

28.3. The DPWH Procuring Entity's BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary pass/fail criteria. Unless otherwise specified in the **BDS**, the BAC shall consider the following in the evaluation of bids:

(a) Completeness of the bid. Unless the ITB specifically allows partial bids, bids not addressing or providing all of the required items in the Schedule of Requirements including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) for the said item would mean that it is being offered for free to the DPWH Procuring Entity; and

(b) Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications, if allowed in the **BDS**. Any adjustment shall be calculated in monetary terms to determine the calculated prices.

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

28.5. The DPWH Procuring Entity's evaluation of bids shall only be based on the bid price quoted in the Financial Bid Form.

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

29. Post-Qualification

29.1. The DPWH Procuring Entity shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid (LCB) complies with and is responsive to all the requirements and conditions specified in **ITB** Clauses 5, 0, and 0.

29.2. Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:

(a) Latest income and business tax returns in the form specified in the **BDS**;

- (b) Certificate of PhilGEPS Registration or PhilGEPS Registration Number if the procuring entity is a Philippine foreign office or post, provided that the participating bidder should register with the PhilGEPS prior to bidding; and
- (c) Other appropriate licenses and permits required by law and stated in the **BDS**.

Failure of the Bidder declared as Lowest Calculated Bid to duly submit the requirements under this Clause or a finding against the veracity of such shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.

29.3. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted pursuant to **ITB** Clauses 0 and 0, as well as other information as the DPWH Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion.

29.4. If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the Lowest Calculated Responsive Bid, and recommend to the Head of the Procuring Entity the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower.

29.5. A negative determination shall result in rejection of the Bidder's Bid, in which event the DPWH Procuring Entity shall proceed to the next Lowest Calculated Bid to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next Lowest Calculated Bid, and so on until the Lowest Calculated Responsive Bid is determined for contract award.

29.6. Within a period not exceeding seven (7) calendar days from the date of receipt of the recommendation of the BAC, the Head of the Procuring Entity shall approve or disapprove the said recommendation.

30. Reservation Clause

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

30.2. Based on the following grounds, the DPWH Procuring Entity reserves the right to reject any and all bids, declare a failure of bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any

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

- (a) If there is *prima facie* evidence of collusion between appropriate public officers or employees of the DPWH Procuring Entity, or between the BAC and any of the Bidders, or if the collusion is between or among the bidders themselves, or between a Bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
- (b) If the DPWH Procuring Entity's BAC is found to have failed in following the prescribed bidding procedures; or
- (c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP as follows:
 - (i) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the head of the procuring entity;
 - (ii) If the project is no longer necessary as determined by the head of the procuring entity; and
 - (iii) If the source of funds for the project has been withheld or reduced through no fault of the DPWH Procuring Entity.

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

- (a) No bids are received;
- (b) All prospective Bidders are declared ineligible;
- (c) All bids fail to comply with all the bid requirements or fail postqualification; or
- (d) The Bidder with the Lowest Calculated Responsive Bid (LCRB) refuses, without justifiable cause to accept the award of contract, and no award is made.

F. Award of Contract

31. Contract Award

- 31.1. Subject to **ITB** Clause 0, the Procuring Entity shall award the contract to the Bidder whose bid has been determined to be the LCRB.
- 31.2. Prior to the expiration of the period of bid validity, the DPWH Procuring Entity shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to the DPWH Procuring Entity.
- 31.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:

- (a) Submission of the valid JVA, if applicable, within ten (10) calendar days from receipt by the Bidder of the notice from the BAC that the Bidder has the LCRB;
- (b) Posting of the performance security in accordance with **ITB** Clause 0;
- (c) Signing of the contract as provided in **ITB** Clause 0; and (d) Approval by higher authority, if required.

31.2. At the time of contract award, the DPWH Procuring Entity shall not increase or decrease the quantity of goods originally specified in Section VI. Schedule of Requirements.

32. Signing of the Contract

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

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

32.3. The DPWH Procuring Entity shall enter into contract with the successful Bidder within the same ten (10) calendar day period provided that all the documentary requirements are complied with.

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

- (a) Contract Agreement;
- (b) Bidding Documents;
- (c) Winning bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted;
- (d) Eligibility requirements, documents and/or statements;
- (e) Performance Security;
- (f) Credit line in accordance with **ITB** Clause 0, if applicable;
- (g) Notice of Award of Contract and winning bidder's "Conforme"; and
- (h) Other contract documents that may be required by existing laws and/or specified in the **BDS**.

33. Performance Security

33.1. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum

period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than the signing of the contract.

- 33.2. The performance security shall prescribe at least two (2) acceptable forms of the performance security taken from two (2) categories below that bidders may opt to use, denominated in Philippine Pesos and posted in favor of the DPWH Procuring Entity in an amount equal to the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
(r) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five percent (5%)
(s) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
(t) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty percent (30%)

- 33.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the DPWH Procuring Entity shall initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until the LCRB is identified and selected for contract award. However if no Bidder passed postqualification, the BAC shall declare the bidding a failure and conduct a rebidding with re-advertisement.

34. Notice to Proceed

- 34.1. Within seven (7) calendar days from the date of approval of the contract by the appropriate government approving authority, the DPWH Procuring Entity shall issue its Notice to Proceed to the Bidder.
- 34.2. The contract effectivity date shall be provided in the Notice to Proceed by the DPWH Procuring Entity.