í í í í í í í í í í í í Vice-Chairperson
or if not available, an officer of the next lower rank
- (c) Division Chief .í í í í í í í í í í í í í í í í .. Member
or if not available, an officer of the next lower rank

Provisional Members:

- (a) Division Chief, or if not available, an officer of the next lower rank
- (b) Representative of End-User Office

² Refer to the latest Department Order on Omnibus Levels of Approving Authority where those authorized to enter into contract are as follows: Head of the End-User Unit for Goods, Head of Implementing Unit for Civil Works and Consulting Services and approval is by the Head of Procuring Entity

- (2) The Regional Director may designate the Vice-Chairperson from the regular members, subject to the limitations in item (3) below.
- (3) The BAC members shall be designated for a term of one (1) year only, reckoned from the date of designation. In accordance with DO 28, series of 2013, the term of the Chairperson of the RO BAC shall not be renewed beyond one year. If the Chairperson happens to be the Assistant Regional Director, he cannot be designated even as BAC Vice-Chairperson or Member for the succeeding year. Any other qualified personnel who has served as BAC Chairperson may be designated as BAC Vice-Chairperson or Member for the succeeding year.
- (4) Appointment to the BAC is a designation, in addition to the regular duties of the subject official, and is not an appointment contemplated under the Civil Service rules. In accordance with the thrust to professionalize the procurement organization, the Regional Director is encouraged to re-appoint BAC members who have shown efficiency and probity in the performance of their duties, subject to the limitations in item (3) above.
- (5) In case of resignation, retirement, separation, transfer, re-assignment, or removal of a BAC member, the Regional Director may designate a replacement, who shall be of the same level and similarly qualified as the official replaced. The replacement shall serve for the unexpired term. In case of leave or suspension, the replacement shall serve only for the duration of the leave or suspension.
- (6) The Regional Director may suspend or remove a member of the BAC for justifiable causes, including, but not limited to, violations of the provisions of RA 9184 or its IRR.
- (7) The following officers of the RO are disqualified from membership in the BAC to avoid any conflict of interest:
 - (a) Regional Director.
 - (b) Official who enters into/approves contracts.
 - (c) Chief of Financial Management Division, Head of the Accounting Unit, and their staff, unless the said Division or Unit is the IU/End-User Unit, in which case the said Division Chief or Unit Head or his staff may be designated as a provisional member.
 - (d) Any officer within the third degree of consanguinity or affinity of the Head of the Procuring Entity or of another BAC member. An incumbent BAC member who is related within the third degree of consanguinity to a newly appointed HOPE should disclose the relations in order that the proper action can be taken.
- (8) All BAC members shall submit a signed Integrity Pledge upon assumption of office.

d. DEO BACs

The DEO shall generally have a single BAC handling Infrastructure, Consulting Services, and Goods. The District Engineer shall designate the members of the DEO BAC, subject to the approval of the Secretary/Undersecretary in accordance with the following rules:

- (1) The BAC must consist of at least five (5) but not more than seven (7) members. Of the five (5) members, three (3) must be regular members, and the two (2) must be provisional members. Should the District Engineer desire to create a seven-member BAC, he may designate two (2) additional regular members, or two (2) additional provisional members, or one (1) additional regular member and one (1) additional provisional member.

The BAC for the DEO shall be composed of the following officials:

Regular Members

- (a) Assistant District Engineer/Section Chief í í í í í í ..Chairperson
- (b) Section Chief í í í í í í í í í í í í í í í í ..Vice-Chairperson
or if not available, an officer of the next lower rank
- (c) Section Chief í í í í í í í í í í í í í í í í ..Member
or if not available, an officer of the next lower rank

Provisional Members

- (a) Section Chief, or if not available, an officer of the next lower rank
 - (b) Representative of IU/End-User Unit
- (2) The District Engineer shall designate the Vice-Chairperson from the regular members, subject to the limitations in item (3) below.
 - (3) The BAC members shall be designated for a term of one (1) year only, reckoned from the date of designation. In accordance with DO 28, series of 2013, the term of the Chairperson of the DEO BAC shall not be renewed beyond one (1) year. If the Chairperson happens to be the Assistant District Engineer, he cannot be designated even as BAC Vice-Chairperson or Member for the succeeding year. Any other qualified personnel who has served as BAC Chairperson may be designated as BAC Vice-Chairperson or Member for the succeeding year.
 - (4) Appointment to the BAC is a designation, in addition to the regular duties of the subject official, and is not an appointment contemplated under the Civil Service rules. In accordance with the thrust to professionalize the procurement organization, the District Engineer is encouraged to re-appoint BAC members who have shown efficiency and probity in performing their duties, subject to the limitations in item (3) above.
 - (5) In case of resignation, retirement, separation, transfer, re-assignment, or removal of a BAC member, the District Engineer may designate a replacement, who shall be of the

same level and similarly qualified as the official replaced. The replacement shall serve for the unexpired term. In case of leave or suspension, the replacement shall serve only for the duration of the leave or suspension.

- (6) The District Engineer may suspend or remove a member of the BAC for justifiable causes, including, but not limited to, violations of the provisions of RA 9184 or its IRR.
- (7) The following officers of the DEO are disqualified from membership in the BAC to avoid any conflict of interest:
 - (a) District Engineer
 - (b) Official who enters into/approves contracts
 - (c) Head of Accounting Unit and his staff, unless the Accounting Unit is the IU/ End-User Unit, in which case he or his staff may be designated as a provisional member.
 - (d) Any officer within the third degree of consanguinity or affinity of the HOPE or of another BAC member. An incumbent BAC member who is related within the third degree of consanguinity to a newly appointed HOPE should disclose the relations in order that the proper action can be taken.
- (8) All BAC members shall submit a signed Integrity Pledge upon assumption of office.

2.1.5 Technical Working Group (TWG)

- a. The BAC may create a TWG from a pool of technical, financial and/or legal experts to assist in the procurement process.
- b. In creating the TWG, the BAC shall consider the expertise required based on the nature of the procurement. The TWG should have, as members, representatives of the UPMO/IU/End-User Unit and experts in various disciplines who can handle the different aspects of the procurement at hand, namely, technical (e.g., design and construction), financial, legal and, in certain cases, project management aspects. The presence of the UPMO/IO/End-User representative and the above-named experts will ensure that the Bidding Documents properly reflect the requirements of the Procuring Entity, and the bids submitted will be rigorously evaluated.
- c. To effectively study the requirements and evaluate the bids submitted, the BAC may create several TWGs to handle different procurements, for example:
 - A TWG for Infrastructure Projects, whose membership shall include experts in civil works such as civil engineers and architects;
 - A TWG for Information and Communications Technology (ICT) Projects, whose membership shall include experts in ICT like computer engineers, systems analysts, and programmers.

- d. The BAC may also create a TWG for a specific procurement, particularly if the procurement at hand is highly technical or is a major or priority project of the government, e.g., a major bridge project.
- e. In highly meritorious cases, the Procuring Entity may also engage the services of consultants, in accordance with the IRR and Volume III of this Manual, who will assist the TWG and the BAC on the procurement at hand. For this purpose, the Head of the Procuring Entity shall certify that the in-house staff cannot provide the required expertise.

2.1.6 Observers

a. Purpose of Observers

To enhance the transparency of the procurement process, the BAC is required to invite Observers who may attend and observe all stages of the procurement, especially the following:

- (1) Pre-Bid Conference
- (2) Eligibility screening
- (3) Opening and preliminary examination of bids
- (4) Bid evaluation
- (5) Post-Qualification
- (6) Contract award
- (6) Special meetings of the BAC

b. Groups Represented by Observers

The BAC must invite three (3) Observers, who shall be the following:

- (1) A representative from the Commission on Audit (COA);
- (2) At least one (1) observer who shall come from a duly recognized private group in a sector or discipline relevant to the procurement at hand. For example:
 - (a) For infrastructure projects:
 - National constructors associations duly recognized by the Construction Industry Authority of the Philippines (CIAP), such as Philippine Constructors Association (PCA) and National Constructors Association of the Philippines (NACAP)
 - (b) For goods:

- Specific relevant chamber-member of the Philippine Chamber of Commerce and Industry (PCCI).

(c) For consulting services:

- Project-related professional organization accredited by the Professional Regulation Commission (PRC), such as PICE and Philippine Institute of Certified Public Accountants (PICPA); or
- Confederation of Filipino Consulting Organizations (COFILCO)

(3) At least one (1) observer who shall come from an NGO, e.g., Procurement Watch, Inc. (PWI) or Volunteers against Crime and Corruption (VACC).

c. Criteria for Observers from the Private Sector

In accordance with IRR Section 13.2, the Observers coming from the private sector (item (2) above) or an NGO (item (3) above) should belong to an organization duly registered with the Securities and Exchange Commission. Moreover, they should meet the following criteria:

- Knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid;
- Absence of direct or indirect financial interest in the contract to be bid out;
- Belonging to an organization duly accredited by the GPPB or the PWI; and
- Any other criteria that may be determined by the BAC. For example, the BAC in the District Office may require that the Observers should be based in the District to ensure their attendance during the meetings.

d. Accreditation of Observers by Central Office

The DPWH has created a Civil Society Organization (CSO) Partnership Committee headed by the Undersecretary for Technical Services under DO 25 series of 2012 and DO 14 series of 2011 tasked with the responsibility of formulating and implementing guidelines for the accreditation of CSOs including those involved in procurement related activities. Civil Society Organization Technical Working Groups (CSOTWG) have been created in each Regional Office under DO 86 series of 2015 to act as focal point on matters pertaining to CSO partnership at the regional level. The BAC Chairperson at the RO/DEO may recommend to the Chairperson of the Committee credible NGOs operating in the area for possible accreditation based on the criteria set in item (c) above.

e. Invitation to Observers

Observers shall be invited at least five (5) calendar days before the date of the procurement stage/activity. The absence of observers will not nullify the BAC

proceedings, provided that they have been duly invited in writing. The Procuring Entities should ensure that the invitation is received at least five (5) calendar days before each procurement activity. In the event that a procurement activity has to be postponed, the observers shall be notified immediately of the change in schedule.

f. Confidentiality Agreement

Observers shall be required to enter into a confidentiality agreement (**IRR Section 13.5**) with the DPWH in accordance with the form prescribed by the GPPB (DPWH-Vol 1-01) and allowed access to the following documents upon their request: (a) minutes of BAC meetings; (b) abstract of Bids; (c) post-qualification summary report; (d) APP and related PPMP; (e) opened proposals.

2.2 ROLES AND RESPONSIBILITIES

2.2.1 Legal Reference

IRR Sections 12, 13 and 14 provide the legal reference for the roles and responsibilities.

2.2.2 Policies and Guidelines

a. Procuring Entity and Procurement Unit

(1) Responsibilities of the Head of the Procuring Entity. The Head of the Procuring Entity shall have the following responsibilities in the procurement process:

- (a) Ensure that the Annual Procurement Plan (APP) is regularly prepared, reviewed and updated by the concerned UPMOs, IUs and End-User Units, in accordance with the guidelines set forth herein. He must also approve the same, or delegate the approval authority to a second-ranking official. He must ensure that all procurements are in line with the APP;
- (b) Establish the BAC and the BAC Secretariat in accordance with the guidelines previously discussed;
- (c) Upon submission by the BAC of the recommendation for award, approve the same; disapprove the recommendation only on the basis of valid, reasonable and justifiable grounds to be expressed in writing, and furnished to the BAC;
- (d) Ensure that the BAC and the BAC Secretariat give utmost priority to BAC assignments over all other duties and responsibilities, until the requirements for the said assignments at hand are completed;
- (e) Ensure that the staff of the Procurement Unit/Office and the members of the BAC, BAC Secretariat and TWG are given ample training on procurement and related matters, with the end in view of professionalizing the procurement organization of the Procuring Entity;

- (f) Impose the necessary administrative sanctions on errant members of the BAC Secretariat/BAC/TWG, in accordance with IRR Section 69;
- (g) Ensure that the members of the BAC and the TWG shall receive their incentives.

(2) Responsibilities of Procurement Unit and BAC Secretariat. In general, the Procurement Unit of each Procuring Entity, i.e., DEO/RO/CO, shall have the following responsibilities:

- (a) Act as the BAC Secretariat. As such, it shall have the following responsibilities:
 - i. Serve as the main support unit of the BAC;
 - ii. Provide administrative support to the BAC and the TWG;
 - iii. Organize and make all necessary arrangements for the BAC and TWG meetings;
 - iv. Attend BAC meetings as Secretary;
 - v. Prepare minutes of meetings and resolutions of the BAC;
 - vi. Take custody of procurement documents and other records, and ensure that all procurements undertaken by the Procuring Entity are properly documented;
 - vii. Manage the sale and distribution of Bidding Documents to interested parties;
 - viii. Advertise and/or post bidding opportunities, including bidding Documents and notices of award;
 - ix. Assist in managing the procurement process;
 - x. Monitor procurement activities and milestones for proper reporting to relevant agencies and/or end-users, when required;
 - xi. Consolidate PPMPs from various units of the Procuring Entity to make them available for review as indicated in IRR Section 7 and prepare the APP;
 - xii. Be the central depository of all procurement related information and continually update itself thorough this DPWH Procurement Manual with the most current GPPB and DPWH resolutions, orders, issuances, circulars and events, and downstream the same to all relevant parties requiring information. All information released by the GPPB and the DPWH Secretary can be secured electronically from www.gppb.gov.ph, and www.dpwh.gov.ph, respectively;

- xiii. Make arrangements for the Pre-Procurement and Pre-Bid Conferences and bid openings;
 - xiv. Prepare orders for BAC recomposition for approval of higher authorities in accordance with existing rules.
 - xv. Act as the central channel of communications for the BAC with the end-users, UPMOs/IUs, other units of the DPWH, other government agencies, providers of goods, civil works and consulting services, and the general public;
 - xvi. Provide utmost priority to BAC assignments over all other duties, until the requirements for the procurement at hand are completed, and perform jury duty when so required;
- (b) Based on inputs from the BAC and the TWG, prepare the procurement documents, i.e., contracts, purchase orders, job orders, and their attachments, for processing by the Budget, Accounting, Legal and Finance Offices, and routing to the signing and approving authorities; monitor the status of the procurements routed for approval, and cause the correction of any deficiencies in the said procurement documents to facilitate action on the part of the approving authorities;
 - (c) For Central Office Procurement Service, create, maintain and update a Registry of contractors, consultants, and suppliers; and a price monitoring list for goods and consulting services;
 - (d) Assist the BAC in managing and undertaking procurements using the alternative methods upon prior resolution of the BAC and approval by the HOPE.
 - (e) Transact with the PhilGEPS and DBM-PS on behalf of the Procuring Entity.

In particular, the DPWH **Procurement Service** has the following set of functions and responsibilities based on the approved DPWH Rationalization Plan:

- The **Procurement Service** belongs to the Support Services Group of the DPWH. It has the following responsibilities:
 - Serve as the main support unit of the various CO BACs and is responsible for the procurement of civil works, consulting services and goods prescribed in the CO APP.
 - Review the CO PMMPs and consolidates them into the APP for the CO.
 - Conduct, maintain, and update registries of contractors, consultants and suppliers, and price monitoring lists.
 - Assist the CO BACs and TWGs in the conduct of pre-procurement conferences, advertisement of invitations to bid, pre-bid conferences, receipt

and opening of bids, bids evaluation, post-qualification, and award of contracts for infrastructure, consulting services and goods procured by the CO.

- Perform monitoring, coordination, and oversight of the operations of all DPWH procurement units at the regional and district levels.
- Integrate the reports of all DPWH BACs required by the GPPB and serve as the coordinating office of the DPWH on procurement matters.
- The **Office of the Director** of the Procurement Service is responsible for directing all activities of the Service and for monitoring and coordinating the operations of all procurement units of the DPWH at the CO, RO and DEO levels.
- The **Civil Works Division** of the Procurement Service is responsible for the procurement planning and staff support to the CO BAC for Civil Works in all its bidding activities from preparation of bidding documents thru bids receipt an evaluation up to contract award, as well as. This Division is also tasked with managing the DPWH Civil Works Registry (CWR). It is also responsible for monitoring and oversight of compliance by the Procuring Entities with the procurement guidelines under this Manual for infrastructure contracts handled by the DPWH, including the CO, ROs and DEOs, and for providing technical assistance to the Procuring Entities on matters related to procurement of infrastructure contracts.
- The **Consultancy Services Division** of the Procurement Service is responsible for managing and administering consultancy services for the DPWH-CO, including the registration and accreditation of consultants, as well as staff services to the CO BAC for Consulting Services for the conduct of bidding activities. It is also responsible in the monitoring and oversight of compliance by the Procuring Entities with the procurement guidelines under this Manual for consulting services by the DPWH and for providing technical assistance to the Procuring Entities on matters related to the procurement of consulting services.
- The **Goods and Services Division** of the Procurement Service is responsible for the planning and implementation of the procurement of good and services - including post-award contract management activities, for the CO. It also liaises with the DBM-PS for the procurement of common goods, and monitoring and oversight of compliance by the Procuring Entities with procurement guidelines under this Manual for goods and services of the DPWH and for providing technical assistance to the Procuring Entities on matters related to procurement of goods and services.

b. BAC

(1) Responsibilities of BAC. The following shall be the responsibilities of the BAC (IRR Section 12.1):

- (a) Advertise and post the Invitation to Bid/Request for Expressions of Interest;

- (b) Conduct Pre-Procurement and Pre-Bid Conferences;
- (c) Determine the eligibility of prospective bidders in accordance with the guidelines set forth in RA 9184, its IRR, and this Manual;
- (d) Receive and open bids;
- (e) Conduct the evaluation of bids with the assistance of the TWG;
- (f) Undertake post-qualification proceedings, with the assistance of the TWG;
- (g) Resolve motions for reconsideration filed by prospective bidders and other concerned parties with respect to the conduct of the bidding process;
- (h) Recommend award of contracts to the HOPE;
- (i) Recommend the imposition of sanctions in accordance with Rule XXIII of the IRR;
- (j) Recommend to the HOPE the method of procurement of the infrastructure projects, services, and goods included in the Annual Procurement Plan, i.e., whether to use public bidding or any of the alternative methods of procurement as provided in Rule XVI of the IRR;
- (k) Conduct any of the alternative methods of procurement;
- (l) Conduct periodic assessment of the procurement processes and procedures to streamline procurement activities pursuant to Section 3(C) of the IRR;
- (m) Create a TWG, if necessary, from a pool of technical, financial and/or legal experts to assist in the following:
 - i. Preparation of Technical Specifications, Scope of Work, and Terms of Reference.
 - ii. Preparation of Bidding Documents.
 - iii. Shortlisting of consultants.
 - iv. Eligibility Screening
 - v. Evaluation of Bids
 - vi. Post-Qualification
- (n) Invite the Observers required by law to be present during all stages of the procurement process, in accordance with the guidelines in RA 9184, its IRR, and this Manual at least five (5) calendar days before the procurement activity;
- (o) Conduct due diligence review or verification of the qualifications of Observers;

In performing this due diligence review or verification, the BAC shall require the organization nominating the Observers to submit their Curriculum Vitae and

proof of their technical expertise and procurement proficiency. The certifications/documents showing technical expertise and procurement proficiency should be issued and authenticated by appropriate bodies. Verification may be done by the BAC with the bodies that issued the same.

- (p) Prepare a procurement monitoring report that shall be approved by the HOPE and submitted by him to the DPWH Secretary and the GPPB on a semestral basis or whenever required;
- (q) For each procurement transaction, accomplish a checklist showing its compliance with RA 9184, its IRR and this Manual. This will be submitted to the Head of the Procuring Entity and made a part of the transaction record;
- (r) Give utmost priority to BAC assignments over all other duties, until the requirements for the procurement at hand are completed, and shall perform jury duty when so required;
- (s) Perform such other related functions as may be necessary to the procurement process;

All BAC decisions shall be embodied in resolutions signed by at least the majority of the members, including the Chairperson, thereof.

- (2) Quorum.** The majority (more than one-half of the members) of the BAC members shall constitute a quorum, but the Chairperson or the Vice-Chairperson should be present in all meetings and deliberations. The Chairperson or, in his absence, the Vice-Chairperson shall preside over the meetings. The Presiding Officer shall vote only in case of a tie.

c. **TWG**

- (1) Responsibilities of TWG.** The TWG shall provide assistance to the BAC in the eligibility screening, evaluation and post-qualification of bids, including the preparation of bidding documents and conduct of pre-procurement and pre-bid conferences in terms of the technical, financial, legal and other aspects of the procurement at hand. It shall have the following responsibilities:

- (a) Assist the BAC in the preparation of the Bidding Documents, ensuring that the same properly reflect the requirements of the Procuring Entity and that these conform to the standards set forth by RA 9184, its IRR and the DPWH Standard Bidding Documents;
- (b) Assist the BAC in the conduct of the pre-procurement and pre-bid conferences, eligibility screening of prospective bidders, including sub-contracting, and in the short-listing of prospective bidders in case of bidding for consulting services;
- (c) Assist the BAC in the evaluation of bids and preparation of the accompanying reports for its consideration and approval;

- (d) Assist the BAC in the conduct of post-qualification activities and preparation of the post-qualification summary report for its approval;
- (e) Assist the BAC and BAC Secretariat in preparing the resolution recommending award, with regard to the technical aspects, if necessary;
- (f) Provide utmost priority to BAC assignments over all other duties and responsibilities, until the requirements for the procurement at hand are completed, and shall perform jury duty when so required.

Notwithstanding the creation of the TWG, the BAC remains accountable for the assessment, evaluation, and post-qualification of bids.

d. Observers

(1) Responsibilities of Observers. The participation of Observers ensures the transparency of the procurement process. They represent the public, the taxpayers who are interested in seeing to it that procurement laws are observed and irregularities are averted. Each Observer shall have the following responsibilities:

- (a) Prepare a Procurement Observation Report either individually or jointly with other Observers, indicating his observations made on the bidding activity conducted by the BAC. In the said report, he shall indicate:
 - an assessment of the extent of compliance of the BAC with the substantive and procedural requirements of RA 9184, its IRR and this Manual; and
 - the areas requiring improvement in the proceedings of the BAC.

In instances where the Observer notes substantive or procedural irregularities in the procurement at hand, his Procurement Observation Report shall provide the details of the alleged irregularities.

If no report is submitted by the observer within seven (7) calendar days after each procurement activity, then it is presumed that the bidding activity conducted by the BAC followed the correct procedure.

- (b) Submit the Procurement Observation Report to the Head of the Procuring Entity, copy furnished the BAC Chairperson, who shall forward it to the BAC Secretariat for inclusion in the procurement documents that will be submitted to the proper authorities for approval. This will be part of the official record of the bidding, and part of the audit trail. The Observer may also give a copy of the Report to the GPPB, the Office of the Ombudsman or the Resident Ombudsman and the COA Auditor of the Procuring Entity in any of the following instances:
 - When the BAC has failed to follow the prescribed bidding procedures; or
 - For any justifiable and reasonable ground where the award of the contract will

not redound to the benefit of the Government as defined in IRR Section 41.1(c).

- (c) For the purpose of preparing the report, request as needed copies of the following documents from the BAC, which shall promptly provide the same to the Observer:
- Minutes of related proceedings of BAC meetings
 - Name of contractors that submitted bids, those declared eligible, and those declared ineligible and the reasons therefor.
 - Abstract of Bids
 - Post-qualification Report
 - Annual Procurement Plan (APP) and related Project Procurement Management Plan (PPMP); and
 - Copies of opened proposals
- (d) Sign as witness in the Abstract of Bids if, in his independent observation, the bidding process was conducted in accordance with the procedures described in the IRR of RA 9184 and this Manual. If the BAC failed to correctly observe the proper procedure, the Observer must sign the Abstract of Bids, and must indicate in his Procurement Observation Report the procedural and/or substantive lapses of the BAC. This will enable the approving authority to be apprised of any irregularities in the bidding process, for his appropriate action.
- (e) Sign as witness in the Post-Qualification Report if, in his independent observation, the BAC followed the procedure described in the IRR of RA 9184 and this Manual, and the Observer is amenable to the results of the post-qualification. If the Observer finds the post-qualification procedures irregular or the Report does not match the actual findings, he shall so state in a written dissent addressed to the BAC Chairperson, and the same shall be attached to the Post-Qualification Report submitted to the approving authority. The Observer's written dissent will be part of the official record of the procurement. The above described irregularities observed during the procurement process shall not delay the procurement bid, but should be resolved before contract award.

