

**PHILIPPINE PROPOSAL/BIDDING
DOCUMENTS**

**Procurement of
CONSULTING
SERVICES**

Government of the Republic of the Philippines

**CONSULTING SERVICES FOR THE
CONDUCT OF FEASIBILITY STUDY OF
THE NORTH PHILIPPINE DRY PORT
CONTAINER RAIL TRANSPORT
SERVICE**

October 2018

TABLE OF CONTENTS

PART I

| | |
|--|-----------|
| SECTION I. REQUEST FOR EXPRESSION OF INTEREST | 3 |
| SECTION II. ELIGIBILITY DOCUMENTS | 7 |
| SECTION III. ELIGIBILITY DATA SHEET..... | 14 |

PART II

| | |
|---|------------|
| SECTION I. NOTICE OF ELIGIBILITY AND SHORT LISTING | 24 |
| SECTION II. INSTRUCTIONS TO PROPONENTS/BIDDERS..... | 26 |
| SECTION III. PROPOSAL/BID DATA SHEET..... | 56 |
| SECTION IV. GENERAL CONDITIONS OF CONTRACT..... | 64 |
| SECTION V. SPECIAL CONDITIONS OF CONTRACT | 88 |
| SECTION VI. TERMS OF REFERENCE..... | 92 |
| SECTION VII. PROPOSAL/BIDDING FORMS | 109 |
| SECTION VIII. APPENDICES | 135 |

Part I

Section I. Request for Expression of Interest



REPUBLIC OF THE PHILIPPINES

NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY

REQUEST FOR EXPRESSION OF INTEREST FOR CONSULTING SERVICES FOR THE CONDUCT OF FEASIBILITY STUDY OF THE NORTH PHILIPPINE DRY PORT CONTAINER RAIL TRANSPORT SERVICE

1. The National Economic and Development Authority (NEDA) intends to apply the sum of **FIFTY MILLION PESOS (PhP50,000,000.00)** inclusive of all applicable Government taxes and charges, professional fees, and other incidental and administrative costs (i.e., transportation/travel expenses, printing, reproduction and packaging of hard and soft copies of reports, expenses for meetings, etc.) which shall be paid in a lump sum basis, as the Approved Budget for the Contract (ABC) to payments under the Contract for the subject consulting services. Proposals received in excess of the ABC shall be automatically rejected at the opening of the Financial Proposals.
2. The NEDA now calls for the submission of EOI and eligibility requirements for the **Consulting Services for the Conduct of Feasibility Study of the North Philippine Dry Port Container Rail Transport Service**. The contract shall be completed within a period of **nine (9) months**, with **6.5 man-months** of work for the Consulting Firm commencing from the date of receipt of Notice to Proceed (NTP).

Eligibility submissions of interested Consultants must be duly received by the NEDA Bids and Awards Committee for Consulting Services (NBAC-CS) on or before **07 November 2018, 12:00 NN**, at the following address:

Jonathan L. Uy

Assistant Secretary and NBAC-CS Chairperson
c/o Procurement Management Division, Administrative Staff
2/F NEDA-sa-Pasig Building, #12 Saint Josemaria Escriva Drive
Ortigas Center, Pasig City 1605

3. Interested Consultants may obtain further information from NEDA and acquire a complete set of Proposal Documents at the address given above from **Mondays to Fridays, 8:00 A.M. to 5:00 P.M., starting 17 October 2018** upon payment of the applicable fee for the Proposal Documents in the amount of **PhP25,000.00**. The Proposal Documents may also be downloaded free of charge from the Philippine Government Electronic Procurement System (PhilGEPS) and NEDA websites, provided that Consultants shall pay the applicable fee for the Proposal Documents not later than the submission of their proposals.
4. A Pre-Proposal/Pre-Bid Conference will be held on **16 November 2018, 12:20 P.M.** at the **OADG-IP Conference Room, 4/F NEDA-sa-Pasig Building**, #12 Saint Josemaria Escriva Drive, Ortigas Center, Pasig City 1605. Representative/s should bring a letter

addressed to the NBAC-CS Chairperson certifying that the representative/s has/have authority to speak for and in behalf of the Consultant.

5. Interested Consultants have the option to submit their Legal, Financial and Class “B” Eligibility Documents (1 original copy and 4 copies), as applicable, in advance (**on or before 25 October 2018, 12:00 NN**) for preliminary evaluation by the NBAC-CS in terms of completeness/compliance. The NBAC-CS, however, shall only proceed with the preliminary evaluation upon payment of a participation fee of **PHP2,000.00**. Note that said amount shall cover the attendant administrative cost for the eligibility check and shortlisting process and shall be deducted from the cost of the Bidding/Proposal Documents. The NBAC-CS, after its preliminary evaluation of advance submissions, shall inform the participating Consultants of any deficiency in their respective submissions at least three (3) calendar days prior to the deadline for submission of Eligibility Documents set in this Request for EOI.
6. The NBAC-CS shall draw up the short list of Consultants from those who have submitted EOI, including the Eligibility Documents, and have been determined as eligible in accordance with the relevant provisions of Republic Act (RA) No. 9184, or the Government Procurement Reform Act (GPRA), and its Revised Implementing Rules and Regulations (IRR). The short list shall consist of three (3) to seven (7) prospective Consultants who will be entitled to submit proposals. The criteria and rating system for shortlisting are as follows:

| Criteria/Particulars | Firm |
|--|-------------------|
| I. Experience and Capability of the Firm <ul style="list-style-type: none"> ▪ Completed consulting services of size, complexity and technical specialty comparable to job under consideration, including quality of performance ▪ Other completed consulting services related to the job under consideration ▪ Known cases of prior performance, including quality of work conforming to obligations and cost of services | 60 points |
| II. Quality of Key Personnel Who May Be Assigned to the Project ¹ | 30 points |
| III. Financial/Job Capacity <ul style="list-style-type: none"> ▪ Absorptive capacity to do additional works other than those currently being undertaken (overall workload relative to capacity) | 10 points |
| Grand Total | 100 points |

¹ Non-organic personnel may be nominated for the purpose of eligibility and shortlisting provided that he/she should submit a signed written commitment stating that he/she shall work for the Study once awarded the contract. The Team Leader may only be nominated by one (1) firm.

*Note: **Similar experience** – This shall be defined as previous accomplishments/contracts with scope of works involving the conduct of pre-F/s, F/S or VE/VA for railway transport sector.*

Relevant experience – This shall be defined as previous accomplishments/contracts with scope of works involving (i) the conduct of pre-F/S, F/S or VE/VA, detailed engineering, advisory services or related studies/services conducted for projects in other transport subsectors concerning freight and logistics, and/or public transportation development; (ii) detailed engineering, advisory services, other related studies/services or components of an F/S (e.g., demand forecast, economic, financial, etc.) for transportation subsectors, and (iii) construction, supervision, civil works or operations and maintenance (O&M) of projects pertaining to public transportation development.

$$\text{Financial Capacity} = \frac{\text{Current Asset} - \text{Current Liabilities} - 2 \text{ months of all ongoing contracts}}{5\% \text{ month of the ABC}}$$

7. The selection process will be conducted through open competitive procurement/bidding procedures using non-discretionary “pass/fail” criterion as specified in the Revised IRR of RA 9184. This procurement activity is open to all interested Consultants subject to the conditions for eligibility provided in said Revised IRR.
8. Proposals shall be evaluated using the Quality-Cost Based Evaluation/Selection (QCBES) procedure at a weight ratio of *eighty percent (80%) for the Technical Proposal and twenty percent (20%) for the financial proposal*. The criteria and rating system for the evaluation of proposals shall be provided in the Instructions to Proponents/Bidders.
9. NEDA reserves the right to reject any and all proposals, including that of a single eligible proponent, waive any minor deviation in the submitted documents which will not materially affect the substance of the proposal, annul the procurement/bidding process, or not award the contract without thereby incurring any liability to the affected participating Consultant/s.
10. For further information, please contact the NBAC-CS Secretariat:

2/F Procurement Management Division, Administrative Staff
#12 Saint Josemaria Escriva Drive, Ortigas Center, Pasig City 1605
(02) 631-3732 / (02) 631-0960 to 65 local 204
Fax Nos. (02) 634-7916

Issued on **16 October 2018**.

(signed)
JONATHAN L. UY
Assistant Secretary
and Chairperson, NBAC-CS

Section II. Eligibility Documents

1. Eligibility Criteria

- 1.1. The following persons/entities shall be allowed to participate in the procurement/bidding for Consulting Services:
 - (a) Duly licensed Filipino citizens/sole proprietorships;
 - (b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
 - (c) Corporations duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
 - (d) Cooperatives duly organized under the laws of the Philippines; or
 - (e) Persons/entities forming themselves into a joint venture, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, That Filipino ownership or interest thereof shall be at least sixty percent (60%). For this purpose, Filipino ownership or interest shall be based on the contributions of each of the members of the joint venture as specified in their JVA.
- 1.2. When the types and fields of Consulting Services involve the practice of professions regulated by law, those who will actually perform the services shall be Filipino citizens and registered professionals authorized by the appropriate regulatory body to practice those professions and allied professions specified in the **EDS**.
- 1.3. If the Request for Expression of Interest allows participation of foreign consultants, prospective foreign proponents/bidders may be eligible subject to the conditions stated in the **EDS**.
- 1.4. Government owned or –controlled corporations (GOCCs) may be eligible to participate only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not attached agencies of the Procuring Entity.

2. Eligibility Requirements

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

Legal Documents

- (i) PhilGEPS Certificate of Registration and Membership in accordance with Section 8.5.2 of the IRR,. For procurement to be performed overseas, it shall be subject to the Guidelines to be issued by the GPPB;

Technical Documents

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

(b) Class "B" Document –

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

- 2.2. The eligibility requirements or statements, the proposals/bids, and all other documents to be submitted to the BAC must be in English. If the eligibility requirements or statements, the proposals/bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator

in the foreign proponent's/bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign proponent's/bidder's affairs in the Philippines. The English translation shall govern, for purposes of interpretation of the proposal/bid.

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

3. Format and Signing of Eligibility Documents

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

4. Sealing and Marking of Eligibility Documents

- 4.1. Prospective proponents/bidders shall enclose their original eligibility documents described in Clause 2.1, in a sealed envelope marked "ORIGINAL – ELIGIBILITY DOCUMENTS". Each copy thereof shall be similarly sealed duly marking the envelopes as "COPY NO. ____ - ELIGIBILITY DOCUMENTS". These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 4.2. The original and the number of copies of the eligibility documents as indicated in the **EDS** shall be typed or written in ink and shall be signed by the prospective proponent/bidder or its duly authorized representative/s.
- 4.3. All envelopes shall:
 - (c) contain the name of the contract to be procured/bid in capital letters;
 - (d) bear the name and address of the prospective proponent/bidder in capital letters;

- (e) be addressed to the Procuring Entity's BAC specified in the **EDS**;
- (f) bear the specific identification of this Project indicated in the **EDS**; and
- (g) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of eligibility documents, in accordance with Clause 5.

4.4 Eligibility documents that are not properly sealed and marked, as required in the proposal/bidding documents, shall not be rejected, but the proponent/bidder or its duly authorized representative shall acknowledge such condition of the documents as submitted. The BAC shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked eligibility documents, or for its premature opening.

5. Deadline for Submission of Eligibility Documents

Eligibility documents must be received by the Procuring Entity's BAC at the address and on or before the date and time indicated in the Request for Expression of Interest and the **EDS**. In case the deadline for submission of bids fall on a non-working day duly declared by the president, governor, or mayor or other government official authorized to make such declaration, the deadline shall be the next working day.

6. Late Submission of Eligibility Documents

Any eligibility documents submitted after the deadline for submission and receipt prescribed in the REI shall be declared "Late" and shall not be accepted by the Procuring Entity. The BAC shall record in the minutes of submission and opening of eligibility documents, the Proponent/Bidder's name, its representative and the time the eligibility documents were submitted late.

7. Modification and Withdrawal of Eligibility Documents

- 7.1.** The prospective proponent/bidder may modify its eligibility documents after it has been submitted; provided that the modification is received by the Procuring Entity prior to the deadline specified in Clause 5. The prospective proponent/bidder shall not be allowed to retrieve its original eligibility documents, but shall be allowed to submit another set equally sealed, properly identified, linked to its original proposal/bid marked as "ELIGIBILITY MODIFICATION" and stamped "received" by the BAC. Modifications received after the applicable deadline shall not be considered and shall be returned to the prospective proponent/bidder unopened.
- 7.2.** A prospective proponent/bidder may, through a letter of withdrawal, withdraw its eligibility documents after it has been submitted, for valid and justifiable reason; provided that the letter of withdrawal is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of eligibility documents.
- 7.3.** Eligibility documents requested to be withdrawn in accordance with this Clause shall be returned unopened to the prospective proponent/bidder concerned. A prospective proponent/bidder that withdraws its eligibility documents shall not

be permitted to submit another set, directly or indirectly, for the same project. A prospective proponent/bidder that acquired the eligibility documents may also express its intention not to participate in the procurement/bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of eligibility documents.