2.3 CONDITIONS FOR GRANTING HONORARIA

2.3.1 Legal Reference

IRR Section 15 provides the legal reference for the conditions for granting honoraria.

2.3.2 Policies and Guidelines

- a. The Procuring Entity is authorized to grant honoraria to the members of the BAC and the TWG for successfully completed procurement projects provided that:
 - (1) the amount so granted does not exceed twenty-five percent (25%) of their respective basic monthly salary subject to the availability of funds;
 - (2) the grant of honoraria conforms to the guidelines promulgated by the DBM under its Budget Circular No. 2004-5 (dated March 23, 2004) and GPPB Resolution No. 04-2012.
- b. Budget Circular No. 2004-5A as amended by Budget Circular No. 2007-3 issued by the DBM provides the guidelines on the grant of honoraria to government personnel involved in government procurement. Among others, this Circular provides the following:
 - (1) The chairs and members of the BAC and the TWG may be paid honoraria only for successfully completed procurement projects. In accordance with IRR Section 7, a procurement project refers to the entire project identified, described, detailed, scheduled and budgeted for in the Project Procurement Management Plan prepared by the agency. Furthermore, a procurement project shall be considered successfully completed once the contract has been awarded to the winning bidder.
 - (2) The payment of honoraria shall be limited to procurement that involves competitive bidding. Competitive bidding activities are present only in:
 - (a) Open and competitive bidding;
 - (b) Limited source bidding;
 - (c) Negotiated procurement under IRR Section 53 (a), where there has been failure of bidding for the second time; and
 - (d) Negotiated procurement under IRR Section 53 (b) following the procedures under IRR Section 54.2 (b), whereby the DPWH shall draw up a list of at least (3) suppliers or contractors which will be invited to submit bids.

Conversely, honoraria will not be paid when procurement is thru:

 - (a) Direct contracting;
 - (b) Repeat order;
 - (c) Shopping;
 - (d) Negotiated procurement under Section IRR 53 following the procedures under IRR Section 54, whereby the DPWH directly negotiates with a previous supplier, contractor or consultant; or when the project is undertaken by administration; and
 - (e) Negotiated procurement under IRR Section 53.2 to 53.13.

- (3) To be entitled to honoraria, personnel should be duly assigned as chair or member of the BAC or the TWG by the Head of Procuring Entity.
- (4) The members of the BAC Secretariat who are performing the attendant functions on an ad hoc basis may likewise be paid honoraria at the same rate as the TWG chair and members, subject to the same regulations.

The members of the BAC Secretariat whose positions are in the Procurement Service including the administrative staff, such as clerks, messengers and drivers supporting the BAC, the TWG and the Secretariat, for procurement activities rendered in excess of official working hours shall not be entitled to honoraria. The payment of overtime services may be allowed however subject to the guidelines of DBM Budget Circular No. 10.

Those who are receiving honoraria for their participation in procurement activities shall no longer be entitled to overtime pay for procurement-related services rendered in excess of official working hours.

2.3.3 Sources of Honoraria

The amount necessary for the payment of the honoraria and overtime pay authorized herein shall be sourced only from the following:

- a. Proceeds from sale of bid documents.
- b. Fees from contractor/supplier registry.
- c. Fees charged for copies of minutes of bid openings, BAC resolutions and other BAC documents.
- d. Protest fees.
- f. Liquidated damages.
- g. Proceeds from bid/performance security forfeiture.

Pursuant to the DOF-DBM-COA Permanent Committee Resolution No. 2005-2 dated June 2005, all agencies are authorized to treat the collections from the sources identified above as trust receipts to be used exclusively for the payment of honoraria and overtime pay duly authorized. Agencies may utilize up to one hundred per cent (100%) of the said collections for the payment of honoraria and overtime pay subject to the guidelines in the Budget Circular. Any excess in the amount collected shall be remitted to the Bureau of the Treasury.

GPPB Resolution 21-2005 provides for the Guidelines on Legal Assistance and Indemnification of BAC Members and its Support Staff.

2.4 PROFESSIONALIZATION OF PROCUREMENT UNITS, BAC, AND TWG

2.4.1 Legal Reference

IRR Section 16 provides the legal reference for the professionalization of procurement units, the BAC and the TWG.

2.4.2 Policies and Guidelines

In order to professionalize the procurement activities of the DPWH, DO No. 16, series of 2010, requires that procurement personnel of the Department must:

- a. hold a permanent appointment or plantilla position; and
- b. must have attended a seminar-workshop on the IRR of RA No. 9184 conducted by the GPPB or GPPB-accredited organization for CO personnel, or a seminar-workshop conducted by DPWH CO personnel for RO/DEO personnel.

The DPWH through the Procurement Service has developed and is regularly implementing its own in-house training programs for its procurement personnel at the Central, Regional and District Engineering Offices in accordance with the guidelines and standards prescribed by the GPPB-TSO and includes provisions for such training in its annual budget proposals submitted to the DBM and Congress.

Two (2) years from the effectivity of the IRR of RA 9184, dated May 2016, the BAC, its Secretariat and TWG members shall undergo procurement training recognized by the GPPB. Thereafter, no official or personnel of the DPWH may be designated as BAC, Secretariat, or TWG members unless he has undergone such procurement training (**IRR Section 16**).

The Head of the Procuring Entity through the Procurement Service regularly monitors the work quality of its procurement organization, through a review of the procurement monitoring reports regularly submitted by the BAC. In line with the standardization of the procurement procedures and the thrust towards strengthening the procurement function to increase operational efficiency and effectiveness, the DPWH aims to unify and standardize all procurement activities of the Department, whether locally funded or foreign assisted, and whether pertaining to infrastructure projects, consulting services or goods through the DPM and its in-house training program.

SECTION 3

PROCUREMENT PLANNING

3.1 PROCUREMENT PLANNING AND BUDGET LINKAGE

3.1.1 Legal Reference

IRR Section 7 provides the legal reference for procurement planning and budget linkage.

3.1.2 Policies and Guidelines

Every year, upon issuance of the Budget Call by the Department of Budget and Management (DBM) by around January, the DPWH, including its Procuring Entities shall prepare the Agency Budget Proposal for the succeeding calendar year, taking into consideration the budget framework and expenditures ceilings for that year. At this stage, the UPMOs/IUs/end-user units shall prepare their respective Work and Financial Plans (WFP) for their different programs, projects and activities (PPA), using forms provided by the DBM as annexes to the Budget Call. The DPWH Budget Proposal embodies the agency thrusts and the resources needed to produce the key services and major final outputs it delivers to the public.

In the context of budget preparation, the project and/or operational plans are reflected in the WFP for each PPA. The WFP contains the initial list of projects/requirements of each UPMO/IU/End-User Unit and corresponding estimated budgetary requirement. The WFP shall be submitted by the UPMOs/IUs/End-User Units to the HOPE, through its Budget Officer, on or about the last week of April of each year, to coincide with the submission of their respective budget proposals. The HOPE shall evaluate these WFPs and, if warranted, include them in the Budget Proposal of the Procuring Entity. All of these Budget Proposals shall be consolidated, firstly by District, then by Region, and finally for the entire Department to come up, by the last week of July, with the DPWH Budget Proposal, which is subject to the approval of the DPWH Secretary. The DPWH Secretary will then transmit the DPWH Budget Proposal to the DBM. The WFPs will support the Budget Proposal submitted to the DBM.

Procurement planning should be done within this budgetary context, reflecting the priorities and objectives of the Procuring Entity for the budget period and involves two (2) levels: (a) the overall strategic plan of the DPWH and (b) the project and/or operational plans that contain the details of the manner in which the strategic plan will be carried out. The WFPs are supported by the Indicative Project Management Procurement Plans (PPMPs) which are submitted to the Budget Officer for evaluation consistent with the budget proposal within the budgetary limits provided by the DBM. The PPMPs included in the budget proposal shall be forwarded to the BAC Secretariat for consolidation into an Indicative Annual Procurement Plan (APP); and to the BAC for final recommendation of the appropriate procurement modality. Thereafter, the indicative APP and budget proposal shall be simultaneously submitted to the Head of The Procuring Entity for evaluation and approval.

As soon as the DBM approves the DPWH Budget Proposal, the DBM will include it in the National Expenditure Program (NEP) which is submitted by the President to the Congress, usually by early August, to serve as the basis for the General Appropriations Act (GAA) for the coming year.

3.1.3 Overall Procedures for Preparing PPMP and APP

Before the approval of the GAA, based on the DPWH Budget Proposal as submitted to the DBM and included in the NEP, each UPMO/IU/End-User Unit concerned shall prepare by 01 August its Indicative PPMP, and submit this to the BAC concerned, through its Secretariat. The District BAC shall consolidate the Indicative PPMPs into the Indicative APP for the District, and submit these to the District Engineer for approval. All District Engineers shall then transmit, not later than 30 August, their approved Indicative APPs to the Regional BAC, through its Secretariat, for consolidation together with the Indicative APP for projects to be procured directly by the Region. This results in an Indicative Regional APP to be approved by the Regional Director. The Regional Directors shall then forward, not later than 15 September, their approved Indicative Regional APPs, to the Central BAC, through its Secretariat, for consolidation together with the Indicative APP for projects to be procured directly by the Central Office. This will produce an overall Indicative DPWH APP, by 30 September, which is subject to the approval of the DPWH Secretary.

Within fifteen (15) days after the incoming GAA is approved and becomes final, usually around December/January, the UPMOs/IUs/End-User Units shall revise and adjust their Indicative PPMPs into the Final PPMPs to reflect the budget allocations for their respective PAPs in the GAA. The preparation and approval of the Final PPMPs shall follow the same procedures as those described above for the Indicative PPMPs. The revised PPMPs shall be submitted to the BAC, through its Secretariat for the final recommendation of the modes of procurement. The BAC, through its Secretariat, shall review and consolidate the Final PPMPs into the Final APP for the Procuring Entity, and submit the Final APP to the HOPE for approval. The approved Final APP shall be submitted to the GPPB on or before the end of January of the budget year.

In accordance with GPPB Resolution No. 011-2005, before the approval of the GAA, the Indicative Approved Budget for the Contract (ABC) is prepared by the UPMOs/IUs/End-User Units. The Indicative ABC refers to the budget for the contract until its completion as approved by the HOPE, included in the Indicative PPMP and APP, and reflected in the DPWH Annual Budget Proposal which is included in the NEP for the incoming year. For a single-year contract, the Indicative ABC is the budget estimate for the contract as reflected in the NEP. For a multi-year contract, the Indicative ABC is the estimated total cost of the contract until its completion, which is covered by a Multi-Year Obligational Authority (MYOA) issued by the DBM; the MYOA also shows the portion of the ABC which is programmed to be disbursed during the budget year consistent with the project allocation in the NEP for that year. Once the GAA is approved, the Procuring Entity shall finalize the ABC and include this in the Final PPMP and APP consistent with the appropriations in the GAA and, if applicable, the MYOA.

The Final APP shall be submitted to the GPPB within the first month on or before the end of January of the budget year. Revisions in the APP, if any, for the budget year shall be submitted to the GPPB in July of the current budget year and in January of the following budget year.

For high priority projects which need to be implemented immediately upon the start of the succeeding year to take advantage of the dry construction season, usually from January to June, as contained in the proposed APP and with prior clearance from the DPWH Secretary, the Procuring Entity may, even pending approval of the GAA, undertake procurement activities, short of award to gain lead time in the procurement process. In this case, the procurement shall be based on the Indicative APP as mentioned above. The Procuring Entity shall not award the contract until the GAA has been approved or enacted and the Certificate of Availability of Funds has been issued. If the allocation for the contract in the GAA line item for the project is lower

than the Indicative ABC submitted for approval and the procurement has been conducted short of award, then a failure of bidding may be declared. Under IRR Section 41(c), the DPWH Secretary may use his right to reject any and all bids if the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.

3.2 PREPARATION OF PROJECT PROCUREMENT MANAGEMENT PLAN (PPMP)

3.2.1 Legal Reference

IRR Section 7 provides the legal reference for the preparation of the Project Procurement Management Plan (PPMP).

3.2.2 Policies and Guidelines

a. Project Procurement Management Plan

A PPMP for a particular contract deals primarily with:

- (1) planning for the procurement of project requirements,
 - (2) procurement strategy,
 - (3) readiness of the procurement in terms of completion of detailed engineering in case of an infrastructure contract, completeness of Bidding Documents (including Invitation to Bid, Instructions to Bidders, Contract Conditions, Scope of Work, Specifications, etc.), inclusion in the DPWH budget, and availability of right-of-way (ROW) if applicable, and
 - (4) schedule of procurement activities,
- in an effort to obtain infrastructure, consulting services, and goods from contractors, consultants, and suppliers.

There are two (2) types of Project Procurement Management Plan: (a) the Indicative PPMP prepared for purposes of formulating the DPWH budget proposal and consolidated into the Indicative APP (Annex I A), (b) the Final PPMP revised and updated based on the approved budget under the GAA and consolidated into the Final APP.

The PPMP serves as a guide document in the procurement and contract implementation process, as well as a vital reference in procurement monitoring. Moreover, it serves as an important tool in resource and financial management, allowing the Procuring Entity the flexibility to optimize the use of scarce resources. Well-planned procurement will significantly minimize the practice of doing short-cuts to ensure that the Procuring Entity is able to purchase its requirements for the delivery of infrastructure and other public services.

b. Developing Project Requirements

The development of the project requirements should be done during the preparation of the Indicative PPMP. At this stage of the procurement planning process, the UPMO/IU/End-User Unit must undertake the following:

(1) Identify the need of the UPMO/IU/End-User Unit.

Define the purpose of the procurement. Determine the problems or needs that the project or procurement aims to address.

(2) Identify the alternative solutions/products/services.

Consider alternative solutions to the problems or needs that are available in the market. Determine the sources of the products or services involved. Find out the profile of the supply market for them. Check if they are easily obtainable. Determine the cost of each alternative.

The UPMO/IU/End-User Unit should conduct the market research at this point, and gather as much information about the works, services or good involved. At the end of this activity, it should know the market or the industry well enough to make an informed choice.

(3) Compare the alternatives, considering qualitative and quantitative factors.

The UPMO/IU/End-User Unit should rate the various alternatives in terms of the following:

(a) Value for money

Value for money is not restricted to price alone. Other considerations are non-cost factors, such as suitability to the purpose and quality, among others. In comparing costs, all relevant costs shall be considered, e.g., construction or acquisition costs, and life-cycle costs including operating and maintenance costs for infrastructure, consulting services, goods, spare parts, etc. Value engineering shall be undertaken for every infrastructure project costing at least PhP15 million.

(b) Risk assessment and management

Some risks that may be identified are the obsolescence of equipment, the availability of support services, and the capacity of contractors to implement the project, among others. It is recommended, especially for high-technology, complex, or high value procurement, that the UPMO/IU/End-User Unit identifies the risks involved and come up with its own risk management plan.

(c) Government policies that have an impact on the project or procurement

Determine any restrictions on the procurement contemplated. Identify relevant government policies that should be considered in determining the works, goods or services that will be procured.

(d) Other related factors that may be identified by the UPMO/IU/End-User Unit.

(4) Choose the alternative that will yield the most net benefits to the Procuring Entity

The choice shall be made after taking into account all of the abovementioned actors. The UPMO/IU/End-User Unit shall then make the necessary recommendations to the approving authority.

In developing the project requirements and Technical Specifications/Scope of Work/Terms of Reference, the Procuring Entity may engage the services of technical experts, whether in-house or consultants, to ensure that the requirements and specifications are adequate to achieve the objectives of the particular procurement.

c. Writing Scope of Work, Terms of Reference, and Technical Specifications

The Scope of Work (SOW) - with supporting Specifications and Drawings - for Infrastructure Projects, Terms of Reference (TOR) for Consulting Services, or Technical Specifications (TS) for Goods comprise the document that provides the detailed description of the deliverables of the Contractor, Consultant, or Supplier.

The SOW, TOR, and TS are discussed in detail in Volumes II, III and IV, respectively, of this Manual. The following guidelines are helpful in writing them:

- (1) Quality assurance actually starts at this stage of the procurement cycle, considering that the deliverables are decided at this time. It is, therefore, important that all stakeholders are consulted, and the actual requirements of the UPMO/IU/End-User Unit are determined and put in writing.
- (2) If the procurement is complex, highly technical, or high value, and the Procuring Entity does not have sufficient technical proficiency, the Procuring Entity may engage the services of technical experts who will serve as consultants in the preparation of the SOW/TOR/TS. In engaging these consultants, the Procuring Entity shall follow the procedures laid down in Volume III of this Manual. Care should be taken that possible conflict of interest is avoided, that is, the consultants engaged should not be connected with the prospective bidders/contractors, and are barred from being engaged by the latter for any purpose related to the procurement at hand.
- (3) The description should be generic and flexible, not product-specific or seemingly tailored for a particular brand, product, contractor or consultant, unless the procurement involves products or services that have intellectual property rights attached to it, or are exclusively offered by a single source, and there are no suitable substitute products or services.

- (4) The description should be clear and unambiguous, to avoid confusion and to facilitate the evaluation process. The SOW/TOR/TS is also the basis of the evaluation or, when applicable, the testing parameters.
- (5) Considering that planning is done sometime before actual procurement and even farther from the date of actual delivery or project implementation, changes in technology or changes in the concerned industry or field of expertise should already be taken into account in writing the SOW/TOR/TS. This will allow the Procuring Entity to procure the latest applicable products and/or services available in the market.

d. Determining the Approved Budget for the Contract (ABC)

The ABC refers to the budget for the contract duly approved by the DPWH Head of the Procuring Entity which is initially contained in the DPWH Budget Proposal as reflected in the existing or proposed GAA (in accordance with GPPB Resolution No. 011-2005), once approved in the General Appropriations Act (GAA), and/or continuing appropriations, and the estimated contract cost in the case of foreign-funded procurement based on the procurement plan consistent with the loan or grant agreement. There are two (2) types of ABC: (a) the Indicative ABC (also known as Estimated Project Cost for Civil Works or Estimated Budget for Goods and Consulting Services) for inclusion in the PPMP and the APP for budgetary purposes, (b) the Final ABC or the revised and updated budget based on the approved budget under the General Appropriations Act (GAA) and approved by the HOPE. For multi-year contracts, for which a multi-year obligational authority (MYOA) is required, or an equivalent document is required, the ABC shall be that incorporated in the project cost reflected in the MYOA issued for the purpose.

The determination of the ABC for Infrastructure Projects, Consulting Services, and Goods is discussed in Volumes II, III and IV, respectively.

e. Procurement Milestones

The PPMP, like any plan, is not complete without including therein the schedule of significant activities. This shown in Section 4 of Volume I which indicates the latest allowable times for the major procurement activities, as well as the earliest possible times for those activities.

For details on the specific activities for each type of procurement, please refer to Volume II for Infrastructure Projects, Volume III for Consulting Services, and Volume IV for Goods. Each of these significant activities should be scheduled so as to provide the UPMO/IU/End-User Unit with a guide for each procurement undertaken by the Procuring Entity. This will ensure that logistical support and other requirements of the Procuring Entity are promptly addressed, thereby contributing to more efficient and effective delivery of public service.

f. Method of Procurement

As a general rule, all procurement shall be undertaken through public bidding. This is the policy of the Government as laid down in RA 9184. However, the law recognizes that

certain unique circumstances require the use of other methods of procurement. The selection of the method of procurement depends on the presence or absence of specific conditions that justify the use of a particular method (e.g., if a product is patented, direct contracting is the preferred mode instead of public bidding). These are discussed in Volumes II, III and IV of the Manual, when applicable to the type of procurement.

g. Format of PPMP

The PPMP (DPWH-Vol 1-02) for the contract to be procured shall be prepared by the concerned UPMO/IU/End-User Unit using Annex IA (**Form DPWH-INFRA-01** for infrastructure projects, **Form DPWH-CONSL-01** for consulting services, and **Form DPWH-GOODS-01** for goods and services). The PPMP shall contain the following information:

- (1) Procurement/Contract ID, Name and Location
- (2) Brief Scope of Work (General Description)
- (3) Approved Budget for the Contract (Estimated Budget for Indicative PPMP)
- (4) Proposed Procurement Method (with justification if other than public bidding)
- (5) Procurement Schedule or Milestone of Activities (from Pre-Procurement Conference to Notice to Proceed)

With respect to item (1) above, if the GAA is not yet approved, the PPMP shall indicate the Procurement ID as provided by the Procurement Service/Unit based on the NEP. Once the GAA is approved, the Contract ID assigned by the Procurement Service/Unit shall be used in lieu of the Procurement ID.

3.3 PREPARATION OF ANNUAL PROCUREMENT PLAN (APP)

3.3.1 Legal Reference

IRR Section 7 provides the legal reference for the preparation of the Annual Procurement Plan (APP).

3.3.2 Policies and Guidelines

a. Annual Procurement Plan (APP)

The APP is the document that consolidates the various Project Procurement Management Plans or PPMPs submitted by the various UPMOs/IUs/End-User Units within the Procuring Entity. It reflects the entirety of the procurement activities that will be undertaken by the Procuring Entity within the calendar year. There are two (2) types of Annual Procurement Plan: (a) the Indicative APP prepared for purposes of formulating the DPWH budget proposal for the succeeding calendar year for inclusion in the National

Expenditure Program, (b) the Final APP revised and updated based on the approved budget under the General Appropriations Act (GAA) and approved by the HOPE.

No procurement shall be undertaken unless it is in accordance with the approved APP, including the approved changes thereto. The APP must be consistent with its duly approved yearly budget and shall bear the approval of the Head of the Procuring Entity.

The BAC, through the BAC Secretariat/Procurement Unit, shall prepare the Indicative APP upon submission by the UPMOs/IUs/End-User Units of their respective PPMPs. The BAC shall prepare the Final APP immediately after the GAA has been approved. The BAC shall subsequently re-submit the APP to the Head of the Procuring Entity for approval.

In preparing the APP, the BAC shall consider the following factors:

- (1) The APP shall include all procurement activities planned for the year. The approved APP shall be the basis for the procurements of the Procuring Entity, and only those projects/procurements included therein shall be undertaken.
- (2) The APP shall include only those procurements that are considered crucial to the efficient discharge of governmental functions. The IRR considers a procurement crucial to the efficient discharge of governmental functions if:
 - (a) it is required for the day-to-day operations of the Procuring Entity; or
 - (b) it pursues of the principal mandate of the Procuring Entity.
- (3) The APP shall include provisions for foreseeable emergencies for goods based on historical records. The BAC, through the BAC Secretariat, shall include therein a lump sum to cover these emergencies or contingencies, which must not be more than five percent (5%) of the total appropriations for Maintenance, Operating and Other Expenses (MOOE) of the Procuring Entity. For infrastructure and consulting services, the contingencies shall be built into the ABC.
- (4) Scheduling of procurement activities shall be done in such a manner that the BAC and the other offices/units in the Procuring Entity involved in the procurement process are able to efficiently manage the conduct of procurement transactions. It is paramount that project implementation timelines are met.