8. Opening and Preliminary Examination of Eligibility Documents

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

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

- 8.2.** Letters of withdrawal shall be read out and recorded during the opening of eligibility documents and the envelope containing the corresponding withdrawn eligibility documents shall be returned unopened to the withdrawing prospective proponent/bidder.
- 8.3.** The eligibility documents envelopes and modifications, if any, shall be opened one at a time, and the following read out and recorded:
- (c) the name of the prospective proponent/bidder;
 - (d) whether there is a modification or substitution; and
 - (e) the presence or absence of each document comprising the eligibility documents vis-à-vis a checklist of the required documents.
- 8.4.** The eligibility of each prospective proponent/bidder shall be determined by examining each proponent/bidder's eligibility requirements or statements against a checklist of requirements, using non-discretionary "pass/fail" criterion, as stated in the Request for Expression of Interest, and shall be determined as either "eligible" or "ineligible." If a prospective proponent/bidder submits the specific eligibility document required, he shall be rated "passed" for that particular requirement. In this regard, failure to submit a requirement, or an incomplete or patently insufficient submission, shall be considered "failed" for the particular eligibility requirement concerned. If a prospective proponent/bidder is rated "passed" for all the eligibility requirements, he shall be considered eligible to participate in the procurement/bidding, and the BAC shall mark the set of eligibility documents of the prospective proponent/bidder concerned as "eligible." If a prospective proponent/bidder is rated "failed" in any of the eligibility requirements, he shall be considered ineligible to participate in the procurement/bidding, and the BAC shall mark the set of eligibility documents of the prospective proponent/bidder

concerned as “ineligible.” In either case, the BAC chairperson or his duly designated authority shall countersign the markings.

9. Short Listing of Consultants

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

10. Protest Mechanism

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

Section III. Eligibility Data Sheet

Eligibility Data Sheet

| Eligibility Documents | |
|-----------------------|---|
| 1.2 | Not applicable. |
| 1.3 | No further instructions. |
| 2.1(a)(ii) | The statement of all ongoing and completed government and private contracts shall include all such contracts within the last twenty-five (25) years prior to the deadline for the submission and receipt of eligibility documents. |
| 2.1(a)(ii.7) | Copies of Certificate of project completion/acceptance of work from at least two (2) previous clients for the last 10 years. |
| 2.1(b) | <p>Consulting Firms forming themselves into a Joint Venture (JV) shall use the attached format for Joint Venture Agreement (Form D).</p> <p>Each partner of the JV shall attach to the JV Agreement the following:</p> <ol style="list-style-type: none"> (1) Secretary's Certificate/Board Resolution authorizing the person to bid and transact with NEDA, and (2) Secretary's Certificate/Board Resolution authorizing the person to enter into and bind his/her respective corporation to a joint venture, with reference to the Board Resolution of the corporation allowing the entering into a JV (in case of a Secretary's Certificate). <p>The Consulting Firm shall also attach a Special Power of Attorney between the respective authorized representatives appointing one of them as the point person/focal to transact with NEDA (which shall also be named in the JV).</p> <p>The format for JVA does not preclude the bidders from inserting their own conditions.</p> |
| 4.2 | Each prospective proponent/bidder shall submit one (1) original and four (4) properly tabbed/labeled copies of its eligibility documents. |
| 4.3(e) | <p>NEDA Bids and Awards Committee for Consulting Services (NBAC-CS) c/o Procurement Management Division Administrative Staff 2/F NEDA-sa-Pasig Building #12 Saint Josemaria Escriva Drive Ortigas Center, Pasig City, 1605</p> |

| | |
|--------|--|
| 4.3(f) | Consulting Services for the Conduct of Feasibility Study of the North Philippine Dry Port Container Rail Transport Service |
| 5.0 | <p>The address for submission of eligibility documents is:</p> <p>Jonathan L. Uy Assistant Secretary and Chairperson NEDA BAC for Consulting Services (NBAC-CS) c/o Procurement Management Division Administrative Staff 2/F NEDA-sa-Pasig Building #12 Saint Josemaria Escriva Drive Ortigas Center, Pasig City, 1605</p> <p>The deadline for submission of eligibility documents is 07 November 2018 at 12:00 noon.</p> <p><i>In case the deadline for submission of bids fall on a non-working day duly declared by the president, governor or mayor or other government official authorized to make such declaration, the deadline shall be the next working day.</i></p> <p><i>Please note that for the local declaration, said statement will only apply in the City of Pasig where bids are to be submitted.</i></p> |
| 8.0 | <p>The place of opening of eligibility documents is:</p> <p>OADG-IP Conference Room 4/F NEDA-sa-Pasig Building #12 Saint Josemaria Escriva Drive Ortigas Center, Pasig City, 1605</p> <p>The date and time of opening of eligibility documents is:</p> <p>07 November 2018 at 12:30 PM</p> |
| 9.1 | Please refer to the TOR. |
| 9.2 | <p>Shortlisting will be based on applicable experience of the firm, qualifications of key personnel who may be assigned to the job, and job capacity. Job capacity will be measured in terms of financial capacity using the following formula:</p> $\text{Financial Capacity} = \frac{\text{Current Asset} - \text{Current Liabilities} - 2 \text{ months of all ongoing contracts}}{5\% \text{ month of the ABC}}$ <p>The minimum score required to be shortlisted is 70 points/100 points.</p> |

ELIGIBILITY DOCUMENTS SUBMISSION FORM

[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

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

In line with this submission, we certify that:

- a) *[Name of Consultant]* is not blacklisted or barred from procurement/bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board, and that each of the documents submit; and
- b) Each of the documents submitted herewith is an authentic copy of the original, complete, and all statements and information provided therein are true and correct.

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

Yours sincerely,

Signature
Name and Title of Authorized Signatory
Name of Consultant
Address

FORM A. STATEMENT OF COMPLETED CONTRACTS

| Statement of Completed Contracts | | | | | | |
|---|-------------------------------|---|--|--------------------|--|---|
| This is to certify that _____ has the following completed contracts for the period CY _____ | | | | | | |
| Name and Location of the Contract | Date of Award of the Contract | Type and Brief Description of Consulting Services | Consultant's Role (Main Consultant, Sub-Contractor, Partner in a JV, etc.) | Amount of Contract | Contract Duration | Proof/Certificate of Satisfactory Completion or Equivalent Document Issued by at Least Two (2) Clients (Separate Sheet) |
| | | | Note: Include description of the activities conducted /undertaken by the consultant. | | Note: Include month/s and year/s for studies | |
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| | | | | | | |

Name and Signature of Authorized Representative

Date

Instructions:

- a) Cut-off date: The day before the deadline of submission of eligibility documents.
- b) State completed contracts for the last twenty-five (25) years. Contracts that are similar / relevant to the project being procured/bid in terms of nature and amount shall be prioritized in inclusion in the list.

FORM B. STATEMENT OF ONGOING AND AWARDED BUT NOT YET STARTED CONTRACTS

Statement of Ongoing and Awarded But Not Yet Started Contracts

This is to certify that _____ has the following ongoing and awarded but not yet started contracts:

| Name and Location of the Contract | Date of Award of the Contract | Type and Brief Description of Consulting Services | Consultant's Role (Main Consultant, Sub-contractor, Partner in a JV, etc.) | Amount of Contract | Contract Duration | Remarks |
|-----------------------------------|-------------------------------|---|---|--------------------|--|---------|
| | | | Note: Include description of the activities to be conducted/undertaken by the consultant. | | Note: Include month/s and year/s for studies | |
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Name and Signature of Authorized Representative

Date

Instructions:

- a) State all ongoing contracts including those awarded but not yet started (government and private contracts which may be similar or not similar to the project called for procurement/bidding) as of the day before the deadline of submission of eligibility documents.
- b) If there is no ongoing contract including awarded but not yet started as of the aforementioned period, state none or equivalent term.

FORMAT OF CURRICULUM VITAE (CV)

Proposed Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

Years with Firm/Entity: _____ Nationality: _____

Membership in Professional Societies: _____

Detailed Tasks Assigned: _____

Key Qualifications:

[Give an outline of staff member's experience and training most pertinent to tasks on project (in months and years with detailed description/discussion on the nature and scope of work). Describe degree of responsibility held by staff member on relevant previous projects and give dates and locations.]

Education:

[Summarize college/university and other specialized education of staff members, giving names of schools, dates attended, and degrees obtained.]

Employment Record:

[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of projects. For experience in last twenty years (in man-months), also indicate role played and types of activities performed and client references, where appropriate. Failure to indicate details of role and duration shall merit zero points.]

Trainings Attended:

[Summarize trainings/seminars attended as participant indicating topic and specific duration (in hours/days). Failure to indicate details shall merit zero points.]

Languages:

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

Certification:

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

[Signature of staff member and authorized representative of the firm]

Date: _____
Day/Month/Year

Full name of staff member: _____

Full name of authorized representative: _____

FORM D. FORMAT OF JOINT VENTURE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

That this JOINT VENTURE AGREEMENT is entered into By and Between:

(Name of Company), a corporation duly organized and registered under Philippine law, with principal office address at (address), and represented herein by (Position), (Name)

-and-

(Name of Company), a corporation duly organized and registered under Philippine law, with principal office address at (address), and represented herein by (Position), (Name)

That the above parties are duly authorized by their respective corporations to enter into and bind their respective corporations to a Joint Venture Agreement, pursuant to a valid Board Resolution issued by their respective Board of Directors/Trustees.

That all parties agree to join together their manpower, equipment, and what is needed to establish a project-specific Joint Venture for the purpose of bidding, and if successful, undertaking of the hereunder stated project of the NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY (NEDA).

| NAME OF PROJECT | ABC |
|-----------------|-----|
| | |

That both parties agree to be jointly and severally liable for the entire assignment.

That both parties agree that (Name of Company) shall act as the lead organization and (Name of Company) as partner organization; and (Name of Company), as the lead organization, will oversee the administration and content of the eligibility and proposal submissions, coordinate with NEDA on any matter that needs attending to, and implement the project in the event that the joint venture wins the bid.

That both parties agree that (Name), (Position), of (Name of Company), shall be the Official Representative of the Joint Venture, and is granted full power and authority to do, to execute, and perform any and all acts necessary, and/or to represent the Joint Venture in the entire bidding and implementation process, as fully and effectively as the Joint Venture may do so as if personally present, without prejudice to the authority of the Joint Venture partners to exercise their power of substitution and revocation.

That this Joint Venture Agreement shall remain in effect only for the above stated Project until terminated by both parties or in the event of an unsuccessful bidding.

In witness thereof, we have hereunto affixed our signatures this ____ day of _____ 2018 at _____.

(Name of Company)

(Name of Company)

by:

(Name)
(Position)

by:

(Name)
(Position)

WITNESSES:

(Signature of Witness)
(Name of Witness)

(Signature of Witness)
(Name of Witness)

ACKNOWLEDGEMENT

BEFORE ME, a Notary Public for and in the (City/Province/Municipality) of _____
_____ this _____ day of _____ 2018, personally appeared:

| NAME | ID PRESENTED/EXPIRATION | PLACE OF ISSUE |
|------|-------------------------|----------------|
| | | |
| | | |

known to me and to me known to be the same persons who executed the foregoing instrument which they acknowledged to me to be their free and voluntary act and deed, consisting of _____ page/s, including this page in which this Acknowledgement is written, duly signed by them and their instrumental witnesses on each and every page hereof.

Doc. No. _____

Page No. _____

Book No. _____

Series of _____

Part II

Section I. Notice of Eligibility and Short Listing

[Insert Date]

[Name and Address of Short Listed Consultant]

Dear *[Addressee]*:

1. The *[insert name of Procuring Entity]* (hereinafter called “Procuring Entity” has received financing (hereinafter called “funds”) from *[insert name of Funding Source]* (hereinafter called the “Funding Source”) toward the cost of *[insert name of project]*. The Procuring Entity intends to apply a portion of the funds in the amount of *[insert amount of ABC]* to eligible payments under the contract for *[insert name of contract]* for which the Proposal/Bidding Documents is issued.
2. The Procuring Entity now invites proposals/bids to provide the following Consulting Services: *[insert short description of objectives and scope of the project]*. More details on the services are provided in the Terms of Reference (TOR) for the project.
3. The Consultant shall be selected and employed in accordance with *[insert evaluation procedure]* procedures as described in the Proposal/Bidding Documents.
4. This notice has been addressed to the following short listed consultants:

[Insert list of short listed consultants]
5. It is not permissible for you to transfer this invitation to any other consultant.
6. The Proposal/Bidding Documents may be acquired at *[indicate address]* during *[insert office hours, e.g. 8:00 a.m. to 5:00 p.m.]* {Insert if necessary: upon payment of an applicable fee for the Proposal/Bidding Documents, pursuant to the latest Guidelines issued by the GPPB, in the amount of *[insert amount in Pesos]*.}
7. The *[insert name of the Procuring Entity]* will hold a Pre-Proposal/Bid Conference on *[insert time and date]* at *[insert address for Pre-Proposal/Bid Conference, if applicable]*, which shall be open to all short listed consultants.²

Yours sincerely,

² May be deleted in case the ABC is less than One Million Pesos (PhP1,000,000) where the Procuring Entity may not hold a pre-proposal/bid conference.

*[Insert signature, name, and title of the
Procuring Entity's Representative]*

Section II. Instructions to Proponents/Bidders

TABLE OF CONTENTS

| | | |
|-----------|---|-----------|
| A. | GENERAL | 28 |
| 1. | Introduction..... | 28 |
| 2. | Conflict of Interest | 28 |
| 3. | Corrupt, Fraudulent, Collusive, Coercive, and Obstructive Practices | 30 |
| 4. | Consultant's Responsibilities..... | 32 |
| 5. | Origin of Associated Goods..... | 34 |
| 6. | Subcontracts..... | 34 |
| B. | CONTENTS OF PROPOSAL/BIDDING DOCUMENTS | 34 |
| 7. | Pre-Proposal/Bid Conference..... | 35 |
| 8. | Clarifications and Amendments to Proposal/Bidding Documents | 35 |
| C. | PREPARATION OF PROPOSALS/BIDS | 36 |
| 9. | Language of Proposals/Bids | 36 |
| 10. | Documents Comprising the Proposal/Bid: Technical Proposal..... | 36 |
| 11. | Documents Comprising the Proposal/Bid: Financial Proposal..... | 39 |
| 12. | Alternative Proposals/Bids..... | 40 |
| 13. | Proposal/Bid Currencies | 40 |
| 14. | Proposal/Bid Validity..... | 40 |
| 15. | Proposal/Bid Security | 40 |
| 16. | Format and Signing of Proposals/Bids | 43 |
| 17. | Sealing and Marking of Proposals/Bids..... | 43 |
| D. | SUBMISSION OF PROPOSALS/BIDS..... | 44 |
| 18. | Deadline for Submission of Proposals/Bids | 44 |
| 19. | Late Proposals/Bids | 45 |
| 20. | Modification and Withdrawal of Proposals/Bids..... | 45 |
| E. | EVALUATION AND COMPARISON OF PROPOSALS/BIDS..... | 46 |
| 21. | Opening and Preliminary Examination of Proposals/Bids | 46 |
| 22. | Process to be Confidential | 47 |
| 23. | Clarification of Proposals/Bids | 47 |