A review and updating of the individual PPMPs and the APP shall be done regularly, at least once every six months or as often as may be required by the HOPE. The updating of the PPMPs shall be the responsibility of the UPMOs/IUs/End-User Units. These units shall then submit the updated PPMPs to the BAC, through its Secretariat, for inclusion in the updated APP. The Head of the Procuring Entity shall approve the updated APP. The updated PPMPs and APPs will go through the same bottom-up process of review and consolidation at the District, Regional and Central Office levels as described in Section 3.1.3 of Volume I.

b. Procurement Strategy

The procurement strategy refers to the approach that will be adopted by the BAC in the procurement of the infrastructure projects, consulting services, and goods, included in the APP.

In the review and consolidation of the PPMPs, the BAC shall determine the extent of diversity, quantities, quality, cost, supply market, and other characteristics of the requirements of the Procuring Entity for the year. The profile of the procurement is a major determinant in choosing the procurement strategy to be employed, as well as in the scheduling the procurement activities.

There may be common requirements for the various PPMPs. For example, three projects require the purchase of five units of laptop computers for each project office, or a total of 15 laptop computers. Obviously, it will be more cost effective and efficient if the BAC will procure the 15 laptop computers in one (1) bidding exercise and as one (1) bid lot.

The individual PPMPs sometimes reflect a mix of procurement types. For example, an information technology (IT) project may involve the procurement of goods (e.g., workstations, network equipment and peripherals), procurement of civil works (e.g., installation of cables involving the repair of offices and related civil works), and procurement of consulting services (e.g., design and development of information systems). The BAC shall exercise its judgment in determining the bid lots and contract package. There are two (2) approaches to this case: the project could be bid out as one (1) package, or it could be divided into several bid lots (e.g., supply of hardware, supply and installation of cables, design and development of information systems, and repair of facilities). There are advantages and disadvantages of either approach. The BAC, through the help of the TWG and the Secretariat, shall determine the best option for the Procuring Entity.

In determining the nature of a project with any combination of civil works, consulting, and goods, the primary purpose of the procurement shall govern. In the example given above, the primary purpose is actually to computerize the internal operations of the Procuring Entity; hence, the single most important component of the project is the design and development of information systems. This being the case, the project could be bid out as a consulting service.

In line with the objectives of Executive Order No. 278, series of 2004, large infrastructure projects shall, when feasible, be packaged into smaller contracts covering separable works which, however, when completed must be safe, structurally stable, and usable by themselves, taking into account the capabilities of Filipino contractors. On the other hand, clustering of small projects (e.g., school buildings, water supply, small road segments) into larger contract packages may be more efficient from the point of view of contractors because of economies of scale and logistics management; clustering may also be advantageous to the Procuring Entity since it leads to easier monitoring and supervision of the procurements under its APP.

In this regard, the implementing units in coordination with the Planning Service at the Central Office and the Planning Units at the RO/DEO shall agree on the appropriate

procurement strategy to be applied for projects to be procured using the procedures set in the Project and Contract Management Application (PCMA). The BAC shall review the proposed procurement strategy to ensure that it is consistent with the limits of contract signing and approving authorities set under applicable Department Orders. In any case, splitting of contracts for the purpose of circumventing the law and existing rules, however, shall not be allowed.

c. Format of APP

The BAC shall prepare three APPs (DPWH-Vol 1-03), following the revised format issued by the GPPB under Resolution No. 20-2015: **Form DPWH-INFRA-02** for Infrastructure Projects, **Form DPWH-CONSL-02** for Consulting Services, **Form DPWH-GOODS-02** for Goods and Services. For common use supplies, the format prescribed by the DBM Procurement Service (PS) (**Form DPWH-G&S-03 APP CSE**) shall be followed.

Each Indicative APP shall include the list of the contracts to be procured during the year, with the following information for each contract:

- (1) Name of procurement project;
- (2) UPMO/IU/End-User Unit
- (3) Mode of Procurement
- (4) Schedule of identified procurement activity as reflected in the APP form approved by the GPPB
- (5) Source of funds
- (6) Indicative Approved Budget for the Contract
- (7) Other relevant description of the project, if applicable

SECTION 4

GENERAL PROCUREMENT ACTIVITIES AND TIMELINES

4.1 SCHEDULE OF PROCUREMENT ACTIVITIES

The Procuring Entity shall adhere to the schedule of procurement activities for Infrastructure, Consulting Services, and Goods shown in **Tables 1 to 3**, seeing to it that the activities are kept within the latest allowable times indicated (**IRR Annex C**). The UPMO/IU/End-User Units as well as the BAC, Procurement Service/Units and the TWG shall likewise comply with the relevant provisions on prescribed timelines for procurement related activities under the DPWH Document Tracking System (DoTS) for civil works (DO 156 series of 2015), consulting services (DO 46 series of 2008) and goods and services (DO 119 series of 2015).

**Table 1. Recommended Earliest Possible Time and Maximum Period Allowed
for the Procurement of Infrastructure Projects**

Section	Procurement Activity	Minimum Calendar Days Feasible	Operational Timeline (Earliest Possible Time)	Maximum Calendar Days Allowed	Operational Timeline (Maximum Period Allowed)	Conditions / Remarks
20	Pre-Procurement Conference	1	Day 0	<i>Whenever necessary</i>	0	Optional for ABC of 5,000,000.00 and below
21.2.1	Advertisement / Posting of Invitation to Bid	7 CDs	Days 1 to 7	7 CDs	Day 1 to 7	
22.2	Pre-Bid Conference	1 CD	Day 8	<i>Whenever necessary</i>	Day 8 to 40 ---- Day 8 to 60	<ul style="list-style-type: none"> Not Earlier than 7 CDs from Advertisement / Posting 12 CDs before Deadline of Submission and Receipt of Bids
25.5	Deadline of Submission and Receipt of Bids / Bid Opening	1 CD	Day 20	50 CDs ³ ---- 65 CDs ⁴	Day 57 ---- Day 72	
32.4	Bid Evaluation	<1 CD	Day 20	7 CDs	Day 58 to 64 ---- Day 73 to 79	
34.8	Post-Qualification	1 CD	Day 21	45 CDs	Day 65 to 109 ---- Day 80 to 124	
37.1.2	Approval of Resolution/Issuance of Notice of Award	<1 CD	Day 21	15 CDs	Day 110 to 124 --- Day 125 to 139	
37.2.1	Contract Preparation and Signing	1 CD	Day 22	10 CDs	Day 125 to 134 ---- Day 140 to 149	
37.3	<i>Approval of contract by higher authority</i>	<i><1CD</i>		<i>20 or 30 CDs</i>		<i>If necessary.</i>

³ For Infrastructure Projects 50,000,000.00 and below.

⁴ For Infrastructure Projects above 50,000,000.00.

Section	Procurement Activity	Minimum Calendar Days Feasible	Operational Timeline (Earliest Possible Time)	Maximum Calendar Days Allowed	Operational Timeline (Maximum Period Allowed)	Conditions / Remarks
37.4.1	Issuance of Notice to Proceed	1 CD	Day 23	7 CDs	Day 135 to 141 ---- Day 150 to 156	
TOTAL TIME			23 CDs		141 CDs or 156 CDs	<i>Excluding Approval of Higher Authority</i>

Table 2. Recommended Earliest Possible Time and Maximum Period Allowed for the Procurement of Consulting Services

Section	Procurement Activity	Minimum Calendar Days Feasible	Operational Timeline (Earliest Possible Time)	Maximum Calendar Days Allowed	Operational Timeline (Maximum Period Allowed)	Conditions / Remarks
20	Pre-Procurement Conference	1 CD	Day 0	<i>Whenever necessary</i>	0	Optional for ABC of 1,000,000.00 and below.
21.2.1	Advertisement / Posting of Invitation to Bid / Request for Expression of Interest	7 CDs	Days 1 to 7	7 CDs	Day 1 to 7	
24.5.4	Eligibility Check and Shortlisting	1 CD	Day 8	20 CDs	Day 8 to 27	
22.2	Pre-Bid Conference	1 CD	Day 9	<i>Whenever necessary</i>	Day 9 to 70	<ul style="list-style-type: none"> Not Earlier than 7 CDs from Advertisement / Posting 12 CDs before Deadline of Submission and Receipt of Bids
25.5	Deadline of Submission and Receipt of Bids / Bid Opening	1 CD	Day 20	75 CDs	Day 82	
33.4	Bid Evaluation	1 CD	Day 21	21 CDs	Day 83 to 103	
33.2.1	Approval of Ranking by the HoPE	1 CD	Day 22	2 CDs	Day 104 to 105	
	Notification for Negotiation	1 CD	Day 23	3 CDs	Day 106 to 108	
33.2.5	Negotiation	1 CD	Day 24	10 CDs	Day 109 to 118	
34.8	Post-Qualification	1 CD	Day 25	45 CDs	Day 119 to 163	
37.1.2	Approval of Resolution/Issuance of Notice of Award	<1 CD	Day 25	15 CDs	Day 164 to 178	
37.2.1	Contract Preparation and Signing	1 CD	Day 26	10 CDs	Day 179 to 188	
37.3	<i>Approval of contract by</i>	<i><1CD</i>		<i>20 or 30</i>		<i>If necessary.</i>

Section	Procurement Activity	Minimum Calendar Days Feasible	Operational Timeline (Earliest Possible Time)	Maximum Calendar Days Allowed	Operational Timeline (Maximum Period Allowed)	Conditions / Remarks
	<i>higher authority</i>			<i>CDs</i>		
37.4.1	Issuance of Notice to Proceed	1 CD	Day 27	7 CDs	Day 189 to 195	
TOTAL TIME			27 CDs		195 CDs	<i>Excluding Approval of Higher Authority</i>

Table 3. Recommended Earliest Possible Time and Maximum Period Allowed for the Procurement of Goods and Services

Section	Procurement Activity	Minimum Calendar Days Feasible	Operational Timeline (Earliest Possible Time)	Maximum Calendar Days Allowed	Operational Timeline (Maximum Period Allowed)	Conditions / Remarks
20	Pre-Procurement Conference	1 CD	Day 0	<i>Whenever necessary</i>	0	Optional for ABC of 2,000,000.00 and below
21.2.1	Advertisement / Posting of Invitation to Bid	7 CDs	Days 1 to 7	7 CDs	Day 1 to 7	
22.2	Pre-Bid Conference	1 CD	Day 8	<i>Whenever necessary</i>	Day 8 to 40	<ul style="list-style-type: none"> Not Earlier than 7 CDs from Advertisement / Posting 12 CDs before Deadline of Submission and Receipt of Bids
25.5	Deadline of Submission and Receipt of Bids / Bid Opening	1 CD	Day 20	45 CDs	Day 52	
32.4	Bid Evaluation	<1 CD	Day 20	7 CDs	Day 53 to 59	
34.8	Post-Qualification	1 CD	Day 21	45 CDs	Day 60 to 104	
37.1.2	Approval of Resolution/Issuance of Notice of Award	<1 CD	Day 21	15 CDs	Day 105 to 119	
37.2.1	Contract Preparation and Signing	1 CD	Day 22	10 CDs	Day 120 to 129	
37.3	<i>Approval of contract by higher authority</i>	<i><1CD</i>		<i>20 or 30 CDs</i>		<i>If necessary.</i>
37.4.1	Issuance of Notice to Proceed	1 CD	Day 23	7 CDs	Day 130 to 136	
TOTAL TIME			23 CDs		136 CDs	<i>Excluding Approval of Higher Authority</i>

SECTION 5

VARIOUS METHODS OF PROCUREMENT

5.1 COMPETITIVE BIDDING

5.1.1 Legal Reference

IRR Section 10 provides the legal reference for competitive bidding.

5.1.2 General Rule

All procurement shall be through competitive or public bidding, except as provided in Rule XVI of the IRR, which provides for the conditions for use of the alternative modes of procurement. This is so specified in **IRR Section 10**. In line with this policy, DPWH Procuring Entities must provide for sufficient lead time in its procurement program for the conduct of public bidding.

Competitive Bidding or Public Bidding is defined in RA 9184 as:

“a method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post-qualification, and award of contract, the specific requirements and mechanics of which shall be defined in the IRR to be promulgated under this Act.”

Competitive bidding opens up the procurement opportunity to a greater number of contractors, consultants, or suppliers who compete among themselves in providing the DPWH the best value for money for infrastructure projects, consulting services, and goods and services that they offer. This enables the DPWH to obtain these projects, services, and goods at the lowest possible prices and best terms, thereby optimizing the use of its scarce resources. In addition, competitive bidding allows for greater transparency of the procurement process.

Competitive bidding is discussed in detail in **Volumes II, III and IV** of this Manual for infrastructure, consulting services, and goods and services, respectively. In all cases, the Procuring Entity shall ensure that the most advantageous price and contract for the Government is obtained.

5.2 ALTERNATIVE METHODS OF PROCUREMENT

5.2.1 Legal Reference

IRR Sections 48 to 54 provide the legal reference for the alternative methods of procurement.

5.2.2 Conditions for Use of Alternative Methods of Procurement

In highly exceptional cases provided for in Article XVI of RA 9184 and **Rule XVI of its IRR**, the Procuring Entity is allowed to resort to the alternative methods of procurement in order to promote economy and efficiency, subject to the following conditions:

- a. The BAC should recommend to the Head of the Procuring Entity (HOPE) the use of alternative methods of procurement in cases where public bidding is not feasible. This shall be indicated in the approved APP.

In cases where the original method of procurement specified in the APP is public bidding, but conditions later arise justifying the use of an alternative method of procurement, the APP may be amended. This can be done through a BAC Resolution justifying and recommending the change in the mode of procurement and the use of the alternative method as approved by the HOPE. Such changes must be reflected in the APP and submitted to GPPB.

- b. The HOPE has given prior approval of the use of any of the alternative methods of procurement.
- c. The conditions surrounding the procurement at hand justify the use of any of the alternative methods of procurement, as provided for in Sections 48-54, Article XVI of RA 9184 and **Sections 48-54 of its IRR.**

In all instances, the procuring entity shall ensure that the most advantageous price and contract for the Government is obtained. The procedures for the use of alternative methods of procurement are discussed in **Volumes II, III, and IV** of the Manual, for infrastructure, consulting services, and goods and services, respectively.

5.2.3 Different Alternative Methods

a. Limited Source Bidding

Otherwise known as selective bidding, this is a method of procurement of consulting services and goods that involves direct invitation to bid by the Procuring Entity of all pre-selected consultants or suppliers with known experience or proven capability on the requirements of the particular contract. The pre-selected consultants or suppliers should be drawn from the lists maintained by the DPWH or other relevant Government authority that has expertise and experience in the type of procurement concerned. The registry or list should have been submitted to, maintained and updated with, the GPPB. For highly specialized consulting services and goods, where no such lists are maintained by the DPWH or a relevant Government authority, competitive bidding shall be conducted. The purpose of the list is to ensure the quality of consulting services and goods being offered and the qualifications of the consultants and suppliers in the particular field of procurement.

The particular conditions under which this alternative method of procurement may be used are outlined in Section 4.2, **Volume III**, and Section 5.2, **Volume IV** of this Manual.

b. Direct Contracting or Single Source Procurement

This is a method of procurement of goods that does not require elaborate bidding documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations. The particular conditions under which this alternative method of procurement may be used are outlined in Section 5.3, **Volume IV** of this Manual.

c. Repeat Order

This is a method of procurement of goods from the previous winning bidder, whenever there is a need to replenish goods procured under a contract previously awarded through Competitive Bidding. The particular conditions under which this alternative method of procurement may be used are outlined in Section 5.4, **Volume IV** of this Manual.

d. Shopping

This is a method of procurement of goods whereby the Procuring Entity simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications. The particular conditions under which this alternative method of procurement may be used are outlined in Section 5.5, **Volume IV** of this Manual.

e. Negotiated Procurement

This is a method of procurement of infrastructure projects, consulting services, and goods, whereby the Procuring Entity directly negotiates a contract with a technically, legally and financially capable contractor, consultant or supplier, only in the cases provided for in Section 53 of RA 9184 and **Section 53 of its IRR**. The particular conditions under which this alternative method of procurement may be used are provided in Section 4.2 of **Volume II**, Section 4.3 of **Volume III**, and Section 5.6 of **Volume IV** of this Manual.

Negotiated procurement may be used in the following cases:

- (1) Two (2) failed biddings.
- (2) Emergency cases.
- (3) Take-over of contracts.
- (4) Adjacent or contiguous contract.
- (5) Agency-to-Agency agreement.
- (5) Procurement agent.
- (6) Highly Technical consultants.
- (7) Small value procurements.
- (8) Lease of real property and venue.
- (9) NGO participation
- (10) Community participation

(11) United Nations Agency

(12) Scientific, Scholarly or Artistic Work

The specific terms, conditions and documentary requirements, including the limitations and restrictions, for the application of each of the alternative methods shall be provided for in Annex "H" of the IRR and guidelines specifically issued for this purpose.

5.2.4 Special Provisions for Alternative Methods

a. Posting of Notices

For the following alternative methods of procurement, advertisement and posting as prescribed in **IRR Section 21.2.1** may be dispensed with, provided that the BAC, through its Secretariat, shall post the invitation or request for submission of price quotations in the DPWH or PhilGEPS websites or at any conspicuous place reserved for this purpose in the premises of the Procuring Entity for a period of three (3) calendar days (**IRR Section 54.2**):

(1) Limited Source Bidding (**IRR Section 49**).

(2) Shopping for ordinary office supplies and equipment not available in the DBM-PS (**IRR Sections 52.1 (b)**).

(2) Two (2) failed biddings (**IRR Sections 53.1**).

(3) Small value procurement (**IRR Section 53.9**).

(4) NGO Participation (**IRR Section 53.11**).

In all instances of alternative methods of procurement, the BAC, through the Secretariat, shall post, for information purposes, the notice of award, purchase order, or contract in the PhilGEPS website, the DPWH website and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity (**IRR Section 54.3**).

b. Bid Security

The procuring entity may dispense with the requirement of bid securities under IRR Section 27, except for Limited Source Bidding.

c. Performance Securities and Warranties

Performance and Warranty Securities are required for the following alternative modalities as prescribed in IRR Sections 39 and 62 (**IRR Section 54.5**):

Modality	Performance Security	Warranty Security
Limited Source Bidding	*	*
Direct Contracting		*
Repeat Order		*

Two (2) Failed Biddings	*	*
Emergency Cases	Procuring Entity may require PS depending on the nature of the procurement project. However, For Infrastructure Projects, PS is required	Procuring Entity may require WS security depending on the nature of the procurement project
Take-over Contracts	*	*
Adjacent/Contiguous	*	*
Defense Cooperative Agreement	*	*
Small Value Procurement	Procuring Entity may require PS depending on the nature of the procurement project. However, For Infrastructure Projects, PS is required	Procuring Entity may require WS security depending on the nature of the procurement project

d. PhilGEPS Registration

Manufacturers, suppliers, distributors, contractors, and/or consultants are mandated to register with PhilGEPS and provide a PhilGEPS Registration Number in the following alternative methods of procurement as a condition for award of the contract:

- (1) Direct Contracting (Section 50)
- (2) Shopping for Ordinary Office Supplies and Equipment not available in DBM-PS (Section 52.1 (b))
- (3) Two (2) Failed Biddings (Section 53.1)
- (4) Take-Over of Contracts (for shortlisting of new bidders) (Section 53.3)
- (5) Small Value Procurement (Section 53.9)
- (6) Lease of Real Property and Venue (Section 53.10)
- (7) NGO Participation (Section 53.11)

Except for the following alternative procurement modalities:

- (1) Repeat Order (Section 51)
- (2) Shopping under Unforeseen Contingency (Section 52.1)

(3) Emergency Cases (Section 53.2)

(4) Adjacent and Contiguous (Section 53.4)

(5) Agency to Agency Agreements (Section 53.5)

(6) Highly Technical Consultants (Section 53.7)

For purposes of limited source bidding, the procuring entity shall require the submission of a Certificate of PhilGEPS registration in accordance with **IRR Section 8.2.2**.

d. Observers

Under Limited Source Bidding and Negotiated Procurement under the Two (2) Failed Biddings modality, observers shall be invited in all stages of the procurement process. For other modalities, observers may be invited by the Procuring Entity.

SECTION 6

PROCUREMENT BY ELECTRONIC MEANS AND PHILGEPS

6.1 ELECTRONIC PROCUREMENT AND PHILGEPS

6.1.1 Legal Reference

IRR Section 8 provides the legal reference for procurement by electronic means and the PhilGEPS.

6.1.2 PhilGEPS

Consistent with the policies of promoting transparency and efficiency, Information Communication Technology (ICT) shall be utilized in the conduct of government procurement. A two (2)-pronged approach has been adopted to achieve this:

- a. Institutionalization of the PhilGEPS, which will be used for procurement of common-use items and as repository of all Government procurement information; and
- b. Use or engagement of electronic procurement service providers by the individual Procuring Entities for procurement of non-common use items.

The Procurement Service (PS) of the DBM manages the PhilGEPS under the supervision of the GPPB. The PhilGEPS serves as the single portal and primary source of information on all government procurement.

The DPWH and all other Procuring Entities shall utilize the PhilGEPS, through its Electronic Catalogue facility, for the procurement of common-use supplies. All Instructions to Bidders (IB), notices of award, and other procurement-related notices shall be posted in the PhilGEPS, regardless of the method of procurement used by the Procuring Entity.

The Procuring Entity shall abide by the necessary procedural guidelines covering procurement through the PhilGEPS issued by the GPPB.

In the case of foreign-assisted projects (FAPs), e-procurement should be consistent with the requirements of the IFI concerned.

6.1.3 Features of PhilGEPS

a. Electronic Bulletin Board

The PhilGEPS shall have a centralized electronic bulletin board.

Procuring Entities are required to post the following in the PhilGEPS Electronic Bulletin Board:

- (1) IB for competitive bidding and notices of other procurement opportunities using the alternative methods of procurement.
- (2) Supplemental/Bid Bulletins.

- (3) Contract awards, the corresponding Notices of Award, including the reasons for award of contract.
- (4) Results of bidding and related information.
- (5) Other notices, announcements, information for interested parties.

Posting of the IB shall follow the guidelines in IRR Section 21 which are discussed in Section 3.2.2 of Volume II, Section 3.2.2 of Volume III, and Section 4.1.4 of Volume IV of this Manual.

Failure to post a procurement opportunity in the PhilGEPS Electronic Bulletin Board shall render the resulting contract null and void.

Failure to post a Notice of Award in the PhilGEPS Electronic Bulletin Board shall render the erring DPWH officials administratively liable in accordance with RA 6713 and other pertinent laws, rules and regulations, and appropriate sanctions shall be imposed.

Posting of notices and other transactions with the PhilGEPS shall be done through duly authorized personnel of the Procuring Entity. In accordance with IRR Section 8.2.3, the Procuring Entity shall be required to designate its personnel who will be authorized to transact with the PhilGEPS. The internal procedures of PhilGEPS require that a Procuring Entity shall have at least one but not more than two (2) such authorized personnel. For purposes of consistency with the prescribed procurement procedures, the Procuring Entity shall designate such personnel who is a member of the BAC Secretariat or assigned to the Procurement Unit.

All Procuring Entities are mandated to fully use the PhilGEPS in accordance with the policies, rules, regulations, and procedures adopted by the GPPB. In this connection, all Procuring Entities shall register with the PhilGEPS and shall undertake measures to ensure their access to an on-line network to facilitate the open, speedy and efficient on-line transmission, conveyance and use of electronic data messages or electronic documents. The DBM-PS shall assist Procuring Entities to ensure their on-line connectivity and help in training their personnel responsible for the operation of the PhilGEPS from their terminals.

Procuring entities with no internet connection or have difficulty accessing internet connection are not exempted from using the PhilGEPS. They shall use available internet facilities in their respective areas such as internet cafes or internet facilities of other government agencies.

b. Registry of Manufacturers, Suppliers, Distributors, Contractors and Consultants

The PhilGEPS shall have a centralized electronic database of all manufacturers, suppliers, distributors, contractors and consultants registered under the system. Pursuant to GPPB Resolution No. 12-2012 dated 1 June 2012, this centralized electronic data base of manufacturers, suppliers, distributors, contractors and consultants shall be referred to as the Government of the Philippines-Official Merchants Registry (GOP-OMR). (IRR Section 8.2.2) All existing registries of merchants, electronic or manual, used and

maintained by procuring entities for government procurement shall be integrated with the GOP-OMR.