| | | |
|-----------|---|-----------|
| 24. | Proposal/Bid Evaluation | 48 |
| 25. | Evaluation of Technical Proposals..... | 49 |
| 26. | Opening and Evaluation of Financial Proposals | 49 |
| 27. | Negotiations | 50 |
| 28. | Post Qualification..... | 51 |
| 29. | Reservation Clause..... | 51 |
| F. | AWARD OF CONTRACT | 52 |
| 30. | Contract Award..... | 52 |
| 31. | Signing of the Contract | 53 |
| 32. | Performance Security..... | 54 |
| 33. | Notice to Proceed..... | 55 |
| 34. | Protest Mechanism..... | 55 |

A. General

1. Introduction

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

2. Conflict of Interest

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

- (a) If a Consultant combines the function of consulting with those of contracting and/or supply of equipment for the same Project;
- (b) 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 procurement/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
- (c) If there is a conflict among consulting projects, the Consultant (including its personnel and subconsultants) and any subsidiaries or entities controlled by such Consultant shall not be recruited for the relevant project. The duties of the Consultant depend on the circumstances of each case. While continuity of consulting services may be appropriate in particular situations where no conflict exists, a Consultant cannot be recruited to carry out a project that, by its nature, shall result in conflict with a prior or current project of such Consultant. Examples of the situations mentioned are when a Consultant engaged to prepare engineering design for an infrastructure project shall not be recruited to prepare an independent environmental assessment for the same project; similarly, a Consultant assisting a Procuring Entity in privatization of public assets shall not purchase, nor advise purchasers, of such assets; or a Consultant hired to prepare Terms of Reference (TOR) for a project shall not be recruited for the project in question.

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

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

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

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

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

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

- (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Proponents/Bidders (prior to or after proposal/bid submission) designed to establish proposal/bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.
- (iii) “collusive practices” means a scheme or arrangement between two or more Proponents/Bidders, with or without the knowledge of the Procuring Entity, designed to establish proposal/bid prices at artificial, non-competitive levels.
- (iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
- (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or
 - (bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.
- (b) will reject a proposal for award if it determines that the Proponent/Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

3.2. Further, the Procuring Entity will seek to impose the maximum civil, administrative, and/or criminal penalties available under applicable laws on individuals and organizations deemed to be involved in any of the practices mentioned in ITB Clause 3.1(a).

- 3.3. Furthermore, the Funding Source and the Procuring Entity reserve the right to inspect and audit records and accounts of a Consultant in the procurement/bidding for and performance of a contract themselves or through independent auditors as reflected in the GCC Clause 51.

4. Consultant's Responsibilities

- 4.1. The Consultant or its duly authorized representative shall submit a sworn statement in the form prescribed in Section VII. Proposal/Bidding Forms as required in ITB Clause 10.2(d).
- 4.2. The Consultant is responsible for the following:
- (a) Having taken steps to carefully examine all of the Proposal/Bidding Documents;
 - (b) Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
 - (c) Having made an estimate of the facilities available and needed for this Project, if any;
 - (d) Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin/s as provided under ITB Clause 8.4.
 - (e) Ensuring that it is not "blacklisted" or barred from procurement/bidding by the GoP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
 - (f) Ensuring that each of the documents submitted in satisfaction of the proposal/bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
 - (g) Authorizing the Head of the Procuring Entity or its duly authorized representative/s to verify all the documents submitted;
 - (h) Ensuring that the signatory is the duly authorized representative of the Proponent/Bidder, and granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the proposal/bid, and to sign and execute the ensuing contract, accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary's Certificate, whichever is applicable;
 - (i) Complying with the disclosure provision under Section 47 of RA 9184 and its IRR in relation to other provisions of Republic Act 3019;
 - (j) Complying with existing labor laws and standards, in the case of procurement of services. Moreover, proponent/bidder undertakes to:

- (i) Ensure the entitlement of workers to wages, hours of work, safety and health and other prevailing conditions of work as established by national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable.

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

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

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

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

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

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

- 4.3. It shall be the sole responsibility of the prospective proponent/bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to this Project, including: (a) the location and the nature of the contract, project, or work; (b) climatic conditions; (c) transportation facilities; (c) nature and condition of the terrain, geological conditions at the site communication facilities, requirements, location and availability of construction aggregates and other materials, labor, water, electric power and access roads; and (d) other factors that may affect the cost, duration and execution or implementation of the contract, project, or work.
- 4.4. The Procuring Entity shall not assume any responsibility regarding erroneous interpretations or conclusions by the Consultant out of the data furnished by the

Procuring Entity. However, the Procuring Entity shall ensure that all information in the Proposal/Bidding Documents, including supplemental/bid bulletins issued are correct and consistent.

- 4.5. Before submitting their proposals/bids, the Consultants are deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the GoP which may affect the contract in any way.
- 4.6. The Consultant shall bear all costs associated with the preparation and submission of his proposal/bid, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the procurement/bidding process.
- 4.7. Consultants should note that the Procuring Entity will only accept proposals/bids from those that have paid the applicable fee for the Proposal/Bidding Documents at the office indicated in the Request for Expression of Interest.

5. Origin of Associated Goods

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

6. Subcontracts

- 6.1. Unless otherwise specified in the **BDS**, the Consultant may subcontract portions of the Consulting Services to an extent as may be approved by the Procuring Entity and stated in the **BDS**. However, subcontracting of any portion shall not relieve the Consultant from any liability or obligation that may arise from the contract for this Project.
- 6.2. Subconsultant must comply with the eligibility criteria and the documentary requirements specified in the **BDS**. In the event that any subconsultant is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Consulting Services shall be disallowed.
- 6.3. The Consultant may identify the subconsultant to whom a portion of the Consulting Services will be subcontracted at any stage of the procurement/bidding process or during contract implementation. If the Consultant opts to disclose the name of the subconsultant during proposal/bid submission, the Consultant shall include the required documents as part of the technical component of its proposal/bid. A subconsultant that is identified by the Consultant during contract implementation must comply with the eligibility criteria and documentary requirements and secure approval of the Procuring Entity.