The Phil-GEPS office shall not determine the eligibility of merchants and its office's evaluation of the eligibility requirements shall be for the sole purpose of determining the approval or disapproval of the merchant's application for registration.

A merchant's registration and membership in the GOP-OMR is neither contract-specific nor understood to be tantamount to a finding of eligibility. Neither shall the merchant's successful registration in the GOP-OMR be relied upon to claim eligibility for the purpose of participation in any public bidding.

The determination of the eligibility of merchants, whether registered with the GOP-OMR or not, shall remain with the Bids and Awards Committee (BAC). The BAC's determination of validity of the eligibility requirements shall be conclusive to enable the merchant to participate in the public bidding process.

The Phil-GEPS office shall develop and implement the necessary procedures for the registration and membership of merchants in the GOP-OMR. The procedures for registration of merchants shall prescribe the following requirements:

- (1) duly accomplished Phil-GEPS Registration Form;
- (2) an account number with a bank duly licensed by the *Bangko Sentral ng Pilipinas* (BSP), which shall be used to facilitate financial transactions such as, but not limited to, the payment of fees; charges; bid, performance, and warranty securities; and similar costs;
- (3) a secure e-mail address, which shall be used for all communications between the BAC and the Procuring Entity;
- (4) a digital certificate secured by the Phil-GEPS;
- (5) eligibility requirements as provided in R.A. 9184 and its Revised IRR; and,
- (6) a certification, stating that (a) the eligibility requirements filed in connection with registration in the GOP-OMR, are authentic copies of the original; (b) the same requirements are complete; and (c) all statements and information provided in these are true and correct.

Merchants shall submit their registration documents either by sending electronic copies of the requirements using the Phil-GEPS website; or by sending printed copies to the Phil-GEPS office. Failure to submit the registration requirements shall result in the disapproval of the application for registration.

The Phil-GEPS office shall receive and process all applications for registration, and shall have the sole power to approve or disapprove any application in accordance with its registration procedures, subject to existing laws, rules and regulations, and these Guidelines.

Approval of the application shall amount to the registration of the merchant in the GOP-OMR. Disapproval shall prevent the registration of the merchant in the GOP-OMR until such time that it satisfactorily complies with the requirements.

The Phil-GEPS office shall deny registration to or exclude from the GOP-OMR any merchant (a) that is found to have willfully misrepresented any of the information provided in the application for registration, or (b) that is in the blacklist of a procuring entity. For this purpose, exclusion from the registry shall result in the cancellation of the merchant's account in the Phil-GEPS website.

This exclusionary rule also applies to any merchant that has been subjected to the blacklisting rules of foreign governments, and foreign or international financing institutions, if such rules have been recognized by the Government Procurement Policy Board (GPPB). The Procuring Entity shall immediately notify the PhilGEPS office and the GPPB regarding its blacklisting of a merchant by forwarding a copy of the Blacklisting Order to PhilGEPS and GPPB. Upon receipt of the Blacklisting Order, the PhilGEPS shall exclude the merchant from the GOP-OMR.

The Phil-GEPS office has developed a merchant's membership classification that defines the extent of a merchant's access to and use of the Phil-GEPS website, and include the rules and procedures for acquiring, maintaining, relinquishing, changing, or renewing a membership status in the registration procedure.

There are three kinds of membership classification: red, blue and platinum. Merchants shall have the option to choose its membership classification based on these categories. Merchants shall be entitled to a Certificate of Registration and Membership depending on the chosen classification and payment of the corresponding membership fee determined by the Phil-GEPS office.

A Certificate of Registration and Membership shall be valid and effective for a period of one (1) year from the date of issuance as indicated therein. This Certificate may be renewed; provided, that the merchant maintains its records in the GOP-OMR current and updated at least once a year or more frequently as may be necessary; provided further, that the merchant's failure to maintain its records current and updated shall result in the downgrading of the merchant's membership classification in accordance with the procedures of the Phil-GEPS office, notwithstanding the fact that the one-year validity of the Certificate of Membership has not yet expired.

If a procuring entity uses and maintains an electronic registry with functionalities aside from submission and/or recording of eligibility requirements, it shall use the GOP-OMR as its merchant registry but may be allowed to continue using the other functionalities of its system. Procuring entities that maintain manual registries shall be encouraged to shift to the use of the GOP-OMR. If the Procuring Entity decides to retain the use of its manual registry, it may do so; provided, however, that when the Procuring Entity shifts to an electronic registry, it shall use the facilities of the GOP-OMR. After the shift, the Procuring Entity shall henceforth use the GOP-OMR for government procurement purposes.

Registration shall entail the submission of the requirements specified by the DBM-PS. Details of the requirements may be obtained from the DBM-PS website (procurementservice.gov.ph), or the PhilGEPS website (philgeps.gov.ph). Submission of these requirements may be done on-line at the PhilGEPS website or physically at the PhilGEPS office. Registration shall be effective for one (1) year and may be renewed, provided that the manufacturer, supplier, distributor, contractor or consultant concerned maintains its registration current and updated at least once a year, or more frequently when needed.

c. Electronic Catalogue

The PhilGEPS features a centralized electronic catalogue of common and non-common use goods, supplies, materials and equipment.

The DPWH, as well as all other Procuring Entities, are required to procure common-use goods, supplies, materials and equipment from the DBM-PS through the Electronic Catalogue in the PhilGEPS. The procedures for transacting with the PhilGEPS are provided for in detail in the websites of the PhilGEPS (www.philgeps.gov.ph) and the DBM-PS (www.procurementservice.gov.ph).

The Electronic Catalogue also features non-common use items that may be procured directly and without public bidding by procuring entities from suppliers. For an item to be carried in the Electronic Catalogue for this purpose, the supplier must have been determined as the Lowest Calculated Responsive Bidder in a previous bidding conducted by the DBM-PS or by a Procuring Entity for the DBM-PS. Such item will be featured in the Electronic Catalogue for a maximum period of six (6) months unless another supplier offers a price lower by at least five percent (5%) and such supplier is determined by the Procuring Entity that conducted the previous bidding to meet the eligibility and bidding requirements for the item, in which case the item from the latter supplier will be that featured in the Electronic Catalogue for the remainder of the six (6)-month period.

Procuring Entities without internet access may avail of the PhilGEPS Public Access Terminals which shall be installed at DBM-designated locations in the provinces and in Metro Manila.

d. Electronic Bid Submission

In accordance with GPPB Resolution 23-2013 dated 30 July 2013, guidelines for Electronic Bid (e-Bid) Submission process have been issued which include the creation of electronic bid forms, bid box, delivery of bid submissions, notification to supplier of receipt of bids, bid receiving and electronic bid evaluation. This facility is intended to cover all types of procurement for goods, infrastructure projects and consulting services and is now undergoing a pilot test for the procurement of goods. The Procurement Service shall advise the Procuring Entities when the facility is available at the DPWH and shall issue the necessary supplementary guidelines.

The Guidelines provide that a procurement process or activity which is suitable for automatic evaluation by electronic means, without any intervention by the Procuring Entity, shall be the preferred modality. It shall apply to contracts procured through

competitive bidding as well as such alternative modes as Shopping under Section 52.1(b), Negotiated Procurement under Section 53.1 (two (2)-failed biddings) and Section 53.9 (small value procurement), subject to the prior approval of the Head of the Procuring Entity. The specific processes involved in e-bidding are discussed in the applicable sections of Volumes II, III and IV.

Only bidders who pay the Bid Document Fee shall be allowed to participate in the e-bidding activities and submit a bid. The Invitation to Bid, including the Bidding Documents shall clearly state whether Electronic Bidding is available for the procurement opportunity. PhilGEPS shall allow observers duly authorized by the BAC, to monitor the procurement proceedings on-line, provided that such observers do not have any direct or indirect interest in the contract to be bid as prescribed under IRR Section 13.

PhilGEPS shall establish a user help desk or a call center which offers centralized customer service (telephone- based service, live chat, e-mails) and support functions that will both cater to procuring entities and Registered Merchants to effectively and efficiently address issues and problems during their procurement operations. PhilGEPS and/or the Procuring Entity shall provide Online Bidders common access points to the Internet to enable them to submit electronic bids.

Prospective bidders, who submit their bids electronically, shall not be allowed to submit bids manually. Any bid modifications shall likewise be submitted electronically, provided that this is done before the deadline for submission and receipt of electronic bids.

e. Additional Features

The PhilGEPS also features a Virtual Store, Electronic Payment and such other features that are under development.

- (1) The Virtual Store is an online ordering system for common-use and non-common use items available online called a virtual store. This virtual store is open only to registered Procuring Entities and may not be accessed by suppliers. The ordering process for the Virtual Store is available at the PhilGEPS website (www.philgeps.gov.ph). Government agencies may now buy or place their orders for all their common office supplies and equipment requirements from the Procurement Service through the Virtual Store.
- (2) An Electronic Payment function that will allow the system to manage the generation of purchase orders and the payment of bids processed through the system. The focus of this feature is to facilitate the electronic transfer of funds from DBM-PS to and from Procuring Entities and suppliers, and from Procuring Entities to suppliers for bids managed directly by the Procuring Entity. This system will:
 - (a) generate purchase orders from a bid notice, award notice or contract;
 - (b) support approval process for purchase orders before any payment or fund transfer is processed;

- (c) have a process to submit request for payment upon delivery of goods and/or services and the completion of the approval process; and
- (d) have the ability to interface with the designated bank of the Procuring Entity and suppliers to support the electronic transfer of funds.

Other features that may be developed in the future under the policy guidance of the GPPB.

SECTION 7

GUIDELINES FOR FOREIGN-ASSISTED PROJECTS

7. FOREIGN-ASSISTED PROJECTS (FAPs)

RA 9184 adopts international best practices in public procurement processes, and institutionalizes the need for a procurement manual, standard bidding documents and forms. Consequently, the next logical step is the harmonization of the procurement rules of the Government of the Philippines (GOP) and those of the major and most active IFIs in the country. As mentioned in Section 1.2.3, this activity was already initiated by the GOP with the ADB, JICA, and WB, through the issuance of harmonized **PBDs** and applicable procedures. These **PBDs** only affect the procurement guidelines of the aforementioned IFIs for national or local competitive bidding procedures, while international competitive bidding (ICB) procedures would have to use the standard documents of the IFI concerned.

The harmonization of ICB procedures is currently on-going among the IFIs, and this would be a continuing process. In any case, even if procurement harmonization in the Philippines began on the level of national/local competitive bidding procedures, the entire activity also opened the doors for the possible harmonization of ICB procedures. Since the guidelines of IFIs focus primarily on procurement procedures, evaluation and review processes, this leaves much room for readily adopting the provisions of RA 9184 and its IRR, except for certain rules that are specifically identified in the loan or grant agreement and bidding documents or appropriately addressed in this Manual. These exceptions pertain to the following areas:

- a. Review procedures of the IFI concerned, including thresholds for prior review, if any.
- b. Thresholds for national/local competitive bidding.
- c. Posting of the ABC as the ceiling of bid prices.
- d. Timelines for the preparation of bids.
- e. Pre-qualification for complex or large projects.
- f. Eligibility criteria, which includes the participation of foreign bidders. For ADB and JBIC funded projects, the country eligibility requirement shall be followed
- g. Currency requirements.
- h. Domestic preferences.

SECTION 8

PENAL, CIVIL AND ADMINISTRATIVE LIABILITIES AND SANCTIONS

8.1 STANDARD OF ETHICS

8.1.1 Definition of Corrupt, Fraudulent, Collusive, and Coercive Practices

Procuring entities and bidders, manufacturers, suppliers or distributors are required to observe the highest standard of ethics during the procurement and execution of contract. Bidders determined to have committed corrupt, fraudulent, collusive and coercive practices by the government will not be eligible to bid in its projects.

- a. "Corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.
- b. "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.
- c. "Collusive practice" means a scheme or arrangement between two (2) or more bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.
- d. "Coercive practice" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract.

The pertinent provisions of the Anti-Graft and Corrupt Practices Act, or RA 3019, shall also be applied in determining the existence of "corrupt or fraudulent practice."

A firm declared ineligible by an IFI for engaging in corrupt, fraudulent, collusive and/or coercive practice/s, shall be ineligible to be awarded an IFI-financed contract during the period of time determined by the IFI concerned.

8.1.2 Applicable Penalty for 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, it will be disqualified by the BAC, its bid security will be forfeited, and, upon conviction, it will suffer the penalty of imprisonment of not less than six (6) and one (1) day and not more than fifteen (15) years. **(IRR Section 65.2)** Likewise, it will 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 Section 69.1)**

8.2 **CONFLICTING INTERESTS**

All bidders found to have conflicting interests with each other shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions (**IRR Section 47.2**). A Bidder may be considered to have conflicting interests with another bidder in any of the events described in items a through c below and a general conflict of interest in any of the circumstances set out in items d through j below:

- a. A bidder has controlling shareholders in common with another bidder;
- b. A bidder receives or has received any direct or indirect subsidy from any other bidder;
- c. A bidder has the same legal representative as any that of another bidder for purposes of the bidding at hand;
- d. A bidder has a relationship directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another bidder, or influence the decisions of the Procuring Entity regarding the bidding process. This will include a firm or an organization who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project;
- e. A bidder submits more than one (1) bid in the bidding process. However, this does not limit the participation of sub-contractors in more than one (1) bid;
- f. A bidder who participated as a consultant in the preparation of the design or technical specifications of the goods and related services that are the subject of the bid;
- g. A bidder who lends, or temporary seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project;
- h. If a consultant combines the function of consulting with those of contracting and/or supply of equipment;
- i. If a consultant is associated with, affiliated to, or owned by a contractor or a manufacturing firm with departments or design offices offering services as consultants unless such consultant includes relevant information on such relationships along with a statement in the technical proposal cover letter to the effect that the consultant shall limit its role to that of a consultant and disqualify itself and its associates from work in any other capacity that may emerge from the project (including bidding for any part of the future project). The contract with the consultant selected to undertake the project shall contain an appropriate provision to such effect; or
- j. If there is a conflict among consulting projects, the consultant (including its personnel and subcontractors) and any subsidiaries or entities controlled by such consultant shall

not be recruited for the relevant project. The duties of the consultant depend on the circumstances of each case. While continuity of consulting services may be appropriate in particular situations where no conflict exists, a consultant cannot be recruited to carry out a project that, by its nature, shall result in conflict with a prior or current project of such consultant. Examples of the situations mentioned are when a consultant engaged to prepare engineering design for an infrastructure project shall not be recruited to prepare an independent environmental assessment for the same project; similarly, a consultant assisting a procuring entity in privatization of public assets shall not purchase, nor advise purchasers, of such assets; or a consultant hired to prepare Terms of Reference (TOR) for a project shall not be recruited for the project in question.

In accordance with **IRR Section 47.1**, the 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 Procuring Entity's officers or employees 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 UPMO, 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 shall correspondingly apply to each of the members of the said joint venture, as may be appropriate.
- e. If the bidder is a cooperative, to all its officers, directors, and controlling shareholders or members.

Failure to comply with the aforementioned provided shall be a ground for the automatic disqualification of the bid (**IRR Section 30**). Relation to the abovementioned persons within the third civil degree of consanguinity or affinity shall automatically disqualify the bidder from participating in the procurement of contracts of the Procuring Entity, notwithstanding the act of such persons inhibiting themselves from the procurement process.

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 that is included in the Omnibus Sworn Statement forms in Volumes II, III and IV. (**IRR Sections 47 and 25.3.C.8**)

All bidders also found to have conflicting interests with each other shall be disqualified to participate in the procurement at hands, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions.

8.3 PENAL LIABILITIES AND SANCTIONS

8.3.1 Penal Liabilities of Public Officers

Without prejudice to the provisions of RA 3019 and other penal laws, public officers who commit any of the following acts shall be criminally liable (**IRR Section 65.1**):

- a. Opening any sealed bid including but not limited to bids that may have been submitted through the electronic system and any and all documents required to be sealed or divulging their contents, prior to the appointed time for the public opening of bids or other documents.
- b. Delaying, without justifiable cause, the screening for eligibility, opening of bids, evaluation and post evaluation of bids, and awarding of contracts beyond the prescribed periods of action provided for in the IRR.
- c. Unduly influencing or exerting undue pressure on any member of the BAC or any officer or employee of the Procuring Entity to take a particular action which favors, or tends to favor a particular bidder.
- d. Splitting of contracts which exceed procedural purchase limits to avoid competitive bidding or to circumvent the limits of approving or procurement authority.
- e. Abuse by the Head of the Procuring Entity of his power to reject any and all bids as mentioned under Section 41 of RA 9184 and its IRR, with manifest preference to any bidder who is closely related to him in accordance with Section 47 of RA 9184 and its IRR.

When any of the foregoing acts is done in collusion with a private individual, the private individual shall likewise be liable for the offense.

8.3.2 Penal Sanctions for Public Officers

Without prejudice to the provisions of RA 3019 and other penal laws, public officers who commit any of the above acts shall, upon conviction, suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years. In addition, the public officer shall also suffer the penalty of temporary disqualification from public office, while any private individual found to have colluded with him shall be permanently disqualified from transacting business with the government.

The above penalties and offenses shall cover all types of procurement whether done manually or electronically.

When the bidder is a juridical entity, criminal liability and the accessory penalties shall be imposed on its directors, officers or employees who actually commit any of the foregoing acts. If a person previously held liable or found guilty under the provisions of R.A. 9184 and its IRR has a controlling interest in a prospective bidder-entity, the said bidder-entity shall be disqualified to participate in any procurement activity being conducted by the Government.

8.3.3 Penal Liabilities of Private Individuals

Private individuals who commit any of the following acts, shall be criminally liable (**IRR Section 65.2**):

- a. When two (2) or more bidders agree and submit different bids as bona fide, bidders, all the while knowing that the bid(s) of one or more of them was so much higher than the other that the latter could not be honestly accepted and that the contract will surely be awarded to the pre-arranged lowest bid.
- b. When a bidder maliciously submits different bids through two (2) or more persons, corporations, partnerships or any other business entity in which he has an interest to create the appearance of competition that does not in fact exist so as to be adjudged as the winning bidder.
- c. When two (2) or more bidders enter into an agreement which calls upon one or more of them to refrain from bidding for procurement contracts, or which requires one or more of them to withdraw Bids already submitted, in order to secure an undue advantage to any one of them.
- d. When a bidder, by himself or in connivance with others, employs schemes which tend to restrain the natural rivalry of the parties or operates to stifle or suppress competition and thus produce a result disadvantageous to the public.
- e. Submitting eligibility requirements of whatever kind and nature that contain false information or falsified documents calculated to influence the outcome of the eligibility screening process or conceal such information in the eligibility requirements when the information will lead to a declaration of ineligibility from participating in public bidding.
- f. Submitting Bidding Documents of whatever kind and nature that contain false information or falsified documents or conceal such information in the Bidding Documents, in order to influence the outcome of the public bidding.
- g. Participating in a public bidding using the name of another or allow another to use one's name for the purpose of participating in a public bidding.
- h. Withdrawing a bid, after it has qualified as the Lowest Calculated Bid/Highest Rated Bid, or refuse to accept an award, without just cause or for the purpose of forcing the Procuring Entity to award the contract to another bidder. This shall include the non-submission within the prescribed time, or delaying the submission of requirements such as, but not limited to, performance security, preparatory to the final award of the contract.

When any of the foregoing acts is done in conspiracy with a public officer, the public officer shall likewise be liable for the offense.

8.3.4 Penal Sanctions for Private Individuals

Private individuals who commit any of the above acts, and any public officer conspiring with them shall, upon conviction, suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years. In addition, the public officer involved shall also suffer the penalty of temporary or perpetual disqualification from public office and the

private individual shall be permanently disqualified from transacting business with the Government.

The above penalties and offenses shall cover all types of procurement whether done manually or electronically.

When the bidder is a juridical entity, criminal liability and the accessory penalties shall be imposed on its directors, officers or employees who actually commit any of the foregoing acts. If a person previously held liable or found guilty under the provisions of RA 9184 and its IRR has a controlling interest in a prospective bidder-entity, the said bidder-entity shall be disqualified to participate in any procurement activity being conducted by the Government.

8.4 CIVIL LIABILITY

8.4.1 Civil Liability in Case of Conviction

Without prejudice to administrative sanctions that may be imposed in proper cases, a conviction under RA 9184 and its IRR or RA 3019 shall carry with it civil liability, which may either consist of restitution for the damage done or the forfeiture in favor of the government of any unwarranted benefit derived from the acts in question or both, at the discretion of the courts (IRR Section 67).

8.4.2 Liquidated Damages

All contracts executed in accordance with RA 9184 and its IRR shall contain a provision on liquidated damages which shall be payable in case of breach thereof. For the procurement of goods and consulting services, the amount of the liquidated damages shall be at least equal to one-tenth of one percent (0.1%) of the cost of the unperformed portion for every day of delay. For the procurement of infrastructure projects, the amount of the liquidated damages shall be in accordance with Annex 5 of IRR, RA 9184. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, the Procuring Entity shall rescind the contract, without prejudice to other courses of action and remedies open to it (IRR Section 68).

8.5 ADMINISTRATIVE LIABILITIES AND SANCTIONS

8.5.1 Administrative Liabilities

The following violations shall warrant administrative sanctions (IRR Section 69.1):

- a. Submission of eligibility requirements containing false information or falsified documents.
- b. Submission of bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding.

- c. Allowing the use of one's name, or using the name of another for purposes of public bidding.
- d. Withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after he had been adjudged as having submitted the LCRB or HRRB.
- e. Refusal or failure to post the required performance security within the prescribed time.
- f. Termination of the contract due to the default of the bidder.
- g. Refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification.
- h. Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor.
- i. All other acts that tend to defeat the purpose of the competitive bidding, such as an eligible contractor not buying bid documents, and contractors habitually withdrawing from bidding or submitting letters of non-participation for at least three (3) times within a year, except for valid reasons.
- j. Failure to comply with specific provisions of this Manual with regards to alternative methods of procurement such as conditions for its use and procedures and other all other acts that are disadvantageous to the government.

8.5.2 Administrative Sanctions

Without prejudice to the imposition of criminal sanctions or the effects of civil liability, the Head of the Procuring Entity shall impose on bidders or prospective bidders, the administrative penalty of suspension for one (1) year for the first offense, and suspension of two (2) years for the second offense from participating in the public bidding process, as well as disqualification from further participating in the public bidding being undertaken by the Procuring Entity concerned, where applicable, for any of the above violations. In addition to the penalty of suspension, the Bid Security or the Performance Security posted by the concerned bidder or prospective bidder shall also be forfeited (**IRR Section 69.1**).

The Head of the Procuring Entity may delegate to the BAC the authority to impose the administrative penalties.

The Head of the Procuring Entity may preventively suspend any member of the TWG, the BAC Secretariat, or the BAC if there are strong reasons or prima facie evidence showing that the officials or employees concerned are guilty of committing any of the acts constituting criminal or civil liability, or for dishonesty as defined by the Civil Service Laws. In all cases, due process as mandated by the Constitution and Civil Service laws, rules and regulations, shall be strictly observed (**IRR Section 70**).

Lifting of preventive suspension pending administrative investigation, as well as removal of administrative penalties and disabilities shall be in accordance with the provisions of Sections 52

and 53, Chapter 6, Subtitle A (Civil Service Commission), Title I, Book V of Executive Order No. 292, otherwise known as the Administrative Code of 1987 (**IRR Section 71**).

The BAC may recommend the imposition of administrative sanctions against erring bidders in accordance with this section.

8.6 BLACKLISTING GUIDELINES

8.6.1 Legal Reference

GPPB Resolution 09-2004 provides guidelines that govern the blacklisting of manufacturers, suppliers, distributors, contractors and consultants involved in government procurement for offenses or violations committed during competitive bidding and contract implementation, in accordance with **IRR Section 69.4**.

8.6.2 Prohibition on Blacklisted Persons/Entities to Participate in Bidding

A person/entity that is blacklisted by a Procuring Entity and/or included in the GPPB Consolidated Blacklisting Report shall not be allowed to participate in the bidding of all government projects during the period of disqualification unless it is delisted.

A joint venture or consortium which is blacklisted or which has blacklisted member/s and/or partner/s as well as a person/entity who is a member of a blacklisted joint venture or consortium are, likewise, not allowed to participate in any government procurement during the period of disqualification.

In the case of corporations, a single stockholder, together with his/her relatives up to the third civil degree of consanguinity or affinity, and their assignees, holding at least twenty percent (20%) of the shares therein, its Chairperson and president, shall be blacklisted after they have been determined to hold the same controlling interest in a previously blacklisted corporation or in two (2) corporations which have been blacklisted; the corporations of which they are part shall also be blacklisted.

8.6.3 Sanctions and Grounds for Blacklisting

Pursuant to the provisions **Appendix 11** entitled Uniform Guidelines for the Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants - of the **IRR of RA 9184**, and in accordance with the provisions of Sections 69 of RA 9184, the following specific rules and procedures in the blacklisting of contractors, consultants and suppliers for infrastructure projects are hereby prescribed in **DPWH Department Order (DO) No 39, series of 2015**, for compliance by all concerned (In this Section 8.6.3, words/characters in italics are quoted provisions of RA 9184-IRR.).

a. Definitions

- (1) *Blacklisting* – An administrative penalty from the Procuring Entity disqualifying a person or an entity from participating in any government procurement for a given period.

- (2) *Suspension* – The administrative penalty imposed for infractions committed by a contractor during the competitive bidding stage, whereby such contractor is prohibited from further participating in the bidding process of an agency.

b. Prohibition of Blacklisted Persons/Entities

As provided in IRR Section 2 Appendix 11, *a person/entity that is blacklisted by a Procuring Entity – in this case the Department of Public works and Highways (DPWH) – and/or included in the Government Procurement Policy Board (“GPPB”) Consolidated Blacklisting Report shall not be allowed to participate in the bidding of all government projects during the period of disqualification unless it is delisted as provided in these guidelines.*

c. DPWH Blacklist

The Procurement Service shall set up and continuously update an active DPWH Blacklist of contractors, consultants and suppliers, supported by a database and shall provide this list to the GPPB and the PhilGEPS. This Blacklist shall be posted in the DPWH website. The DPWH Blacklist shall include the following:

- (1) List of contractors, consultants and suppliers with Blacklist Orders covering penalty periods still unexpired.
- (2) List of contractors, consultants and suppliers with Suspension Orders still in effect.
- (3) List of contractors, consultants and suppliers covered by recent specific (i.e., non-automatic) Delisting Orders.

The supporting database for the DPWH Blacklist shall include the following information, among others:

- (1) For each Blacklisting Order and Suspension Order (*Please refer to DPWH-Vol1-04 and DPWH-Vol1-05*):
 - (a) Number and date of Blacklisting Order
 - (b) Number and date of BAC resolution recommending blacklisting.
 - (c) Name and address of blacklisted person/entity, license number, if applicable, Authorized Managing Officer, name of project/contract and location/amount.
 - (d) Specific grounds/offenses committed as provided in Section D.1 and E.1 of DO 39, series of 2015.
 - (e) Sanction imposed and its date of start and expiry.
 - (f) Other relevant information.

(2) For each Delisting Order in case of non-automatic delisting:

- (a) Number and date of Delisting Order.
- (b) Name and address of blacklisted person/entity, name of project/contract and location.
- (c) Specific sanction being lifted.
- (d) Other relevant information.

The DPWH Implementing Offices (IOs), BACs, and other offices concerned shall refer to the latest DPWH Blacklist and GPPB Consolidated Blacklisting Report see to it that no blacklisted person/entity therein is allowed to participate in any procurement of infrastructure projects during the period of his/ its blacklisting.

d. Blacklisting During the Competitive Bidding Stage

(1) Sanctions and Grounds for Blacklisting

As provided in IRR Section 4.1 Appendix 11, pursuant to Section 69 of R.A. 9184, the DPWH shall impose on bidders or prospective bidders the penalty of suspension for one (1) year for the first offense, and suspension of two (2) years for the second offense from participating in the public bidding process, without prejudice to imposition of additional administrative sanctions as the internal rules of the agency may provide and/or further criminal prosecution, as provided by applicable laws, for the following violations:

- (a) Submission of eligibility requirements containing false information or falsified documents.*
- (b) Submission of Bids that contain false information or falsified documents, or the concealment of such information in the Bids in order to influence the outcome of eligibility screening, or any other stage of the public bidding.*
- (c) Allowing the use of one's name, or using the name of another for purposes of public bidding.*
- (d) Withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after he had been adjudged as having submitted the Lowest Calculated Responsive Bid (LCRB) or Highest Rated Responsive Bid (HRRB).*
- (e) Refusal or failure to post the required performance security within the prescribed time.*
- (f) Refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification.*

- (g) *Any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor.*
- (h) *All other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.*

In addition to the penalty of suspension, the bid security posted by the prospective bidder shall also be forfeited.

2. Initiation of Action

As provided in IRR Section 5.2 Appendix 11, any bidder/prospective bidder or duly authorized observer may initiate the proceedings by filing a written complaint with the Bids and Awards Committee ("BAC) against the contractor. The BAC may motu proprio (by itself) commence the proceedings upon prima facie (self-sufficient) determination that the contractor as a bidder or prospective bidder has committed any of the grounds for blacklisting during the competitive bidding stage.

In the first case, the written complaint to be filed by the bidder/prospective bidder/duly authorized observer referred to above must be verified ó i.e., the complaint should be verified by a duly notarized affidavit that the complainant has read and understood the contents thereof and that the allegations therein are true and correct to his knowledge or based on authentic records. An unverified complaint shall not be accepted by the BAC.

In the second case, before motu proprio commencing the proceedings, the BAC shall conduct a preliminary investigation to determine the prima facie grounds, if any, for blacklisting. This shall essentially include a review of records of bidding processes, documents submitted by bidders/prospective bidders, and sworn statements of witnesses. The BAC may request the assistance of the concerned legal and technical staff of the DPWH in conducting the preliminary investigation.

At the option of the Procuring Entity, a reasonable fee may be required for initiating the suspension and blacklisting proceedings.

(2) Notification

As provided in IRR Section 5.2 Appendix 11, upon verification of the existence of grounds for blacklisting, the BAC shall immediately notify the contractor concerned in writing, advising him that:

- (a) *a complaint for suspension and blacklisting has been filed against him, or he has been considered by the BAC for suspension and blacklisting, stating the grounds for such;*
- (b) *he has the opportunity to show cause why he should not be suspended and blacklisted;*

(c) a hearing shall be conducted before the BAC, upon his request, where he may present documentary evidence, verbal testimony and cross-examine the witnesses presented against him; and

(d) the consequences of being suspended and blacklisted.

Within five (5) calendar days from receipt of notification, the contractor shall submit its written answer with documentary evidence to the BAC with a manifestation for request of hearing to determine questions of fact, if he so desires. No time extension shall be allowed.

Should the contractor fail to answer within the same period, the BAC shall issue a resolution recommending to the Head of the Procuring Entity - i.e., the DPWH Secretary thru the Head of the IO - the immediate suspension of the contractor from participation in any bidding process of the agency and the forfeiture of his bid security.

(3) Hearings and BAC Resolution

As provided in IRR Section 5.3 Appendix 11, if a hearing is requested, the BAC shall immediately set the date and time for hearing. The hearing shall be non-litigious and shall be terminated within five (5) days.

The BAC may also invite a representative from a duly recognized private group in a sector or discipline relevant to the procurement at hand as an observer for each hearing.

The BAC may request the assistance of the concerned legal and technical staff of the DPWH in conducting the hearing.

If no request is made, the BAC shall make a determination of the case based on the complaint, answer, documentary evidence submitted and facts verified. If the BAC is convinced that the contractor is at fault, it shall issue a resolution, concurred in by the Head of the IO, recommending to the head of the agency ó i.e., the DPWH Secretary - the suspension of the contractor from participating in any bidding process of the agency and the forfeiture of his bid security.

(4) Decision

As provided in IRR Section 5.4 Appendix 11, the Head of the Procuring Entity – i.e., the DPWH Secretary - shall within fifteen (15) days from receipt of the resolution and the records of the BAC proceedings, determine whether reasonable cause exists for the suspension of the contractor and the forfeiture of the latter's bid security.

For this purpose, the DPWH Secretary shall require the Legal Service to review the BAC resolution, ascertain if reasonable cause exists for the suspension of the contractor, and submit its recommendation to the Secretary

If the Head of the Procuring Entity (DPWH Secretary) determines that reasonable cause exists, he shall issue a decision suspending the contractor from participating in any bidding process of the agency, and declaring that his bid security is forfeited. Otherwise, he shall dismiss the case.

The decision shall clearly and distinctly state the facts, evidence and the law on which it is based, as well as the penalty, if any.

The Head of the Procuring Entity (DPWH Secretary) may delegate to the BAC the authority to impose the corresponding sanction(s) provided in these guidelines.

In case a contractor commits more than one offense or a combination of offenses for the same project/contract in a particular agency, each violation shall be meted the corresponding penalty.

(5) Notice of Decision

As provided in IRR Section 5.5 Appendix 11, the Head of the Procuring Entity (DPWH Secretary) shall furnish the suspended contractor a copy of the decision immediately upon its promulgation.

(6) Effect of Decision

As provided in IRR Section 5.6 Appendix 11, a contractor is suspended upon receipt of the notice of the decision prohibiting him from participating in the bidding process of the agency. The suspension shall remain in effect during the period of motion for reconsideration and shall terminate only upon a reversal of the decision by the Head of the Procuring Entity (DPWH Secretary).

If no motion for reconsideration is filed, the decision shall become final and executory after the lapse of seven (7) calendar days from the receipt of the notice of decision. Thereafter, the Head of the Procuring Entity (DPWH Secretary) shall issue a Blacklisting Order disqualifying the erring contractor from participating in the bidding of all government projects.

(7) Motion for Reconsideration

As provided in IRR Section 5.7 Appendix 11, a Motion for Reconsideration may be filed by the suspended person/entity within three (3) calendar days from receipt of the note of decision and shall be for either or both the following causes, provided that only one (1) Motion for Reconsideration shall be filed with the blacklisting agency:

- (a) The decision is not in conformity with the evidence and/or facts presented; and*
- (b) Newly discovered evidence or facts which could not be discovered and produced at the investigation and which when presented would probably alter the result of the investigation.*

The Head of the Procuring Entity (DPWH Secretary) shall resolve with finality the motion for reconsideration within seven (7) calendar days from the filing thereof and furnish the suspended contractor a copy of the resolution immediately from its promulgation.

(8) Finality of Decision

As provided in IRR Section 5.9 Appendix 11, the decision of the agency suspending the contractor shall become final and executory after the lapse of seven (7) calendar days from the receipt of the notice of decision or resolution on the motion for reconsideration.

Upon finality of the decision suspending the contractor, the Head of the Procuring Entity (DPWH Secretary) shall issue a Blacklisting Order disqualifying the erring contractor from participating in the bidding of all government projects.

(9) Status of the Blacklisted Person/Entity

As provided in IRR Section 7 Appendix 11, before the issuance of a Blacklisting Order, the erring contractor may participate in the procurement of any government project, except in the agency where he is suspended. But if Blacklisting Order is issued prior to the date of the notice of award (“NOA”), the blacklisted person/entity shall not be qualified for award and such project/contract shall be awarded to another bidder pursuant to RA 9184 and its IRR.

If the Blacklisting Order is issued after the award of a government project/contract to the blacklisted person/entity, the awarded project/contract shall not be prejudiced by the said order; Provided, however, that the said offense(s) committed by the blacklisted person/entity is/are not connected with the awarded project/contractor.

(10) Delisting

As provided in IRR Section 8 Appendix 11, a blacklisted person/entity shall be automatically delisted after the period for the penalty shall have elapsed, unless the blacklisting agency (i.e., DPWH) requests the GPPB to maintain the blacklisted person/entity in the GPPB Consolidated Blacklisting Report due to justifiable reasons. In the latter case, the blacklisted person/entity shall be delisted only upon the blacklisting agency’s issuance of a Delisting Order.

Thus, with the automatic delisting at the expiry of the penalty period, there is no need for the DPWH to issue a Delisting Order, and the penalized contractor shall be allowed to participate in the procurement of any government project.

The exception, as mentioned above, is where the DPWH requests the GPPB to maintain the blacklisted person/entity in the GPPB Consolidated Blacklisting Report beyond the original penalty period due to justifiable reasons. In case the DPWH decides later to delist the said blacklisted person/entity on justifiable grounds, it shall issue a specific Delisting Order.

e. Blacklisting During the Contract Implementation Stage (Sec. 6 Appendix 11)

(1) Sanctions and Grounds for Blacklisting

As provided in Appendix 11 IRR Section 4.2, pursuant to Section 69(6) of R.A. 9184 and without prejudice to the imposition of additional administrative sanctions as the internal rules of the agency may provide and/or further criminal prosecution as provided by applicable laws, the Procuring Entity (i.e., DPWH) shall impose on contractors after the termination of the contract the penalty of suspension for one (1) year for the first offense, and suspension of two (2) years for the second offense from participating in the public bidding process, for the violations committed during the contract implementation stage, which include but not limited to the following:

- (a) Failure of the contractor, due solely to his fault or negligence to mobilize and start work or performance within the specified period in the Notice to Proceed ("NTP");*
- (b) Failure by the contractor to fully and faithfully comply with its contractual obligations without valid cause, or failure by the contractor to comply with any written instruction of the Procuring Entity or its representative(s) pursuant to the implementation of the contract. For the procurement of infrastructure projects or consultancy contracts, lawful instructions include but not limited to the following:*
 - i. Employment of competent technical personnel, competent engineers and/or work supervisors;*
 - ii. Provision of warning signs and barricades in accordance with approved plans and specifications and contract provisions;*
 - iii. Stockpiling in proper places of all materials and removal from the project site of waster and excess materials, including broken pavement and excavated debris in accordance with approved plans and specifications and contract provisions;*
 - iv. Deployment of committed equipment, facilities, support staff and manpower; and*
 - v. Renewal of the effectivity dates of the performance security after its expiration during the course of contract implementation.*
- (c) Assignment and subcontracting of the contract or any part thereof or substitution of key personnel named in the proposal without prior written approval by the Procuring Entity.*
- (d) For the procurement of goods, unsatisfactory progress in the delivery of the goods by the manufacturer, supplier or distributor arising from his fault or*

negligence and/or unsatisfactory or inferior quality of goods, as may be provided in the contract;

- (e) For the procurement of consulting services, poor performance by the consultant of his services arising from his fault or negligence. Any of the following acts by the consultant shall be construed as poor performance:*
 - i. Defective design resulting in substantial corrective works in design and/or construction;*
 - ii. Failure to deliver critical outputs due to consultant's fault or negligence;*
 - iii. Specifying materials which are inappropriate, substandard, or way above acceptable standards; and*
 - iv. Allowing defective workmanship or works by the contractor being supervised by the consultant.*
- (f) For the procurement of infrastructure projects, poor performance by the contractor or unsatisfactory quality and/or progress of work arising from his fault or negligence as reflected in the Constructor's Performance Evaluation System ("CPES") rating sheet. In the absence of the CPES rating sheet, the existing performance monitoring system of the Procuring Entity shall be applied. Any of the following acts by the contractor shall be construed as poor performance:*
 - i. Negative slippage of 15% and above within the critical path of the project due entirely to the fault or negligence of the contractor; and*
 - ii. Quality of materials and workmanship not complying with the approved specs arising from the contractor's fault or negligence.*
 - iii. Willful or deliberate abandonment or non-performance of the project or contract by the contractor resulting to substantial breach thereof without lawful and/or just cause.*

In addition to the penalty of suspension, the performance security posted by the contractor shall also be forfeited

(2) Procedure for Blacklisting

Upon termination of the contract due to default of the contractor, the Head of the Procuring Entity (DPWH Secretary) shall immediately issue a Blacklisting Order disqualifying the erring contractor from participating in the bidding of all government projects. The performance security of said contractor shall also be forfeited.

(3) Status of the Blacklisted Person/Entity

As provided in IRR Section 7 Appendix 11, before the issuance of a Blacklisting Order, the erring contractor may participate in the procurement of any government project, except in the agency where he is suspended. But if Blacklisting Order is issued prior to the date of the notice of award (“NOA”), the blacklisted person/entity shall not be qualified for award and such project/contract shall be awarded to another bidder pursuant to RA 9184 and its IRR.

If the Blacklisting Order is issued after the award of a government project/contract to the blacklisted person/entity, the awarded project/contract shall not be prejudiced by the said order; Provided, however, that the said offense(s) committed by the blacklisted person/entity is/are not connected with the awarded project/contractor.

(4) Delisting

As provided in IRR Section 8 Appendix 11, a blacklisted person/entity shall be automatically delisted after the period for the penalty shall have elapsed, unless the blacklisting agency requests the GPPB to maintain the blacklisted person/entity in the GPPB Consolidated Blacklisting Report due to justifiable reasons. The blacklisted person/entity may also be delisted when there are justifiable grounds and has complied with reasonable valid instructions to repair noted defects upon due notice. In the latter case, the blacklisted person/entity shall be delisted only upon the blacklisting agency’s issuance of a Delisting Order.

Hence, with the automatic delisting at the expiry of the penalty period, there is no need for the blacklisting agency to issue a Delisting Order, and the penalized contractor shall be allowed to participate in the procurement of any government project.

The exception, as mentioned above, is where the DPWH requests the GPPB to maintain the blacklisted person/entity in the GPPB Consolidated Blacklisting Report beyond the original penalty period due to justifiable reasons. In case the DPWH decides later to delist the said blacklisted person/entity on justifiable grounds, it shall issue a specific Delisting Order.

(5) Notification to GPPB

As provided in IRR Section 9 Appendix 11, the blacklisting agency concerned (i.e., DPWH) shall submit to the GPPB, within seven (7) calendar days after the issuance of the blacklisting order/delisting orders made by the agency, with the following documents:

- (a) Blacklisting Order duly signed by the Head of the Procuring Entity (DPWH Secretary/representative) containing, among others, Department Order number, name and address of the blacklisted person/entity, license number, if applicable, Authorized Managing Officer (“AMO”), name of project/contract and location/amount, specific ground(s)/offense(s) committed as provided in Section 4 hereof, sanction imposed and its date of start and completion, date of issuance of the order to blacklist, and other conditions which can extend duration of sanctions in Section 4 hereof.*

- (b) *Delisting Order duly signed by the blacklisting agency (DPWH) containing, among others, Department Order number, name and address of the blacklisted person/ entity, name of project/contract and location, specific sanction being lifted and the number of previously issued blacklisting Department Orders, effectivity date of delisting, and date of delisting approval.*

8.6.4 Three-Strike Policy

The Procuring Entity shall strictly enforce the “Three-Strike Policy” of the DPWH prescribed in **DO 17, series of 2015**. DO 17 pursues the provisions of **DO 35, series of 2008**, which set guidelines for the implementation of the Three-Strike Policy of the DPWH against violations of **IRR Section 69.1.i**, which provides that:

In addition to the provisions of Rules XXI and XXII of this IRR, the Head of the Procuring Entity, subject to the authority delegated to the BAC, if any, shall impose on bidders or prospective bidders, the administrative penalty of suspension for one (1) year for the first offense, and suspension of two (2) years for the second offense from participating in the public bidding process, as well as disqualification from further participating in the public bidding being undertaken by the Procuring Entity concerned, where applicable, for the following violations: - 69.1.i. All other acts that tend to defeat the purpose of competitive bidding, such as habitually withdrawing from bidding, submitting late bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.

DO 35 further enumerates the violations which shall be considered as acts that tend to defeat the purpose of public bidding under the 3-strike policy. These violations include, but are not limited, to the following:

- a. A bidder not buying bid documents without a valid cause, as determined by the Bids and Awards Committee (BAC) concerned for consultancy contracts;
- b. A bidder withdrawing from bidding or submitting a letter of non-participation before the deadline for submission of bids without a valid cause, as determined by the BAC concerned.
- c. A bidder submitting late bid without a valid cause, as determined by the BAC concerned.
- d. A bidder submitting insufficient/defective or spurious documents such as insufficient bid securities, and other deficiencies.
- e. Other acts that may be determined by the concerned BAC provided that these were indicated or discussed in the Instructions to Bidders, Bid Bulletins, Notices, Minutes of Pre-Bid Conference or other similar instruments.

Moreover, DO 35 states the responsibilities and authorities of the DPWH officials concerned and the administrative sanctions on the officials/employees for violations of the DO.

To reinforce DO 35, the following additional instructions are prescribed in DO 17:

- a. For every reported violation or act committed by the bidder which tends to defeat the purpose of competitive bidding under the 3-strike policy as stated in DO 35, the Chairperson of the Bids and Awards Committee (BAC) concerned shall immediately serve a notice to the bidder informing him of his violation, and giving him five (5) days to show cause why, for that violation, he should not be suspended or disqualified from participating in the procurement of DPWH projects.
- b. Based on the evaluation by the BAC of the bidder's response and of the circumstances of the case, the BAC Chairperson shall submit a report, thru the Head of the Implementing Office, to the DPWH Secretary (Attention: Procurement Service), indicating, among other things:
 - (1) whether the BAC finds the bidder's response for the violation justifiable or not;
 - (2) if the response is not found justifiable, the recommended sanctions on the erring contractor and DPWH personnel concerned; and
 - (3) the number of violations or strikes that the bidder has committed based on verified reports.

The BAC's report must be verified, i.e., properly subscribed and sworn to and notarized.
- c. The BAC concerned shall conduct its monitoring of the participation of bidders in all of its projects and maintain a tally of violations of the 3-strike policy in its jurisdiction.
- d. The Procurement Service shall monitor the violations of the 3-strike policy in all procurements undertaken by the entire Department ó i.e., Central, Regional and District Offices ó based on verified reports submitted by the BACs. For this purpose, the Procurement Service shall maintain an up-to-date database on violations of the 3-strike policy, by contractor and by office, which should be accessible to all IOs.
- e. Based on the verified reports received from the BACs, the Procurement Service, in coordination with the Legal Service, shall recommend to the DPWH Secretary, for approval:
 - (1) the imposition of the appropriate sanctions against the erring contractor provided under IRR Section 69.1 for every violation of the 3-strike policy.
 - (2) the imposition of appropriate sanctions against DPWH personnel that are found to have conspired with the erring contractor in violating the 3-strike policy as provided in Section 52, C(3) of Civil Service Resolution No. 991936 dated August 31, 1999 otherwise known as the Uniform Rules on Administrative Cases in the Civil Service, viz., 1st offense ó Reprimand, 2nd offense - Suspension for 1-30 days, and 3rd offense ó Dismissal.

SECTION 9

LEGAL ASSISTANCE AND INDEMNIFICATION

9.1 GENERAL CONDITIONS

9.1.1 Purpose

Pursuant to and in accordance with **Section 73 of RA 9184 and its IRR**, the GPPB has issued the Guidelines on Legal Assistance and Indemnification of BAC Members and its Support Staff for the following purposes:

- a. To prescribe the rules and procedures in granting legal assistance and indemnification of the BAC members and BAC Support Staff.
- b. To ensure that the mandate to insulate government procurement personnel from the unnecessary loss, damage or injury arising from the lawful exercise of their functions is implemented in accordance with the provisions of RA 9184.
- c. To establish the legal parameters for the effective implementation of the legal assistance and indemnification provided for BAC members and BAC Support Staff.