B. Contents of Proposal/Bidding Documents

7. Pre- Proposal/Bid Conference

- 7.1. If so specified in the **BDS**, a pre-proposal/bid conference shall be held at the venue and on the date indicated therein, to clarify and address the Consultants' questions on the technical and financial components of this Project.
- 7.2. The pre-proposal/bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of proposals/bids, but not earlier than seven (7) calendar days from the determination of the shortlisted consultants. If the Procuring Entity determines that, by reason of the method, nature, or complexity of the contract to be procured/bid, or when international participation will be more advantageous to the GoP, a longer period for the preparation of proposals/bids is necessary, the pre-proposal/bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of proposals/bids.
- 7.3. Consultants are encouraged to attend the pre- proposal/bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-attendance of the Consultant will in no way prejudice its proposal/bid; however, the Consultant is expected to know the changes and/or amendments to the Proposal/Bidding Documents as recorded in the minutes of the pre- proposal/bid conference and the Supplemental/Bid Bulletin. The minutes of the pre-proposal/bid conference shall be recorded and prepared not later than five (5) calendar days after the pre- proposal/bid conference. The minutes shall be made available to prospective proponents/bidders not later than five (5) days upon written request.
- 7.4. Decisions of the BAC amending any provision of the proposal/bidding documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of proposals/bids.

8. Clarifications and Amendments to Proposal/Bidding Documents

- 8.1. Shortlisted consultants may request for clarification(s) on and/or an interpretation of any part of the Proposal/Bidding Documents. Such a request must be in writing and submitted to the Procuring Entity at the address indicated in the **BDS** at least ten (10) calendar days before the deadline set for the submission and receipt of proposals/bids.
- 8.2. The BAC shall respond to the said request by issuing a Supplemental/Bid Bulletin to be made available to all those who have properly secured the Proposal/Bidding Documents at least seven (7) calendar days before the deadline for the submission and receipt of Proposals/Bids.
- 8.3. Supplemental/Bid Bulletins may also be issued upon the Procuring Entity's initiative for purposes of clarifying or modifying any provision of the Proposal/Bidding Documents not later than seven (7) calendar days before the

deadline for the submission and receipt of proposals/bids. Any modification to the Proposal/Bidding Documents shall be identified as an amendment.

- 8.4. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted in the PhilGEPS and the website of the Procuring Entity concerned, if available and at any conspicuous place in the premises of the Procuring Entity concerned. It shall be the responsibility of all Consultants who have properly secured the Proposal/Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, Consultants who have submitted proposals/bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their proposals/bids in accordance with ITB Clause 20.

C. Preparation of Proposals/Bids

9. Language of Proposals/Bids

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

10. Documents Comprising the Proposal/Bid: Technical Proposal

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

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

- (a) Technical Proposal Submission Form shall be the cover letter of the Technical Proposal, using the form prescribed in Section VII. Proposal/Bidding Forms (TPF 1).
- (b) Proposal/Bid security as prescribed in ITB Clause 15. If the proponent/bidder opts to submit the proposal/bid security in the form of:
 - (i) a bank draft/guarantee or an irrevocable Letter of Credit issued by a foreign bank, it shall be accompanied by a confirmation from a Universal or Commercial Bank; or
 - (ii) a surety bond accompanied by a certification coming from the Insurance Commission that the surety or insurance company is authorized to issue such instrument.
- (c) Information indicated in the paragraphs below must be provided by the Consultant and each partner and/or subconsultant, if any, following the formats described in the Technical Proposal Forms:
 - (i) A brief description of the organization and outline of recent experience of the Consultant and each partner and/or subconsultant on projects of a similar and related nature as required in form TPF 2. Consultant's References. For each project, the outline should indicate *inter alia*, the project, contract amount and the Consultant's involvement. Information should be provided only for those projects for which the Consultant was legally contracted by itself or as one of the major participating consultants within an association. Whenever applicable, the experience of individual experts from projects completed independently or when associated with consultants other than the one with whom the individual is currently associated with cannot be claimed as the experience of the current consultant or any one of its partners and/or subconsultants, but can be claimed by the individuals themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the Procuring Entity.
 - (ii) Comments, if any, on the TOR (TPF 3. Comments and Suggestions of Consultant on the Terms of Reference and on Data, Services, and Facilities to be Provided by the Procuring Entity) to improve performance in carrying out the Project. Innovativeness shall be appreciated, including workable suggestions that could improve the quality/effectiveness of the Project. In this regard, unless the Consultant clearly states otherwise, it shall be assumed by the Procuring Entity that work required to implement any such improvements, are included in the inputs shown on the Consultant's Staffing Schedule. It shall include a list of facilities requested by the Consultant to be

provided by the Procuring Entity, if any, in addition to those shown on the Data Sheet that may include support facilities such as: counterpart staff, office space, local transportation, equipment, domestic administrative support, etc. that would be needed to carry out the project.

- (iii) A concise, complete, and logical description of how the Consultant's team shall carry out the services to meet all requirements of the TOR using TPF 4. Description of the Methodology and Work Plan for Performing the Project.
- (iv) An organization chart of the key and support staff indicating their tasks and relationships amongst the Consultant and any partner and/or subconsultant, the Procuring Entity, the Funding Source and the GoP, and other parties or stakeholders, if any, involved in the project using TPF 5. Team Composition and Task.
- (v) The name, age, nationality, background employment record, and professional experience of each nominated expert including ongoing projects, with particular reference to the type of experience required for the tasks assigned should be presented in the CV format shown in TPF 6. Format of Curriculum Vitae (CV) for Proposed Professional Staff. Only one duly notarized CV for each consultant involved in the Project may be submitted for each position.
- (vi) The Procuring Entity requires that each expert confirm that the content of his/her CV is correct and the experts themselves should sign the certification of the CV. In addition, the expert should submit a signed written commitment stating that the expert shall work for the Project once awarded the contract. A zero rating shall be given to a nominated expert if the expert:
 - (vi.1) is proposed for a domestic position but is not a Filipino citizen;
 - (vi.2) failed to state nationality on the CV; or
 - (vi.3) the CV is not signed in accordance with paragraph (v) above.
- (vii) A Time Schedule (TPF 7. Time Schedule for Professional Personnel) indicating clearly the estimated duration in terms of person-months (shown separately for work in the field and in the home office) and the proposed timing of each input for each nominated expert, including domestic experts, if required, using the format shown. The schedule shall also indicate when experts are working in the project office and when they are working at locations away from the project office.

- (viii) A work plan showing in graphical format (bar chart) the timing of major activities, anticipated coordination meetings, and deliverables such as reports required under the TOR using TPF 8. Activity (Work) Schedule.
- (d) Sworn statement in accordance with Section 25.3 of the IRR of RA 9184 and using the form prescribed in Section VII. Proposal/Bidding Forms.

11. Documents Comprising the Proposal/Bid: Financial Proposal

- 11.1. All information provided in a Consultant's Financial Proposal shall be treated as confidential. The Financial Proposal must be submitted in hard copy using the format shown in Financial Proposal Forms.
- 11.2. The Financial Proposal requires completion of six (6) forms, particularly, FPF 1, FPF 2, FPF 3, FPF 4, FPF 5, and FPF 6. FPF 1. Financial Proposal Submission Form should form the covering letter of the Financial Proposal. Form FPF 2. Summary of Costs FPF 3. Breakdown of Price per Activity, FPF 4. Breakdown of Remuneration per Activity, FPF 5. Reimbursables per Activity, and FPF 6. Miscellaneous Expenses, relate to the costs of consulting services under two distinct categories, namely: (a) Remuneration; and (b) Reimbursable Expenditures.
- 11.3. Remuneration is divided into billing rate estimates for international and domestic consultants. Reimbursable Expenditures are divided into per diem rates for international and domestic consultants and costs for other reimbursable expenditure items required to perform the consulting services.
- 11.4. The list of experts, and their respective inputs, identified in Financial Proposal Forms, must match the list of experts and their respective inputs shown in Technical Proposal Forms.
- 11.5. The Consultant shall be subject to Philippine taxes on amounts payable by the Procuring Entity under the contract through mandated withholding by local tax authorities of specified percentages of such amounts or otherwise. The **BDS** details the taxes payable.
- 11.6. The Financial Proposal should clearly estimate, as a separate amount, the local taxes (including social security), duties, fees, levies, and other charges imposed under the applicable law, on the Consultants, the subconsultants, and its personnel (other than Philippine Nationals or permanent residents of the Philippines).
- 11.7. Unless otherwise provided in the **BDS**, total calculated proposal/bid prices, as evaluated and corrected for minor arithmetical corrections, such as computational errors, which exceed the approved budget for the contract (ABC) shall not be considered.

12. Alternative Proposals/Bids

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

13. Proposal/Bid Currencies

- 13.1. All proposal/bid prices shall be quoted in Philippine Pesos unless otherwise provided in the **BDS**. However, for purposes of proposal/bid evaluation, proposals/bids denominated in foreign currencies shall be converted to Philippine currency based on the exchange rate prevailing on the day of the proposal/bid opening.
- 13.2. If so allowed in accordance with ITB Clause 13.1, the Procuring Entity for purposes of proposal/bid evaluation and comparing the proposal/bid prices will convert the amounts in various currencies in which the proposal/bid price is expressed to Philippine Pesos at the exchange rate as published in the *Bangko Sentral ng Pilipinas* (BSP) reference rate bulletin on the day of the proposal/bid opening.
- 13.3. Unless otherwise specified in the **BDS**, payment of the contract price shall be made in Philippine Pesos.

14. Proposal/Bid Validity

- 14.1. Proposals/Bids shall remain valid for the period specified in the **BDS** which shall not exceed one hundred twenty (120) calendar days from the date of the opening of proposals/bids.
- 14.2. In exceptional circumstances, prior to the expiration of the proposal/bid validity period, the Procuring Entity may request Consultants to extend the period of validity of their proposals/bids. The request and the responses shall be made in writing. The proposal/bid security described in ITB Clause 15 should also be extended corresponding to the extension of the proposal/bid validity period at the least. A Consultant may refuse the request without forfeiting its proposal/bid security, but his proposal/bid shall no longer be considered for further evaluation and award. A Consultant granting the request shall not be required or permitted to modify its proposal/bid.

15. Proposal/Bid Security

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

| Form of Proposal/Bid Security | Amount of Proposal/Bid Security (Not less than the Percentage of the ABC) |
|-------------------------------|---|
|-------------------------------|---|

| | |
|---|-------------------|
| <p>a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.</p> <p><i>For procurements/biddings conducted by LGUs, the cashier's/manager's check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p> | Two percent (2%) |
| <p>b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.</p> <p><i>For procurements/biddings conducted by LGUs, the Bank Draft/ Guarantee, or irrevocable letter of credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p> | |
| <p>c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.</p> | Five percent (5%) |

The Proposal/Bid Securing Declaration mentioned above is an undertaking which states, among others, that the proponent/bidder shall enter into contract with the Procuring Entity and furnish the performance security required under ITB Clause 31, within ten (10) calendar days from receipt of the Notice of Award, and commits to pay the corresponding amount as fine, and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as provided in the guidelines issued by the GPPB.

- 15.2. The proposal/bid security should be valid for the period specified in the **BDS**. Any proposal/bid not accompanied by an acceptable proposal/bid security shall be rejected by the Procuring Entity as non-responsive.
- 15.3. No proposal/bid securities shall be returned to the Consultants after the opening of proposals/bids and before contract signing, except to those that failed or

declared as post-disqualified, upon submission of a written waiver of their right to file a request for reconsideration and/or protest or lapse of the reglementary period without having filed a request for reconsideration or protest. Without prejudice on its forfeiture, proposal/bid securities shall be returned only after the proponent/bidder with the Highest Rated Responsive Proposal/Bid (HRRB) has signed the contract and furnished the performance security, but in no case later than the expiration of the proposal/bid security validity period indicated in ITB Clause 15.2.

15.4. Upon signing and execution of the contract pursuant to ITB Clause 31, and the posting of the performance security pursuant to ITB Clause 32, the Consultant's proposal/bid security will be discharged, but in no case later than the proposal/bid security validity period as indicated in ITB Clause 15.2.

15.5. The proposal/bid security may be forfeited:

- (a) if a Consultant:
 - (i) withdraws its proposal/bid during the period of proposal/bid validity specified in ITB Clause 15.2;
 - (ii) does not accept the correction of errors pursuant to ITB Clause 11.7;
 - (iii) has a finding against the veracity of the required documents submitted in accordance with ITB Clause 27.2;
 - (iv) submission of eligibility requirements containing false information or falsified documents;
 - (v) any submission of proposals/bids that contain false information or falsified documents, or the concealment of such information in the proposals/bids in order to influence the outcome of eligibility screening or any other stage of the public procurement/bidding;
 - (vi) allowing the use of one's name, or using the name of another for purposes of public procurement/bidding;
 - (vii) withdrawal of a proposal/bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Proponent/Bidder had been adjudged as having submitted the LCRB;
 - (viii) refusal or failure to post the required performance security within the prescribed time;
 - (ix) refusal to clarify or validate in writing its proposal/bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification;

- (x) any documented attempt by a Proponent/Bidder to unduly influence the outcome of the procurement/bidding in his favor;
 - (xi) failure of the potential joint venture partners to enter into the joint venture after the proposal/bid is declared successful; or
 - (xii) all other acts that tend to defeat the purpose of the competitive procurement/bidding, such as habitually withdrawing from procurement/bidding, submitting late Proposals/Bids or patently insufficient proposal/bid, for at least three (3) times within a year, except for valid reasons.
- (b) if the successful Consultant:
- (i) fails to sign the contract in accordance with ITB Clause 31;
 - (ii) fails to furnish performance security in accordance with ITB Clause 32; or
 - (iii) any other reason stated in the BDS.