The funds to be used for the grant of the free legal assistance, liability insurance or medical assistance shall be taken from the agency's annual appropriation. Protest fees, proceeds from the sale of bidding documents, and any other additional funds derived from other income-generating activities of the agency may be used to augment the funds in accordance with Section 2.3.3.

9.1.2 Free Legal Assistance

In order for a member of the BAC or its Support Staff to avail itself of the free legal assistance, the following considerations must be met:

- a. The Procuring Entity shall, to the fullest extent permitted by law, indemnify a BAC member and/or any of the BAC Support Staff who was or is a party to a pending or completed action, suit or proceeding whether civil, criminal or administrative in nature brought against him in the performance of his official functions as BAC member or as BAC Support Staff.
- b. The BAC member or BAC Support Staff concerned must have engaged the services of a private lawyer or external counsel.
- c. The BAC member or BAC Support Staff must have not been adjudged as guilty of gross negligence, misconduct, or grave abuse of discretion.
- d. The free legal assistance shall cover actual cost of suit and attorney's fees. The attorney representing the BAC member or BAC Support Staff shall be entitled to a maximum of Five Thousand Pesos (Php5,000.00) per appearance which shall be paid by the Procuring Entity.
- e. The free legal assistance shall not cover:

- (1) any action or suit initiated by a BAC member or BAC Support Staff in his personal capacity or in behalf of the Procuring Entity, unless such action, proceeding, or claim was authorized by the Head of the Procuring Entity or the approving authority therein; or
 - (2) any action or suit initiated by the Government against the BAC members or BAC Support Staff.
- f. The BAC member or BAC Support Staff shall be entitled to actual, moral, and exemplary damages when awarded by the court. Likewise, the attorney representing the BAC member or BAC Support Staff shall be entitled to attorney's fees awarded by the court.

9.1.3 Liability Insurance

The following are the general conditions pertaining to the liability insurance for members of the BAC and the BAC Support Staff:

- a. The Procuring Entity shall have the responsibility to procure and maintain adequate liability insurance for and in behalf of its BAC members or BAC Support Staff.
- b. The liability insurance policy shall cover only those liabilities asserted against the public official and incurred by him in his capacity as such BAC members or BAC Support Staff as the case may be.
- c. In order to avail of the liability insurance, the BAC members or BAC Support Staff should not be adjudged in such action or proceeding to be guilty of gross negligence, misconduct, or grave abuse of discretion or guilty of any other complaint or charges.
- d. In the event of settlement or compromise, indemnification shall be confined only to matters covered by the settlement, and to which the Procuring Entity had been advised by counsel that the person to be indemnified have not committed gross negligence, misconduct, or grave abuse of discretion in the performance of their duties and functions.
- e. The insurer shall pay for the loss arising from the claim or suit made against the BAC members or BAC Support Staff during the policy period where they serve in such capacity. For this purpose, the term "loss" shall include judgments, expenses for settlement or compromise, as well as all reasonable fees and other expenses incurred by such persons in connection with any administrative, civil, or criminal action, suit or proceeding to which they may be or have been made a party be reason of the lawful performance of their official functions and duties in such capacity.

9.1.4 Medical Assistance

Medical assistance should be provided to BAC members and BAC Support Staff for injuries/disabilities incurred in the lawful performance of their official functions and duties. The medical assistance consists of indemnification for medicines, laboratory and hospitalization expenses and granted to the claimant as a matter of right and subject to the conditions mandated by law.

The following are the general considerations pertaining to the medical assistance:

- a. The claimant(s) should be entitled to indemnification for any injury or disability resulting from the performance of their official functions as defined by law and without any contributory negligence on their part; provided that they exercised due diligence to prevent harm or injury to themselves.
- b. The claimant(s) or his/her relatives must notify the head of the Procuring Entity within seven (7) calendar days from the occurrence of the injury or disability.
- c. The amount claimed shall not exceed the actual amount incurred, substantiated by receipts and other supporting documents. Indemnification shall only be made upon presentation of the proof of payment in connection with the injury or disability suffered.

9.2 PROCEDURE FOR GRANTING LEGAL ASSISTANCE AND INDEMNIFICATION

The claimant(s) should file their respective claim(s) for legal assistance, liability insurance, or medical assistance as the case may be, with the Head of the Procuring Entity; and shall secure the approval of the latter on the terms and conditions of the engagement of counsel.

The Head of the Procuring Entity should be given at least fifteen (15) to thirty (30) calendar days to examine, review, verify and validate the authenticity of the documents presented by the claimant.

Upon finding that all the requirements have been duly complied with and that all the necessary documents submitted are genuine, it should then order the processing of the claims and the subsequent release of funds for the approved claims.

Any expenses incurred in advance by the claimant arising from the performance of his official functions in such capacity shall be subject to reimbursement upon submission of the necessary documents and approval thereof by the Head of the Procuring Entity.

If the BAC member or its support staff is found to be not guilty for gross negligence, misconduct, or grave abuse of discretion, he shall liquidate his cash advances by presenting receipts of payment and other necessary documents. On the other hand, if the BAC member or its support staff is found to be guilty for gross negligence, misconduct, or grave abuse of discretion, he shall pay the cash advances made through salary deductions or reimbursement.

SECTION 10

PROCUREMENT MONITORING

10.1 PROCUREMENT MONITORING

Procurement monitoring is the process of collecting information on procurement related activities for the purpose of determining accomplishment, learning from experiences to improve future practices and activities, promoting accountability on the proper use of resources and results obtained, making informed decisions and empowering procurement personnel and IUs/End-User Units. It allows results, processes and experiences to be documented and used as a basis to steer decision-making and learning processes for procurement action.

For the DPWH, procurement monitoring shall focus on two (2) important aspects: regular accomplishment and overall procurement performance as assessed under the Agency Compliance and Performance Indicator (APCPI) system of the GPPB. In terms of monitoring requirements for regular accomplishments, this involves providing a status report on contracts awarded. For overall procurement performance, this involves collecting and analyzing procurement information needed to conduct the annual assessment required under the APCPI.

10.2 DPWH PROCUREMENT MONITORING REPORT

The DPWH Procurement Monitoring Report (DPMR) is a document submitted by the Procurement Unit of the RO/DEO on the status of contracts awarded on a monthly and quarterly basis for submission at the least five (5) days after the end of each month/quarter, whichever is applicable. The DEO Procurement Units shall submit the PMR to the RO for consolidation and submission together with its own report of accomplishment to the Procurement Service at least three (3) days after submission. The three (3) divisions of the Procurement Service (Goods, Infrastructure and Consulting Services) shall likewise prepare and submit the PMR on a monthly and quarterly basis. The Procurement Service shall prepare a consolidated monthly and quarterly report of all procurements for submission to the DPWH Secretary for confirmation and approval. The consolidated and individual PMRs shall be posted at the DPWH website for transparency purposes within ten (10) days after the end of each quarter/month. All concerned procurement units shall use the prescribed format for the Procurement Monitoring Report found in Annex (DPWH-Vol 1-06).

The Procurement Monitoring Report shall include information that will be utilized in the preparation of the Agency Procurement Compliance and Performance Indicator (APCPI) assessment required by the GPPB for each year. The information includes the following:

- a. List of all items/projects procurement by method of procurement,
- b. Total amount of approved APP for the month/quarter.
- c. Total number of procurement activities.
- d. Total number and amount of contracts awarded.
- e. Total number of bidders passing eligibility check, acquiring bid documents and submitting bids.
- f. Total number of bid opportunities and notice of awards posted at the PhilGEPS.

- g. Average number of days to complete procurement process from advertisement of Invitation to Bid to contract award.
- h. Number of contracts with Observers attending.

The information shall serve as basis for the Consolidated Procurement Monitoring Report (CPMR) that provides a profile of DPWH procurement for one calendar/fiscal year that will be used for the APCI assessment.

10.3 Other Procurement Monitoring Reports

a. GPPB Procurement Monitoring Report

In accordance with **IRR Section 12.2**, the BACs shall submit a Procurement Monitoring Report (PMR) on a semestral basis to the GPPB in the prescribed format (DPWH-Vol 1-07). The PMR shall cover all procurement activities specified in the APP, whether ongoing and completed, from the holding of the pre-procurement conference to the issuance of notice of award and the approval of the contract, including the standard and actual time for each major procurement activity. The procurement monitoring report shall be approved and submitted by the DPWH Secretary to the GPPB in printed and electronic format within fourteen (14) calendar days after the end of each semester.

b. Decisions Resolving Protests

IRR Section 56 requires the head of the BAC Secretariat to furnish the GPPB with a copy of the decision resolving the procurement related protests within seven (7) calendar days from receipt thereof. The BAC shall provide a copy of the decision to the Procurement Service immediately after the resolution of the protest and a copy of this decision (including the number of days to resolve the protest) shall be submitted to the GPPB for information purposes.

10.4 Agency Procurement Compliance and Performance Indicators (APCPI)

The Agency Procurement Compliance and Performance Indicators (APCPI) is a methodology to assess the performance of a government agency's procurement activities and to compare its effectiveness against that of the national public procurement systems and international best practices and standards using baseline standards and indicators. Under Section 63.1 of RA 9184, the GPPB is vested with the responsibility of ensuring the proper implementation of relevant rules and regulations pertaining to public procurement and the Technical Support Office (TSO) with evaluating the effectiveness of the government procurement system. The APCPI is derived from the Baseline Indicator System (BLI) and Compliance and Performance Indicator (CPI) Systems prescribed guidelines under the OECD-DAC Methodology for the Assessment of National Procurement Systems (MAPS) where the Philippines served as a pilot country. On June 1, 2012, the GPPB issued Resolution No. 10-2012 adopting and approving the use of the APCPI as the standard procurement monitoring and assessment tool for all government agencies.

10.4.1 Purpose of the APCPI

The APCPI has the following objectives and purposes:

- a. To provide a standard procurement performance monitoring and evaluation tool for use by all procuring entities using a set of Organization for Economic Cooperation and Development Methodology for the Assessment of Procurement Systems (OECD-DAC MAPS) based indicators on a regular basis;
- b. To identify strengths and weaknesses in the agency's procurement systems and to develop an Action Plan for Procurement Improvement to address the areas of risk and weakness;
- c. To utilize the information submitted by the agencies as part of the procurement database that will be linked to other government related databases to analyze national procurement performance for more effective policy and decision making; and
- d. To assist in strengthening the GPPB-TSO capability in monitoring national compliance to procurement regulations and in implementing the agency level Action Plans.

10.4.2 General Considerations in the Conduct of the APCPI Assessment

- a. The APCPI assessment is the responsibility of the Head of the Procuring Entity with the assistance of the BACs (CO/RO/DEO), the Procurement Service/Units and other departments/divisions/units concerned within the DPWH;
- b. The Procurement Service/Unit shall be responsible for the conduct of the assessment and shall submit the results to the BAC concerned who will review the findings and results, and subsequently submit the same to the Confirmation Team for verification and to the Head of Procuring Entity for approval;
- c. The Procurement Service/Units and RO/DEO BAC Secretariats are encouraged to conduct the assessment at the same time and to submit the results and the report to the Procurement Service for consolidation into a single agency report;
- d. Upon completion, final review, confirmation and approval of the APCPI results by the DPWH Secretary, the Procurement Service shall submit a copy of the consolidated report to GPPB TSO.
- e. The APCPI has four (4) key pillars, sixteen indicators and forty sub-indicators that characterize the basic elements of an agency's procurement as patterned after the national public procurement system. These are found in DPWH-Vol 1-09 of this DPM which includes the Consolidated Procurement Monitoring Report (CPMR) of the agency, the template for the computation of the agency score, the APCPI Revised Scoring and Rating System, the APCPI Self-Assessment Form and the Procurement Capacity Development Action Plan template.
- f. The results of the assessment will serve as a roadmap on areas of strengths, weaknesses and improvements in the agency's procurement processes, and will assist the GPPB and other related national agencies in enhancing current procurement reform strategies and regulations.

10.4.3 Conduct of APCPI Assessment

a. Timeline for APCPI Assessment

The APCPI assessment shall be conducted on an annual basis within fifteen (15) days after the end of the calendar year, and will cover performance and accomplishments of the previous year. The BACs shall submit the results of the assessment to the Procurement Service for consolidation into a DPWH-wide assessment before the end of January of the succeeding year.

b. Participants in the Conduct of the APCPI

The following are involved in the conduct of the APCPI assessment:

- (1) The Head of the Procuring Entity;
- (2) The Central Office BACs, and the BAC at the RO/DEO;
- (3) The Procurement Service at the CO and Procurement Units at the RO/DEO;
- (4) Internal Auditors;
- (5) Commission on Audit (COA) resident auditors;
- (6) Other Departments or Units concerned within the DPWH (UPMO/IO/EU).

c. Methodology: APCPI Assessment

- (1) The Head of the Procurement Service/Units shall coordinate with the respective units within the agency, including its internal and external (COA) auditors to ensure the availability of information.

The following are some of the prescribed data-gathering instruments to be used in the conduct of an APCPI assessment:

- (a) Annual Procurement Plan (APP);
- (b) DPWH Monthly and Quarterly Procurement Monitoring Report (DPMR);
- (c) Phil-GEPS Data ó Includes such information as the number of bid opportunities, contract award and procurements using alternative methods, notices posted at the PhilGEPS. The DPWH shall use information based on its own records and data posted at Phil-GEPS.
- (d) Procurement related documents, such as, but not limited to: Office orders creating the BAC and BAC Secretariat, procurement contracts, Bidding Documents, submitted Bid, Abstract of Bids, Supplemental Bid Bulletins, Minutes of Meetings, Request for Reconsideration, Protest and Resolutions, and Observer's Report, COA Audit Reports/Action on Prior Year's Audit Report (APYAR).
- (e) Contract Management Records such as, but not limited to: payment schedules, Purchase requests, purchase orders, delivery receipts, receiving reports, and invoices, etc.

- (2) The BAC Secretariat shall complete the above data gathering instruments based on records of all procurements conducted for the previous year. It is strongly recommended that these data be lodged in a database (i.e. CPMR) during, and not after, the target procurement year. When all the information in the instruments is ready, the BAC Secretariat shall consolidate such using the APCPI Evaluation Form found in DPWH-Vol 1-09. It shall also provide information on other indicators that are not included in the abovementioned instruments (e.g. agency order creating the BAC and BAC Secretariat, availability of procurement monitoring reports, procedures for evaluating performance of procurement personnel, among others) and shall organize the supporting documents for submission to GPPB.
- (3) The APCPI scoring system uses a four (4) point rating scale based on:
 - (a) Recommended benchmarks obtained from the average scores of a pilot assessment for eighteen (18) government agencies conducted earlier; and
 - (b) A scoring criteria based on a set of conditions. For indicators with a scoring criteria based on a set of conditions, the rating varies depending on the conditions met by the procuring entities.
 - (c) Upon completion of the assessment form, the agency shall have a picture of the performance of its procurement system based on the identified set of indicators. The assessors shall then identify areas of strength (sub-indicators receiving a Satisfactory or Very Satisfactory score) where it can continue to improve and weaknesses (sub-indicators rated poor or acceptable) where it needs to develop a specific plan of action. The results shall be discussed first within the BAC and then with the Head of the Procuring Entity.
 - (d) Based on the results of the assessment, the Procurement Service/Units shall prepare a Procurement Capacity Action Plan using the prescribed template found in DPWH-Vol 1-08 in coordination with concerned units to identify areas and action points needed to improve the Procuring Entity's procurement capacity. This shall be presented to the Head of Procuring Entity for approval.
 - (e) The Head of Procuring Entity shall organize a Confirmation Team, composed of independent entities such as the Head of the Internal Audit Service/Unit and COA Resident Auditor to confirm the results of the APCPI assessment using the same set of data used by the Procurement Service/Units in the conduct of the APCPI.
 - (f) Upon approval by the Head of Procuring Entity, the Action Plan together with the confirmed Assessment Form and all supporting documents shall be submitted to the GPPB TSO.

10.4.4 Additional Infrastructure Performance Indicators

In addition to the indicators specified under the APCPI, the DPWH, through the Procurement Services, shall pay special attention to monitoring the actual performance of each procuring entity in the procurement of infrastructure projects using selected indicators derived from the

larger set of APCPI indicators to show the level of efficiency and effectiveness (DPWH-Vol 1-10). These selected infrastructure related indicators are as follows:

a. Adherence to Procurement Targets in APP

As mentioned in Section 2.2.2 of this Manual Volume II, each Procuring Entity is required to set its procurement targets in terms of the total number and sizes of infrastructure contracts that it intends to procure during the year, and shall reflect these in its APP. The Procuring Entity must package contracts into sizes that are sufficiently attractive and viable to, and within the capability of, relevant contractors, and that will provide a considerable impact on the users. The sizes and number of such contracts must be within the capacity of the Procuring Entity to efficiently manage, monitor and supervise within the year.

The efficiency of the Procuring Entity in preparing doable procurement plans and in managing procurement implementation is measured by the percentage of the number of projects in the APP which have actually been successfully procured during the year. Efficiency in the procurement of infrastructure projects means that a high number of civil contracts under the approved APP are processed and awarded.

The Procurement Service/Unit shall look at the results of the CPMR in terms of number of bidding processes conducted and awarded for civil works projects against the planned amount of civil works contracts.

This percentage is obtained by dividing the total amount of civil works contracts awarded (Row 1.2 of Column 5) with the sum of the total amount of civil works procurements under the approved APPs (Row 1.2 of Column 2) in the CPMR.

Total amount of civil works contracts awarded (Column 5, Item 1.2)

----- X 100
Total amount of civil works procurement in the APP (Column 2, Item 1.2)

Scoring Range	Qualitative Rating	Numerical Score
Above 85%	Very Satisfactory	3
Between 61-85%	Satisfactory	2
Between 40-60%	Acceptable	1
Below 40% or above 100%	Poor	0

b. Extent of Bidders' Participation

This indicates the effectiveness of competition and the level of confidence of the private sector in the bidding process for civil works. Competition induces efficiency and drives down bid prices.

This indicator is measured by the number of eligible bidders submitting bids in a particular bidding. For effective competition, there should at least be five eligible bidders in at least 85% of the procurements conducted during the year by the Procuring Entity.

The extent of bidders' participation can be determined by the total number of bidders who submitted bids for civil works procurement (Row 1.2 of Column 8) and dividing this by the number of civil works procurement activities conducted (Row 1.2 of Column 3). Procurement activities refer to all procurement opportunities posted and/or advertised. On instances where a contract to be bid out consists of more than one lot, the number of procurement opportunities shall be based on the actual number of lots.

The Procurement Service/Unit shall look at the results of the CPMR in terms of number of bidders submitting bids for civil works against the number of civil works procurements conducted.

Total no. of bidders who submitted bids for civil works contracts (Row 1.2 of Col 8)

----- X 100

Total no. of civil works procurement activities (Row 1.2 of Column 3)

Scoring Range	Qualitative Rating	Numerical Score
Above 5	Very Satisfactory	3
Between 3-5	Satisfactory	2
Between 2 ó 3	Acceptable	1
Below 2	Poor	0

c. Time for Bidding Processes

This indicator assesses agency compliance to established procurement timeframes from posting of bid opportunities to contract signing and approval and issuance of notice to proceed for infrastructure projects. Annex C of RA 9184 and its IRR provides for the maximum periods and earliest possible time for action on specific procurement activities. For infrastructure projects, the prescribed period is 28 cd as the earliest possible time and 113 being the latest for projects with ABC below Php 50 Million pesos; and 144 cd for projects with ABC of above Php 50 Million. The timely award of contracts at competitive market prices indicates an efficient, effective and acceptable implementation of procurement procedures.

To be considered satisfactory, the Procuring Entity must be within these periods for at least 75% of the number of contracts procured during the year.

The time for bidding process refers to the percentage of the contracts that complied with the prescribed period to procure infrastructure projects which is obtained by dividing the number of procurement contracts for infrastructure projects that complied with the prescribed period (Row 1.2 of Column 18) by the total number of procurement contracts for infrastructure projects awarded through public bidding (Row 1.2 of Column 4) and multiplying this by 100.

No. of infra contracts awarded within prescribed period (Row 1.2 of Col. 18)

----- X 100

No. of infra contracts awarded through public bidding (Row 1.2 of Column 4)

Scoring Range	Qualitative Rating	Numerical Score
100%	Very Satisfactory	3

Between 90 to 99%	Satisfactory	2
Between 80 to 89%	Acceptable	1
Below 80%	Poor	0

d. Variance Between Award Prices and ABC

This indicates the extent to which the ABC is adequately prepared and is realistic. It also reflects the extent of real competition among the participating bidders. To obtain the variance between award price and the ABC, the Procurement Service/Unit shall keep a record of all contract prices awarded as found in DPWH-Vol 1-10 Procurement of Infrastructure Contracts File. The average value of the variance between the Lowest Evaluated Bid (LEB) and the Approved Budget for the Contract (ABC) is automatically computed and multiplied by 100 to get the percentage difference of the variance of the awarded bid prices and the ABC (Total of Column 9).

(Lowest Evaluated Bid - ABC)

$$\frac{\text{-----} \times 100 = 100 \times (\text{Col 7} - \text{Col 6}) / \text{Col 6}}{\text{ABC}}$$

Obtain average of above scores to get the total score

Scoring Range	Qualitative Rating	Numerical Score
Below 5%	Very Satisfactory	3
Between 5 to 20%	Satisfactory	2
Between 21 to 30%	Acceptable	1
Above 30%	Poor	0

e. FAPs Award Prices Below ABC

While awards for foreign-assisted projects (FAPs) may be made above the ABC which is usually considered an indicative amount, it is desirable that the Procuring Entity ensure that the ABC is prepared adequately according to the standards in Section 2.3.4 of this Manual Volume II and to encourage competition among bidders. The performance indicator in this regard is the extent to which prices of awarded contracts are below the Engineer's Estimate or ABC whichever is applicable and utilized for the foreign assisted project. To obtain the number of FAPs contracts awarded below the ABC, the Procurement Service/Unit shall use the information available in DPWH-Vol 1-10 Procurement of Infrastructure Contracts File. First the number of contracts where the ABC (Column 6) is higher than the Engineer's Estimate (Column 5) is counted and divided over the total number of contracts awarded and multiplied by 100.

No. of Contracts where ABC is greater than Engineer's Estimate) or (Col 6 – Col 5)

Total No. of Contracts Awarded

Scoring Range	Qualitative Rating	Numerical Score
Above 75%	Very Satisfactory	3
Between 60 to 75%	Satisfactory	2

Between 50 to 59%	Acceptable	1
Below 30%	Poor	0

The selected indicators of procurement performance are summarized in Table 1.

Table 2. Selected Indicators of Infrastructure Projects Procurement Performance

Indicator	Indicates	Measured by	Satisfactory Threshold
(1)	(2)	(3)	(4)
Adherence to Procurement Targets in APP	Efficiency of procurement planning and management	% of projects in original APP actually procured	Not less than 85% of no. of projects in original APP
Extent of Bidders' participation	Level of competition and Bidders' confidence in bidding	No. of eligible bidders submitting bids	5 bidders or more in at least 85% of no. of biddings
Time for entire public bidding	Efficiency of bidding activities	No. of days between advertisement and award	Not more than 95 days if ABC is not more than P50M, and 110 days if ABC is above P50M in at least 85% of no. of biddings
Variance between Award Prices and ABC	Adequacy of ABC and competition	% difference of Award prices below ABC	Between 5% and 20% variance/difference
Lowest bids of FAPs below ABC	Adequacy of ABC and competition	% of biddings with lowest bids lower than ABC	Not less than 75% of no. of FAPs biddings

SECTION 11

ADDENDA AND REVISIONS TO THE PROCUREMENT MANUAL

11.1 Addenda and Revisions

This last section of each Manual is reserved for future revisions or changes in procedures, forms, policies or new circulars, amendments to the implementing rules and regulation of RA 9184, GPPB resolutions, Department Orders issued after the approval and release of this original Manual. The corresponding revision shall be made in this last section to guide the users accordingly. The Procurement Service shall be responsible for updating the contents of the Manual, whenever new issuances or resolutions are issued by the relevant government agencies. It shall maintain a data base of these issuances and guidelines in the DPWH website. Users are advised to refer to the last section of the guidelines from time to time and as needed.

The prescribed format for each revision is as follows:

Section xxx: (Indicate the appropriate section of the Manual where the revision is to be made)

Sub-Section, Paragraph Number: (Indicate the appropriate sub-section and paragraph where the revision is to be made)

Page Number: (Indicate the appropriate page where the revision is to be made)

Applicable Amendment/Issuance: (Indicate the applicable issuance/ ruling supporting the revision)

(e.g. GPPB Circular 20-2017 dated May 5, 2017 or DPWH Department Order 123, series of 2017)

Use the following format to show revisions: Where possible use italicized font to show the change/revision.

Original Provision	Revised Provision

ANNEX A

VOLUME I - GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

GLOSSARY OF PROCUREMENT TERMS

Abstract of Bids as Calculated ó A summary of all bids as read, undergone detailed evaluation as to completeness, corrected for arithmetical errors and discrepancies, and ranked in accordance with the criteria provided in the DPWH Procurement Manual and RA 9184 and its IRR.

Abstract of Bids as Read - For locally funded projects: a summary of all bids received, opened, undergone preliminary examination, and for those bids that passed the preliminary examination, read by the BAC in accordance with the DPWH Procurement Manual. For foreign assisted projects: a summary of all bids received, opened, and read by the BAC in accordance with the Procurement Guidelines of the Lending Institutions.

Addendum - A notice issued by the Procuring Entity to Prospective Bidders with respect to any clarifications or modifications in the Bidding Documents, e.g. specifications, eligibility requirements, procurement schedule, and other related matters. Also called "Bid Bulletin" or "Supplemental Bulletin."

Additional Contract Time - The period of time allowed the Contractor by the DPWH in addition to the stipulated Contract Time necessitated by a duly issued Extra Work or Change Order.

Adjusted Original Contract Price - The increased or decreased price as agreed upon by the contracting parties and in pursuance of existing laws, decrees, rules and regulations governing adjustment or escalation of Contract Prices.

Advance Payment ó Any payment made prior to the delivery and acceptance of Works, Consulting Services, or Goods.

Agency Procurement Compliance and Performance Indicator (APCPI) ó A methodology to assess the performance of a government agency's procurement activities and to compare its effectiveness against that of the national public procurement systems and international best practices and standards using baseline standards and indicators as approved by the GPPB.

Amendment - Any modification to a perfected Contract, mutually agreed upon by both contracting parties subject to the approval of higher authorities.

Annual Procurement Plan (APP) ó A document showing the consolidated list of items to be procured by the DPWH annually which serves as basis for all procurements.

Approved Agency Estimate - The cost estimate prepared by the procuring entity and approved by the foreign government/foreign or international financing institution as specified in the Treaty or International or Executive Agreement.

Approved Budget for the Contract ó The budget for a contract duly approved by the Head of the Procuring Entity, as provided for in the General Appropriations Act (GAA), and/or continuing appropriations, in the case of a national government agencies (NGA) such as the DPWH.

Bid ó A signed offer or proposal to undertake a contract submitted by a bidder in response to and in consonance with the requirements of the Bidding Documents. Also called "Proposal" or "Tender."

Bid Amount - The price offered by the Bidder to undertake or deliver the Works, Services or Goods as required in the Bidding Documents. Also called "Bid Price."

Bidder ó A contractor, consultant, manufacturer, supplier, or distributor competing for the award of a contract.

Bidding Documents ó The documents issued by the Procuring Entity as the basis for bids, furnishing all information necessary for a prospective bidder to prepare a bid for infrastructure projects, consulting services or goods required by the Procuring Entity.

Bids Evaluation ó The process of determining the Bidder with the Lowest Calculated Bid (LCB) in the case of Infrastructure or Goods, or the Highest Rated Bid (HRB) in the case of Consulting Services.

Bids Opening - The occasion/event where the bids are opened at the place, date and time specified in the advertisement.

Bids and Awards Committee (BAC) ó A Committee of the Procuring Entity which is responsible for the conduct of eligibility screening of applicants, bidding and recommending award of Contracts.

Bids and Awards Committee (BAC) Resolution ó A written recommendation of the BAC pertaining to a procurement process or aspect, subject to the approval of the HOPE.

Bid Schedule - The tabulated form included in the proposal Form containing (a) pay item numbers and descriptions, estimated quantities, and units of measure provided by the Procuring Entity, and (b) unfilled columns for corresponding unit bid prices and amounts to be quoted by the bidder. Also called "Bill of Quantities."

Bid Security ó A financial instrument in the form of cash, certified check, manager's check, bank draft/guarantee against a bank, or surety bond, callable on demand, issued by a surety or insurance company, or letter of credit issued by a commercial bank, or a Bid Security Declaration, as a guarantee that the successful bidder shall, within a prescribed period, enter into contract with the Procuring Entity.

Bid Validity ó A reasonable period when the bids are effective as determined by the Head of the Procuring Entity concerned, which in no case shall exceed one hundred twenty (120) calendar days from the date of the opening of bids.

Bill of Materials - A list detailing the substances and products to be used in a project.

Blacklisting ó An administrative penalty disqualifying a person or an entity from participating in any government procurement for a given period.

Brand Name ó A trade name or product name, which identifies a product as having been made by a particular manufacturer.

Calculated Bid Price ó A bid which is rectified for arithmetical errors, discrepancies, and discounts, in accordance with the provisions of the Bidding Documents and IRR of RA 9184.

Calendar Day - A period of twenty four (24) hours extended from midnight to midnight and includes all days of the calendar without exception.

Certificate of Acceptance - A document issued by the Implementing Unit after the one-year warranty period (liability period) and after all defects and failures have been corrected.

Collusion ó A scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish Bid prices at artificial, non-competitive levels.

Common-Use Supplies ó Goods, materials, or equipment used in the day-to-day operations of Procuring Entities in the performance of their functions.

Competitive Bidding ó A method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post-qualification, and award of contract. Also referred to as Public Bidding.

Conflict of Interest ó A situation in which a person or organization is involved in multiple interests, financial interest, or otherwise, one of which could possibly corrupt the motivation of the individual or organization.

Consolidated Blacklisting Report ó A report issued by the GPPB that contains a list of people and/or organizations that are barred from participating in any Government procurement project.

Construction Equipment - All machinery and equipment together with the necessary supplies for operation, upkeep and maintenance, and also tools and apparatus necessary for proper construction and acceptable completion of the Work.

Construction Plant - Equipment, facilities, supplies and other incidentals required for execution and completion of the Works exclusive of materials or other things intended to form or forming part of the Permanent Works.

Construction Schedule - Timetable showing the order in which the various activities of a project are to be carried out. Also referred to as Implementation Schedule.

Consulting Services ó Services for infrastructure projects and other types of projects or activities of the Government requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the agency.

Contract – An enforceable agreement between two or more participants or persons.

Contract Completion ó 100% physical and financial accomplishment of the works, consulting services, or goods as per contract.

Contract Implementation ó A process of undertaking a project or contract in accordance with the contract documents.

Contractor ó The person or persons, firm or company whose Bid has been accepted by the Government.

Corrupt Practice ó the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

Direct Contracting ó An alternative method of procurement of goods that does not require elaborate bidding documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations. Also referred to as Single Source Procurement.

Disqualification ó The act of barring a bidder from further participation in the procurement at hand, even if, in some instances, it has initially been declared eligible or post-qualified.

Domestic Bid ó Any offer for unmanufactured/manufactured articles, materials, or supplies grown or produced in the Philippines.

Domestic Bidder - Any person or entity offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.

Domestic Entity - An individual or a sole proprietor who is a citizen of the Philippines or a partnership, corporation, cooperative, or association duly organized under the laws of the Philippines and of which at least seventy five percent (75%) of the interest or outstanding capital stock belongs to citizens of the Philippines, habitually established in business and habitually engaged in the manufacture or sale of the merchandise covered by his bid, and the business has been in existence for at least five (5) consecutive years prior to the advertisement and/or posting of the Invitation to Bid.

DPWH Procurement Manual ó All four (4) volumes of the DPWH Procurement Manual, its standard bidding documents and prescribed forms

Eligible Bidder ó A contractor, manufacturer, supplier, distributor or consultant who meets the legal, technical, financial, and other requirements set by the Procuring Entity to submit a bid for the contract at hand.

Eligibility ó The status of a Bidder in relation to its legal, technical and financial competence to comply with the requirements of the contract to be bid.

Eligibility Check ó The process of determining the compliance of Prospective Bidders with the eligibility requirements prescribed, using non-discretionary, õpass/failö criteria. Also referred to as õEligibility Screening.ö

End-User Unit ó The entity that will utilize the works, good, or consulting services to be provided under the contract.

Executive Agreements - International Agreements that do not require legislative ratification.

Expendable Supplies - Articles which are normally consumed in use within one (1) year or converted in the process of manufacture or construction, or those having a life expectancy of more than one (1) year but which shall have decreased substantially in value after being put to use for only one (1) year (e.g., medicines, stationery, fuel, and spare parts).

Feasibility - The potential viability of a program or project based on established criteria.

Feasibility Study - An assessment of the potential viability of a project based on established criteria.

Financial Proposal ó An offer of the price that the bidder is proposing to be paid by the Procuring Entity for the provision of the works, consulting services, or goods under the contract being procured.

Force Majeure - An earthquake, flood, cloudburst, cyclone, or other cataclysmic phenomena of nature beyond the power of the Contractor to foresee or to make preparation in defense thereof.

Foreign Bid - Any offer of articles, materials or supplies not manufactured or not to be manufactured in the Philippines, substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.

Foreign Assisted Project Procurement - The contracting of works, consulting services, or goods, which are wholly or partly funded by a foreign loan or grant.

Foreign Assisted Project - Goods, consulting services, or infrastructure project of the GOP which is wholly or partly funded by a Foreign Loan or Grant pursuant to a Treaty or International or Executive Agreement.

Foreign Grant ó Assistance from foreign governments or institutions with no repayment obligations and is provided in monetary form, goods, works, and/or consultancy services, among others.

Foreign Loan - Loan, credit, borrowing or indebtedness with a private foreign bank or with a foreign government, agency, or instrumentality of such foreign government, foreign financial institution, or international organization with whom, or belonging to a country with which the Philippines has diplomatic relations, as may be necessary and upon such terms and conditions as may be agreed upon, to enable the GOP to finance, either directly or through any government office, agency or instrumentality or any government-owned and controlled corporation, an industrial, agricultural or other economic development purpose or project authorized by law.

Fortuitous Event ó An event which cannot be foreseen, or which though foreseen, is inevitable. (Art. 1174, Civil Code).

Fraudulent Practice ó Misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity.

Goods ó Items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity

Head of the Procuring Entity ó The DPWH Secretary, or his duly authorized official, in the case of the DPWH Central Office; the Regional Director in the case of the Regional Office; or the District Engineer in the case of the District Engineering Office.

Implementing Office - The larger DPWH Office ó i.e., Central Office/Regional Office/District Engineering Office - that is responsible for the execution or delivery of a project. The Implementing Office is usually the Procuring Entity itself.

Implementing Unit - The specific entity within the Implementing Office that is responsible for executing and managing the contract, e.g., Project Management Office, Construction Division/ Section.

Indirect Cost - A secondary charge to the Contract/Project, e.g., overhead expenses, contingency, or miscellaneous expenses.

Infrastructure Project - The construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of roads and bridges, railways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/ power and electrification facilities, national buildings, school buildings, hospital buildings, or other related construction project of the government; to be classified as a capital outlay project, the works must extend the life of the asset by more than one year. Also referred to as öWorksö or öCivil Worksö.

International Agreement - A contract or understanding, regardless of nomenclature, entered into between the GOP and another government or foreign or international financing institution in written form and governed by international law, whether embodied in a single instrument or in two (2) or more related instruments.

Invitation to Bid - A notice to interested contractors/suppliers and the general public and other interested parties of the proposed procurement for a specific contract of the Procuring Entity.

Joint Venture - A partnership or cooperative agreement between two or more Contractors or partnership or corporations restricted to a single, specific undertaking.

Latent Defect ó A defect that is not apparent by reasonable observation, is öhidden,ö or one that is not immediately determinable.

Limited Source Bidding ó An alternative method of procurement for Goods (including major plant components) or Consulting Services that involves direct invitation to bid by the concerned Procuring Entity from a set of pre-selected suppliers or consultants with known experience and proven capability on the requirements of the particular contract.

Liquidated Damages ó An amount agreed upon by the parties to a contract to be paid in case of breach thereof.

Negotiated Procurement ó An alternative method of procurement of an infrastructure project, consulting services or good, whereby the Procuring Entity directly negotiates a contract with a technically, legally and financially capable contractor, consultant or supplier, without going through regular competitive bidding.

Net Financial Contracting Capacity - An Agency's numerical rating of the Contractor's/ Supplier's capability to support the funding requirements to perform the works or provide the goods under the contract.

Non-complying - A Bid which does not meet or fulfill the requirements of the Bidding Documents, e.g., with missing Items or calculations errors that cannot be corrected.

Non-Expendable Supplies - Articles which are not consumed in use and ordinarily retain their original identity during the period of use, whose serviceable life is more than one (1) year and which add to the assets of the GOP, e.g., furniture, fixtures, transport and other equipment.

Notice of Award - The written notice from the Procuring Entity to the winning Bidder accepting its bid or proposal.

Notice of Eligibility ó The document issued by the BAC to a bidder formally informing that it meets the eligibility requirements for the contract being procured.

Notice of Ineligibility ó The document issued by the BAC to a bidder formally informing that it does not meet the eligibility requirements for the contract being procured.

Notice of Post-Qualification ó The document issued by the BAC to the bidder with the Lowest Calculated Bid (LCB)/Highest Rated Bid (HRB) whose bid is found responsive after the post-qualification process.

Notice of Post-Disqualification ó The document issued by the BAC to the bidder with the Lowest Calculated Bid (LCB)/Highest Rated Bid (HRB) whose bid is found non-responsive after the post-qualification process.

Notice to Proceed ó The document issued by the Head of the Procuring Entity to the winning bidder to proceed with the implementation of the contract specifying the date on which work/services can begin.

Original Contract Amount - The total price originally agreed upon as payment for the completion of the entire scope of work stipulated in the Contract. Also referred to as Original Contract Cost.

Parcellary Survey - A survey to determine and establish the legal boundary of real properties.

Performance Security – A financial instrument submitted by the winning bidder in the form of cash, cashier's/check, , letter of credit, bank guarantee, surety bond callable on demand, to guarantee full of its contractual obligations for the subject works/consulting services/goods. Also called "Performance Bond."

PhilGEPS (G-EPS) - The Philippine Government Electronic Procurement System as provided in Section 8 of RA 9184 IRR.

Philippine National - An individual or a sole proprietor who is a citizen of the Philippines, or a partnership, corporation, cooperative, or association organized under the laws of the Philippines, of which at least sixty percent (60%) of the capital or interest is owned by citizens of the Philippines.

Portal - The website that integrates a wide variety of contents for the purpose of attracting and aggregating multiple users together in a central virtual space.

Price Escalation - An adjustment of monetary values made periodically to compensate for fluctuation in costs of construction supplies, materials, equipment, and labor.

Procurement - The contracting of works, or acquisition of consulting services or goods, by the Procuring Entity.

Procurement Method - A scheme of acquiring infrastructure projects, goods, and consulting services by the government; including for example: sole source, competitive bidding (national/international), and national shopping.

Procuring Entity - The DPWH Office directly procuring works, consulting services and goods within its delegated authority, which may be either the Central Office (CO), the Regional Office (RO) or the District Engineering Office (DEO).

Project - A special agency undertaking within a definite timeframe and which is designed to produce pre-determined works, goods or services.

Project Procurement Management Plan (PPMP) – A document that lists the requirements of a contract for particular works, consulting services, or goods by a Procuring Entity.

Repeat Order – An alternative method of procurement of goods from the previous winning bidder, whenever there is a need to replenish goods procured under a contract previously awarded through Competitive Bidding.

Request for Clarification – A written request submitted by the bidder to the BAC, asking the latter to clarify a particular provision of the Bidding Documents.

Request for Expression of Interest (REOI) - A notice to interested consultants and the general public and other interested parties on the proposed procurement for a specific contract for consulting services of the Procuring Entity.

Request for Proposal (RFP) ó A written notice soliciting offers for consulting services.

Request for Reconsideration ó In procurement, an application made by a contractor, consultant, or supplier to the BAC for the purpose of obtaining a rule or order setting aside a previous decision.

Resolution of Award - The formal written recommendation from the Bids and Awards Committee (BAC) that declares the Lowest Calculated Responsive Bid (LCRB)/Highest Rated Responsive Bid (HRRB) as the winning Bidder, subject to the approval of the HOPE.

Right of Way (ROW) - Site or location, with defined physical boundaries, used for an infrastructure project. Also called "Project Site" or "Site."

Scope of Work - General description of the work to be performed under a particular contract.

Shopping ó An alternative method of procurement of goods whereby the Procuring Entity simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications.

Slippage - The difference between scheduled and actual accomplishments per approved implementation schedule usually indicated in percentage, positive or negative.

Spare Parts ó Extra components, equipment, tools, instruments or parts of machinery or apparatus that replace the ones that are damaged or worn out.

Specification ó A description of what the Procuring Entity requires and what a bidder must offer.

Splitting of Contracts ó The act of dividing or breaking up government contracts into smaller quantities and amounts for the purpose of evading or circumventing the requirements of law, especially public bidding.

Standard ó An established and fixed measure used in assessing quality or performance.

Sub-Contractor ó An individual, partnership, firm or corporation, joint venture, association or syndicate having a direct Contract with the Contractor for furnishing services or works under the Contract duly approved by the DPWH.

Submitted Bid Price ó The price offer for a particular contract under procurement, as indicated in the Financial Proposal of the bidder.

Supplemental/Bid Bulletin ó A notice issued by the Procuring Entity to bidders with respect to any clarifications or modifications in the Bidding Documents, e.g. specifications, eligibility requirements, procurement schedule, and other related matters.

Takeover of Contract - A contract implementation situation where a contract is terminated and the Department assumes responsibility for implementation by Administration or by negotiated contract in accordance with the provisions of RA 9184 and its Implementing Rules and Regulations.

Tax Clearance - An authoritative assurance or certification (no objection) that all taxes due on property have been paid.

Technical Proposal óAn offer, consisting of elements outside of the Financial Proposal, from the bidder, related to the works/consulting services/goods to be undertaken/delivered in response to the Bidding Documents, applicable to both regular and design-and-build procurements..

Treaties - International agreements entered into by the GOP which require legislative ratification after executive concurrence.

Two-Stage Competitive Bidding ó Bidding process divided into two phases, viz., first technical bids, and second financial bids from the technically qualified bidders.

Unit Price - The cost of an Item in the Bill of Quantities.

Unit Price Bid - The Bidder's Unit Price for the different Items of work listed in the Bill of Quantities.

Universal or Commercial Banks - Universal or commercial banks duly authorized under R.A. 8791, otherwise known as "The General Banking Act of 2000."

Variation Order – An instruction issued by the Implementing Unit to cover any increase/decrease in quantities, including the introduction of new work items that are not included in the original contract or reclassification of work items that are either due to change of plans, design or alignment to suit actual field conditions resulting in disparity between the preconstruction plans used for purposes of bidding and the "as stated plans" or construction drawings prepared after a joint survey by the contractor and the Government after award of the contract. A Variation Order may either be in the form of either a "Change Order" to cover any increase/decrease in quantities of original work items in the contract, or "Extra Work Order" to cover the introduction of new work necessary for the completion, improvement or protection of the project which was not included as items of work in the original contract.

Warranty ó An undertaking by the contractor, supplier, manufacturer or distributor to guarantee that it will correct any manufacturing defects of the works or goods procured by the government.

Warranty Security - A financial instrument submitted by the contractor/supplier/LGU concerned in the form of cash, letter of credit, bank guarantees, surety bond callable on demand, to guarantee against structural defects/failures in the case of works, or against manufacturing defects in the case of goods, during the applicable warranty period after project acceptance.

SAMPLE FORM OF CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT

This CONFIDENTIALITY AGREEMENT (hereinafter "Agreement") is made and entered into this [date] day of [month], [year], by and between:

[First party's details]

and

[Second party's details].

DEFINITION OF CONFIDENTIAL INFORMATION

1. As used in this Agreement, "confidential information" shall mean all information and materials including, without limitation, market analyses, cost estimates, technical specifications, evaluation criteria and results, and any documentation, analyses, compilations, forecasts, studies or other procurement-related documents prepared based on any of the foregoing that is provided by the party disclosing ("Disclosing Party") to the party receiving ("Receiving Party") information under this Agreement, whether oral, written, or in any other medium.

HANDLING OF CONFIDENTIAL INFORMATION

2. The Receiving Party shall maintain the secrecy of the Disclosing Party's Confidential Information and shall exert all reasonable efforts to preserve the confidentiality of such information, including, but not limited to, the implementation of reasonable physical security measures and operating procedures.
3. The Receiving Party agrees that at all times and notwithstanding any termination or expiration of this Agreement, it will hold in strict confidence and not disclose to any third party all Confidential Information received from the Disclosing party, except as approved in writing by the latter. The receiving party shall be prohibited from using the Confidential Information for purposes other than compliance with its obligations as an Observer under Republic Act 9184 and its Implementing Rules and Regulations.
4. Access to Confidential Information of the Disclosing Party shall only be granted by the Receiving Party to its employees or authorized representatives, when their knowledge of such information becomes necessary, provided that such persons have signed confidentiality agreements or are otherwise bound by confidentiality obligations which contain the minimum terms, restrictions and limitations provided herein.

PERIOD AND TERMINATION

5. This Agreement shall be effective for a period of ____, and shall automatically terminate thereafter. Notwithstanding the termination or expiration of this agreement, all obligations contained herein shall remain valid, effective and binding upon the Receiving Party, his successors and assigns.
6. Upon termination or expiration of this Agreement, or otherwise upon the Disclosing Party's request, all Confidential Information furnished to the Receiving Party shall be promptly returned to the Disclosing Party, or at the Disclosing Party's express request, shall be destroyed. In case of destruction as requested by the Disclosing Party, the same shall be confirmed in writing by the Receiving Party.

EQUITABLE REMEDIES

7. The Receiving Party acknowledges that any breach of this Agreement may cause irreparable harm to the Disclosing Party for which the latter is entitled to seek, among others, indemnification for damages, as well as injunctive or other equitable remedies as may be allowed by law.

MISCELLANEOUS

8. The Receiving Party shall not transfer or assign this Agreement to any other person or entity, whether by operation of law or otherwise, without the prior written consent of the Disclosing Party. Any such attempted assignment shall be void and of no effect.
9. In case any provision of this Agreement is declared by a competent authority to be unenforceable or invalid, such declaration shall not render this Agreement unenforceable or invalid as a whole. The unenforceable or invalid provision shall be changed and interpreted so as to best accomplish the objectives of such provision, subject to existing laws, rules and regulations.
10. This Agreement is the complete and exclusive agreement regarding the disclosure of Confidential Information between the parties, and replaces or supersedes any and all prior oral or written communications and agreements between the parties regarding Confidential Information without prejudice to the rules and regulations concerning restrictions on disclosure of information such as on matters involving national security, diplomatic or foreign relations, intelligence and other classified information.

IN WITNESS WHEREOF, the parties hereto have executed this Confidentiality Agreement as of the date and year first above written.

SIGNED IN THE PRESENCE OF:

[ACKNOWLEDGMENT]

GOVERNMENT PROCUREMENT POLICY BOARD-TECHNICAL SUPPORT OFFICE

Unit 2506, Raffles Corporate Center, F. Ortigas Jr. Road, Ortigas Center, Pasig City

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

Contract ID:

Contract Name:

Location of Contract:

Name of Procuring Entity:

Address:

PROJECT PROCUREMENT MANAGEMENT PLAN (PPMP)

END-USER/UNIT: xxx Division

Charged to GAA

Projects, Programs and Activities (PAPs)

CODE	GENERAL DESCRIPTION	QUANTITY/ SIZE	ESTIMATED BUDGET*	Mode of Procurement	SCHEDULE/MILESTONE OF ACTIVITIES											
					Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec

TOTAL BUDGET:

-

* Upon approval of the GAA, the Indicative PPMP shall be revised into the Final PPMP and the Estimated Budget shall be replaced by the Approved Budget for the Contract (ABC)

NOTE: Technical Specifications for each Item/Project being proposed shall be submitted as part of the PPMP

Prepared By:

Submitted By:

End-user

xxx

(name)

Head, (name of end-user unit)

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

Name of Procuring Entity:

Address:

(Name of Agency) Annual Procurement Plan for FY _____

Code (PAP)	Procurement Program/Project	PMO/ End-User	Mode of Procurement	Schedule for Each Procurement Activity				Source of Funds	Estimated Budget (PhP)			Remarks (brief description of Program/Project)
				Ads/Post of IB/REI	Sub/Open of Bids	Notice of Award	Contract Signing		Total	MOOE	CO	

DEFINITION

1. PROGRAM (BESF). A homogeneous group of activities necessary for the performance of a major purpose for which a government agency is established, for the basic maintenance of the agency's administrative operations or for the provisions of staff support to the agency's administrative operations or for the provisions of staff support to the agency's line functions.

2. PROJECT (BESF). Special agency undertakings which are to be carried out within a definite time frame and which are intended to result in some pre-determined measure of goods and services.

3. PMO/End User - Unit as proponent of program or project

4. Mode of Procurement - Competitive Bidding and Alternative Methods including: selective bidding, direct contracting, repeat order, shopping, and negotiated procurement.

5. Schedule for Each Procurement Activity - Major procurement activities (advertising/posting; submission and receipt/Opening of bids; award of contract; contract signing).

6. Source of Funds - Whether GoP, Foreign Assisted or Special Purpose Fund

7. Estimated Budget - Agency approved estimate of project/program costs

8. Remarks - brief description of program or project

Remarks

Programs and projects should be aligned with budget documents, and especially those posted at the PhilGeps.

Breakdown into mooe and co for tracking purposes; aligned with budget documents

Any remark that will help GPPB track programs and projects

LETTERHEAD & LOGO OF AGENCY

8 July 2016

BLACKLISTING ORDER NO. _____

Pursuant to Section 69.1 of the Revised Implementing Rules and Regulations of Republic Act No. 9184 and the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants (Government Procurement Policy Board Resolution No. 09-2004) and upon recommendation of *Agency BAC*, the *HOPE*, under *Resolution No.* _____ dated _____, hereby issues this Blacklisting Order to the *Manufacturer/Supplier/Distributor/Contractor/Consultant* hereafter stated:

1. Name and Address of the Blacklisted Entity

[Insert Name of Blacklisted Entity]

[Insert Address of Blacklisted Entity]

2. Name of Project

[Insert Name of Project]

3. Location of Project

[Insert Location of Project]

4. Offense Committed

[Insert Offense Committed]

5. Sanctions Imposed:

a. Disqualification for a period of _____ year/s from _____ to _____ from participating in the procurement activities of all government projects.

b. [Forfeiture of the Bid Security or Performance Security of _____.]

Signed by the Head of the Procuring Entity (HOPE)

Received by:

Designation:

Date:

LETTERHEAD & LOGO OF AGENCY

8 July 2016

SUSPENSION ORDER NO. _____

NOTICE OF DECISION

Pursuant to Section 69.1 of the Revised Implementing Rules and Regulations of Republic Act No. 9184 and the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants (Government Procurement Policy Board Resolution No. 09-2004) and upon recommendation of *Agency BAC*, the *HOPE*, under *Resolution No.* _____ dated _____ finding reasonable cause to suspend the *Manufacturer/Supplier/Distributor/Contractor/Consultant* hereafter stated, hereby issues this Suspension Order to:

1. Name and Address of the Suspended Entity

[Insert Name of Suspended Entity]

[Insert Address of Suspended Entity]

2. Name of Project

[Insert Name of Project]

3. Location of Project

[Insert Location of Project]

4. Offense Committed

[Insert Offense Committed (Refer to Grounds under Competitive Bidding Stage)]

5. Sanctions Imposed:

Disqualification from participating in the procurement activities of *Agency* upon receipt of this notice until the period of motion for reconsideration and protest, and shall terminate upon reversal of the decision by the HOPE or appellate authority.

If no motion for reconsideration or protest is filed, the decision shall become final and executory after the lapse of seven (7) calendar days from the receipt of said decision, and a Blacklisting Order shall be issued pursuant thereto.

Signed by the Head of the Procuring Entity (HOPE)

Received by:

Designation:

Date:

AGENCY PROCUREMENT COMPLIANCE AND PERFORMANCE INDICATOR (APCPI)

CONFIRMATION QUESTIONNAIRE

Name of Agency: _____ Date of Interview: _____

Name of Respondent: _____ Position: _____

Instruction: *Please put a check (✓) in the given boxes if each condition is met.*

1. Do you prepare an Annual Procurement Plan for all types of procurement? (5a) () Yes () No

2. Do you prepare an Annual Procurement Plan for Common-Use Supplies and Equipment (APP-CSE) and Procure your Common-Use Supplies and Equipment from the Procurement Service? (2f)
() Yes () No

3. In giving your prospective bidders sufficient period to prepare their bids, which set of conditions were met? (3d)

☐ Bidding documents are available at the time of advertisement/posting at the PhilGEPS website or Agency website;

☐ Supplemental bid bulletins are issued at least seven (7) calendar days before bid opening;

☐ Minutes of pre-bid conference are readily available within three (3) days.

4. In creating your BAC and BAC Secretariat which set of conditions were present?

For BAC: (4a)

☐ Office Order creating the Bids and Awards Committee;

☐ There are at least five (5) members of the BAC;

☐ Members of BAC meet qualifications; and/or

☐ Majority of the members of BAC are trained on R.A. 9184

For BAC Secretariat: (4b)

- ☐ Office Order creating of Bids and Awards Committee Secretariat or designing Procurement Unit to act as BAC Secretariat
- ☐ The Head of the BAC Secretariat meets the minimum qualifications
- ☐ Majority of the members of BAC Secretariat are trained on R.A. 9184

5. In determining whether you provide up-to-date procurement information easily accessible at no cost, which set of conditions were met? (7a)

- ☐ Agency has a working website
- ☐ Procurement information is up-to-date
- ☐ Information is easily accessible at no cost

6. In complying with the preparation, posting and submission of your agency's Procurement Monitoring Report, which set of conditions were met? (7b)

- ☐ Agency prepares the PMRs
- ☐ PMRs are promptly submitted to the GPPB
- ☐ PMRs are posted in the agency website
- ☐ PMRs are prepared using the prescribed format

7. In evaluating the performance of your procurement personnel, which set of conditions were present? (10a)

- ☐ There is a written procedure within the procuring entity in evaluating the performance of procurement personnel
- ☐ Procuring entity communicates standards of evaluation to procurement personnel
- ☐ Procuring entity acts on the results and takes corresponding action

8. Are all of your procurement staff participated in annual procurement training? (10b) () Yes () No

If no, please indicate the how many of your procurement staff participated in annual procurement training _____

9. Do you conduct dialogue to inform and update bidders on the procurement regulations? (10c)

() Yes () No If yes, how often ? _____

10. In determining whether the BAC Secretariat has a system for keeping and maintaining procurement records, which set of conditions were present? (11a)

- ☐ There is a list of contract management related documents that are maintained for a period of at least five years
- ☐ The documents are kept in a duly designated and secure location with hard copies kept in appropriate filing cabinets and soft copies in dedicated computers
- ☐ The documents are properly filed, segregated, easy to retrieve and accessible to authorized users and audit personnel

11. In determining whether the Implementing Units has a system for keeping and maintaining procurement records, which set of conditions were present? (11b)

- ☐ There is a list of contract management related documents that are maintained for a period of at least five years
- ☐ The documents are kept in a duly designated and secure location with hard copies kept in appropriate filing cabinets and soft copies in dedicated computers
- ☐ The documents are properly filed, segregated, easy to retrieve and accessible to authorized users and audit personnel

12. In determining if the agency has well defined and written procedures for quality control, acceptance and inspection of goods, works and services, which set of conditions were present? (12a)

- ☐ Agency has written procedures for quality control, acceptance and inspection of goods, services and works
- ☐ Supervision of civil works is carried out by qualified construction supervisors
- ☐ Agency implements CPES for its works projects and uses results to check contractors' qualifications (applicable for works only)

13. In determining whether your agency complies with the thresholds prescribed for amendments to order, variation orders, advance payment, and slippage in publicly bid contracts, which set of conditions were met? (12b)

- ☐ Amendments to order or variation orders, if any, are within ten percent (10%) of the original contract price
- ☐ Advance payment(s) made does/do not exceed fifteen percent (15%) of the contract amount
- ☐ Goods, works and services are timely delivered

14. How long it will take for your agency to release the final payment to your supplier/service provider, contractor/consultant?_____ (12c)

15. Do you invite Observers in all stages of procurement? (13a) () Yes () No

16. In creating and operating your Internal Audit Unit as prescribed by the DBM (Circular Letter No. 2008-5, April 14, 2008), which set of conditions were present? (14a)

☐ Office Order creating the Internal Audit Unit as prescribed by the DBM (Circular Letter No. 2008-5, April 14, 2008)

☐ Conduct of regular audit of procurement processes and transactions by internal audit unit

☐ Internal audit recommendations on procurement-related matters are implemented within 6 months of the submission of the auditor's report

17. Are COA recommendations responded to or implemented within six months of the submission of the auditors' report? (14b) () Yes () No

18. In determining whether the Procuring Entity has an efficient procurement complaints system and has the capacity to comply with procedural requirements, which set of conditions were present? (15a)

☐ The BAC and the HOPE resolved Requests for Reconsideration and Protests within seven (7) calendar days as per Section 55 of the IRR and decisions

☐ Decisions on Protests are submitted to GPPB

☐ Procuring entity acts upon and adopts specific measures to address procurement-related complaints, referrals, subpoenas by the OMB, COA, GPPB or any quasi-judicial/quasi-administrative body

19. In determining whether agency has a specific anti-corruption program/s related to procurement, which set of conditions were present? (16a)

☐ Agency has a specific good governance program including anti-corruption and integrity development;

☐ Agency has a specific office responsible for the implementation of good governance programs;

☐ Agency has specific policies and procedures in place for detection and prevention of corruption associated with procurement.

[illegible]

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

MONTHLY PROCUREMENT MONITORING REPORT

Name of DPWH Procuring Entity:_____

Period Covered:_____

Items/Projects Procured by Method of Procurement	Total Amount of Approved APP	Total No. of Proc. Activities	Contracts Awarded		Total Number of Bidders			PhilGEPS Posting		Ave. No. of Days from Advertise- ment to Contract Award	No. of Contracts with Observers Attending
			Number	Total Amount	Passing Eligibility Check	Acquiring Bid Docs	Submitting Bids	No. of Bid Opportunities	No. of Contract Award		
1	2	3	4	5	6	7	8	9	10	11	12
1. Public Bidding*											
1.1. Goods											
1.2. Works											
1.3. Consulting Services											
Sub-Total			0.00	0		0	0	0	0		
2. Alternative Modes (List all applicable Modes used)*											
Sub-Total			0.00	0		n/a	n/a	0	0		
3. Foreign Funded Procurement**											
4. Others, specify:											
TOTAL			0.00	0							

***Alternative Modes of Procurement:** Procurement from DBM-PS, Shopping (Others), Direct Contracting, Repeat Order, Limited Source Bidding, Negotiation (Common-Use Supplies), Negotiation (Two Failed Biddings), Negotiation (Small Value Procurement), Negotiation (Others, specify)

Prepared by:

Reviewed By:

Approved By:

Position
Date:_____

Position
Date:_____

Position
Date:_____

ANNEX A
GOVERNMENT PROCUREMENT POLICY BOARD
Agency Procurement Compliance and Performance Indicator (APCPI) Self-Assessment Form

Name of Agency: _____
Date of Self Assessment: _____

Name of Evaluator: _____
Position: _____

No.	Assessment Conditions	Agency Score	APCPI Rating*	Comments/Findings to the Indicators and SubIndicators	Supporting Information/Documentation (Not to be Included in the Evaluation)
PILLAR I. COMPLIANCE WITH LEGISLATIVE AND REGULATORY FRAMEWORK					
Indicator 1. Competitive Bidding as Default Procurement Method					
1	(a) Percentage of public bidding contracts in terms of amount of total procurement	#DIV/0!	#DIV/0!		PMRs
2	(b) Percentage of public bidding contracts in terms of volume of total procurement	#DIV/0!	#DIV/0!		PMRs
Indicator 2. Limited Use of Alternative Methods of Procurement					
3	(a) Percentage of Shopping contracts in terms of amount of total procurement	#DIV/0!	#DIV/0!		PMRs
4	(b) Percentage of Negotiated Procurement in terms of amount of total procurement	#DIV/0!	#DIV/0!		PMRs
5	(c) Percentage of Direct Contracting in terms of amount of total procurement	#DIV/0!	#DIV/0!		PMRs
6	(d) Percentage of Repeat Order contracts in terms of amount of total procurement	#DIV/0!	#DIV/0!		PMRs
7	(e) Percentage of Limited Source contracts in terms of amount of total procurement	#DIV/0!	#DIV/0!		PMRs
8	(f) Preparation of Annual Procurement Plan for Common-Use Supplies and Equipment (APP-CSE) and Procurement of Common-Use Supplies and Equipment from the Procurement Service	Not Compliant	0.00		APP, APP-CSE, PMR
Indicator 3. Competitiveness of the Bidding Process					
9	(a) Average number of entities who acquired bidding documents	#DIV/0!	#DIV/0!		Agency records and/or PhilGEPS records
10	(b) Average number of bidders who submitted bids	#DIV/0!	#DIV/0!		Abstract of Bids or other agency records
11	(c) Average number of bidders who passed eligibility stage	#DIV/0!	#DIV/0!		Abstract of Bids or other agency records
12	(d) Sufficient period to prepare bids	Not Compliant	0.00		Agency records and/or PhilGEPS records
		Average I	#DIV/0!		
PILLAR II. AGENCY INSTITUTIONAL FRAMEWORK AND MANAGEMENT CAPACITY					
Indicator 4. Presence of Procurement Organizations					
13	(a) Creation of Bids and Awards Committee(s)	Not Compliant	0.00		Verify copy of Order creating BAC; Organizational Chart; and Certification of Training
14	(b) Creation of a BAC Secretariat or Procurement Unit	Not Compliant	0.00		Verify copy of Order creating BAC Secretariat; Organizational Chart; and Certification of Training
Indicator 5. Procurement Planning and Implementation					
15	(a) APP is prepared for all types of procurement	Not Compliant	0.00		Copy of APP and its supplements (if any)
Indicator 6. Use of Philippine Government Electronic Procurement System (PhilGEPS)					
16	(a) Percentage of bid opportunities posted by the Phil-GEPS-registered Agency	#DIV/0!	#DIV/0!		Agency records and/or PhilGEPS records
17	(b) Percentage of contract award information posted by the Phil-GEPS-registered Agency	#DIV/0!	#DIV/0!		Agency records and/or PhilGEPS records
18	(c) Percentage of contract awards procured through alternative methods posted by the Phil-GEPS-registered Agency	#DIV/0!	#DIV/0!		Agency records and/or PhilGEPS records
Indicator 7. System for Disseminating and Monitoring Procurement Information					
19	(a) Presence of website that provides up-to-date procurement information easily accessible at no cost	Not Compliant	0.00		Identify specific procurement-related portion in the agency website and specific website links
20	(b) Preparation of Procurement Monitoring Reports using the prescribed format, prompt submission to GPPB, and posting in agency website	Not Compliant	0.00		Copy of PMR and received copy that it was submitted to GPPB
		Average II	#DIV/0!		
PILLAR III. PROCUREMENT OPERATIONS AND MARKET PRACTICES					

GOVERNMENT PROCUREMENT POLICY BOARD
Agency Procurement Compliance and Performance Indicator (APCPI) Self-Assessment Form

Name of Agency: _____
 Date of Self Assessment: _____

Name of Evaluator: _____
 Position: _____

No.	Assessment Conditions	Agency Score	APCPI Rating*	Comments/Findings to the Indicators and SubIndicators	Supporting Information/Documentation (Not to be Included in the Evaluation)		
Indicator 8. Efficiency of Procurement Processes							
21	(a) Percentage of total amount of contracts awarded against total amount of approved APPs	#DIV/0!	#DIV/0!		APP (including Supplemental amendments, if any) and PMRs		
22	(b) Percentage of total number of contracts awarded against total number of procurement activities done through public bidding	#DIV/0!	#DIV/0!		APP(including Supplemental amendments, if any)and PMRs		
23	(c) Percentage of failed biddings and total number of procurement activities conducted	#DIV/0!	#DIV/0!		APP (including Supplemental Amendments, if any) and PMRs		
Indicator 9. Compliance with Procurement Timeframes							
24	(a) Percentage of contracts awarded within prescribed procurement time frames to procure goods as indicated in Annex "C" of the IRR	#DIV/0!	#DIV/0!		PMRs		
25	(b) Percentage of contracts awarded within prescribed procurement time frames to procure infrastructure projects as indicated in Annex "C" of the IRR	#DIV/0!	#DIV/0!		PMRs		
26	(c) Percentage of contracts awarded within prescribed procurement time frames to procure consulting services as indicated in Annex "C" of the IRR	#DIV/0!	#DIV/0!		PMRs		
Indicator 10. Capacity Building for Government Personnel and Private Sector Participants							
27	(a) There is a system within the procuring entity to evaluate the performance of procurement personnel	Not Compliant	0.00		Ask BAC Secretariat Head, verify Office Orders on training of Procurement Staff		
28	(b) Percentage of participation of procurement staff in annual procurement training	Less than 60.00% Trained	0.00		Ask for copies of Office Orders, training modules, list of participants, schedules of actual training conducted		
29	(c) Agency has activities to inform and update entities on public procurement	Not Compliant	0.00		Ask for copies of documentation of activities for bidders		
Indicator 11. Management of Procurement and Contract Management Records							
30	(a) The BAC Secretariat has a system for keeping and maintaining procurement records	Not Compliant	0.00		Verify actual procurement records and time it took to retrieve records (should be no more than two hours) Refer to Section 4.1 of User's Manual for list of procurement-related documents for record-keeping and maintenance.		
31	(b) Implementing Unit has and is implementing a system for keeping and maintaining contract management records	Not Compliant	0.00		Verify actual contract management records and time it took to retrieve records should be no more than two hours		
Indicator 12. Contract Management Procedures							
32	(a) Agency has well defined procedures and standards for quality control, acceptance and inspection, supervision of works and evaluation of contractors' performance	Not Compliant	0.00		Verify copies of written procedures for quality control, acceptance and inspection; CPES evaluation formsz		
33	(b) Agency complies with the thresholds prescribed for amendment to order, variation orders, advance payment, and slippage in publicly bid contracts.	Not Compliant	0.00		Specific procurement contract with amendment to order, variation order or with negative slippage		
34	(c) Timely payment of procurement contracts	After 45 days	0.00		Ask Finance or Accounting Head of Agency for average period for the release of payments for procurement contracts		
		Average III	#DIV/0!				
PILLAR IV. INTEGRITY AND TRANSPARENCY OF AGENCY PROCUREMENT SYSTEM							
Indicator 13. Observer Participation in Public Bidding							
35	(a) Observers are invited to all stages of every public bidding activity	Not Compliant	0.00		Verify copies of Invitation Letters to CSOs and professional associations and COA (List and average number of CSOs and PAs invited shall be noted.)		
36	(b) Attendance of Observers in public bidding activities	#DIV/0!	#DIV/0!		PMRs and Abstract of Bids		
Indicator 14. Internal and External Audit of Procurement Activities							

GOVERNMENT PROCUREMENT POLICY BOARD
Agency Procurement Compliance and Performance Indicator (APCPI) Self-Assessment Form

Name of Agency: _____
 Date of Self Assessment: _____

Name of Evaluator: _____
 Position: _____

No.	Assessment Conditions	Agency Score	APCPI Rating*	Comments/Findings to the Indicators and SubIndicators	Supporting Information/Documentation (Not to be Included in the Evaluation)
37	(a) Creation and operation of internal audit unit as prescribed by DBM (Circular Letter No. 2008-5, April 14, 2008)	Not Compliant	0.00		Verify copy of Order or show actual organizational chart showing IAU, audit reports, action plans and IAU recommendations
38	(b) Agency Action on Prior Year's Audit Recommendations (APYAR) on procurement related transactions	Below 60% compliance	0.00		Verify COA Annual Audit Report on Action on Prior Year's Audit Recommendations
Indicator 15. Capacity to Handle Procurement Related Complaints					
39	(a) The Procuring Entity has an efficient procurement complaints system and has the capacity to comply with procedural requirements	Not Compliant	0.00		Verify copies of BAC resolutions on Motion for Reconsiderations, Protests and Complaints; Office Orders adopting measures to address procurement-related complaints
Indicator 16. Anti-Corruption Programs Related to Procurement					
40	(a) Agency has a specific anti-corruption program/s related to procurement	Not Compliant	0.00		Verify documentation of anti-corruption program
		Average IV	#DIV/0!		
GRAND TOTAL (Average I + Average II + Average III + Average IV / 4)			#DIV/0!		

* APCPI Rating is based on the APCPI Rating System found in Annex C of the User's Guide. Please use this rating system for the self-assessment. After completing the assessment, identify those Indicators with ratings of between 0 to 2 and formulate a procurement capacity development plan called the APCPI Action Plan based on the attached format and submit to GPPB for monitoring.

* For sub-indicators that are not applicable to your specific agency, please write the word Not Applicable in the second column and do not put a rating

Summary of APCPI Scores by Pillar

APCPI Pillars	Ideal Rating	Agency Rating
Pillar I: Compliance with Legislative and Regulatory Framework	3.0000	#DIV/0!
Pillar II: Agency Institutional Framework and Management Capacity	3.0000	#DIV/0!
Pillar III: Procurement Operations and Market Practices	3.0000	#DIV/0!
Pillar IV: Integrity and Transparency of Agency Procurement Systems	3.0000	#DIV/0!
Total (Pillar I+Pillar II+Pillar III+ PillarIV)/4	3.0000	#DIV/0!

ANNEX C
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

Name of Agency: _____ **Period Covered:** _____

No.	Assessment Conditions	Agency Score	APCPI Rating	Comments/Findings to the Indicators	Supporting Information/Documentation
		0	0	1	1

ADDITIONAL INFRASTRUCTURE PROJECTS INDICATORS

1	Adherence to Procurement Targets in APP				
2	Extent of Bidders Participation				
3	Time for Bidding Process				
4	Variance between Award Price and ABC				
5	FAPs Award Prices Below ABC				
GRAND TOTAL		#DIV/0!	#DIV/0!		

Prepared by: _____
Position _____
Date: _____

Reviewed By: _____
Position _____
Date: _____

Approved By: _____
Position _____
Date: _____