16. Format and Signing of Proposals/Bids

- 16.1. Consultants shall submit their proposals/bids through their duly authorized representative using the appropriate forms provided in Section VII. Proposal/Bidding Forms on or before the deadline specified in the ITB Clause 18 in two (2) separate sealed proposal/bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical proposal and the second shall contain the financial proposal.
- 16.2. Forms as mentioned in ITB Clause 16.1 must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.
- 16.3. The Consultant shall prepare an original of the first and second envelopes as described in ITB Clauses 10 and 11. In addition, the Consultant shall submit copies of the first and second envelopes. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 16.4. Each and every page of the Technical Proposal Submission Form and the Financial Proposal Submission Form under Section VII hereof shall be signed by the duly authorized representative/s of the Consultant. Failure to do so shall be a ground for the rejection of the proposal/bid.
- 16.5. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Consultant.

17. Sealing and Marking of Proposals/Bids

- 17.1. Unless otherwise indicated in the BDS, Consultants shall enclose their original technical proposal described in ITB Clause 10, in one sealed envelope marked

“ORIGINAL - TECHNICAL PROPOSAL”, and the original of their financial proposal in another sealed envelope marked “ORIGINAL - FINANCIAL PROPOSAL”, sealing them all in an outer envelope marked “ORIGINAL PROPOSAL/BID”.

- 17.2. Each copy of the first and second envelopes shall be similarly sealed duly marking the inner envelopes as “COPY NO. ____ - TECHNICAL PROPOSAL” and “COPY NO. ____ – FINANCIAL PROPOSAL” and the outer envelope as “COPY NO. ____”, respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 17.3. The original and the number of copies of the proposal/bid as indicated in the **BDS** shall be typed or written in ink and shall be signed by the proponent/bidder or its duly authorized representative/s.
- 17.4. All envelopes shall:
 - (a) contain the name of the contract to be procured/bid in capital letters;
 - (b) bear the name and address of the Consultant in capital letters;
 - (c) be addressed to the Procuring Entity’s BAC in accordance with ITB Clause 18.1;
 - (d) bear the specific identification of this procurement/bidding process indicated in the ITB Clause 1.2; and
 - (e) bear a warning “DO NOT OPEN BEFORE...” the date and time for the opening of proposals/bids, in accordance with ITB Clause 18.
- 17.5. Proposal/Bid envelopes that are not properly sealed and marked, as required in the proposal/bidding documents, shall not be rejected, but the proponent/bidder or its duly authorized representative shall acknowledge such condition of the Proposal/Bid as submitted. The BAC or the Procuring Entity shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked Proposal/Bid, or for its premature opening.

D. Submission and Opening of Proposals/Bids

18. Deadline for Submission of Proposals/Bids

Proposals/Bids must be received by the Procuring Entity’s BAC at the address and on or before the date and time indicated in the **BDS**. In case the deadline for submission of bids fall on a non-working day duly declared by the president, governor, or mayor or other government official authorized to make such declaration, the deadline shall be the next working day.

19. Late Proposals/Bids

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

20. Modification and Withdrawal of Proposals/Bids

- 20.1. The Consultant may modify its proposal/bid after it has been submitted; provided that the modification is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of proposals/bids. The Consultant shall not be allowed to retrieve its original proposal/bid, but shall be allowed to submit another proposal/bid equally sealed, properly identified in accordance with ITB Clause 17.4, linked to its original proposal/bid marked as “TECHNICAL MODIFICATION” or “FINANCIAL MODIFICATION” and stamped “received” by the BAC. Proposal/Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Consultant unopened.
- 20.2. A Consultant may, through a letter of withdrawal, withdraw its proposal/bid after it has been submitted, for valid and justifiable reason; provided that the letter of withdrawal is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of proposals/bids. The letter of withdrawal must be executed by the authorized representative of the Proponent/Bidder identified in the Omnibus Sworn Statement, a copy of which should be attached to the letter.
- 20.3. Proposals/Bids requested to be withdrawn in accordance with ITB Clause 20.1 shall be returned unopened to the Proponents/Bidders. A Consultant, who has acquired the proposal/bidding documents, may also express its intention not to participate in the procurement/bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of proposals/bids. A Consultant that withdraws its proposal/bid shall not be permitted to submit another proposal/bid, directly or indirectly, for the same contract.
- 20.4. No proposal/bid may be modified after the deadline for submission of proposals/bids. No proposal/bid may be withdrawn in the interval between the deadline for submission of proposals/bids and the expiration of the period of proposal/bid validity specified by the Consultant on the Financial Proposal/Bid Form. Withdrawal of a proposal/bid during this interval shall result in the forfeiture of the Consultant’s proposal/bid security, pursuant to ITB Clause 15.5, and the imposition of administrative, civil, and criminal sanctions as prescribed by R.A. 9184 and its IRR.

E. Evaluation and Comparison of Proposals/Bids

21. Opening and Preliminary Examination of Proposals/Bids

- 21.1 Only proposals/bids from short listed proponents/bidders shall be opened and considered for award of contract. These short listed proponents/bidders, whether single entities or JVs, should confirm in their Technical Proposal Submission Form that the information contained in the submitted eligibility documents remains correct as of the date of proposal/bid submission.
- 21.2 The BAC shall open the proposals/bids immediately after the deadline for the submission and receipt of proposals/bids in public, as specified in the **BDS**. In case the proposals/bids cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the proposals/bids submitted and reschedule the opening on the next working day or at the soonest possible time through the issuance of a Bulletin to be posted at the PhilGEPS website and the website of the Procuring Entity concerned.
- 21.3 To determine each proponent/bidder's compliance with the documents prescribed in **ITB** Clause 10, the BAC shall open the first envelope (Technical Proposal) and check the submitted documents of each proponent/bidder in accordance with ITB Clause 10.2 to ascertain if they are all present, using a non-discretionary "pass/fail" criterion. If a proponent/bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, proposals/bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as "failed". Otherwise, the BAC shall rate the said first proposal/bid envelope as "passed".
- 21.4 Letters of withdrawal shall be read out and recorded during proposal/bid opening, and the envelope containing the corresponding withdrawn proposal/bid shall be returned to the Consultant unopened
- 21.5 All members of the BAC who are present during proposal/bid opening shall initial every page of the original copies of all proposals/bids received and opened.
- 21.6 All technical envelopes shall be resealed. Those rated "passed" shall be secured for the detailed technical proposal/bid evaluation, while those rated "failed" will be secured for purposes of possible filing of a request for reconsideration unless the proponent/bidder waives its right to file a request for reconsideration, in which case, the envelope shall be returned to the proponent/bidder immediately.
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- 21.7 The Procuring Entity shall prepare the minutes of the proceedings of the proposal/bid opening that shall include, as a minimum: (a) names of Proponent/Bidders, their proposal/bid price (per lot, if applicable, and/or including discount, if any), proposal/bid security, findings of preliminary examination, and whether there is a withdrawal or modification; and (b) attendance sheet. The BAC members shall sign the abstract of proposals/bids as read.

22. Process to be Confidential

- 22.1 Members of the BAC, including its staff and personnel, as well as its Secretariat and TWG, are prohibited from making or accepting any kind of communication with any Consultant regarding the evaluation of their proposals/bids until the approval by the HoPE of the ranking of shortlisted Consultants, unless otherwise allowed in the **BDS** or in the case of ITB Clause 23.
- 22.2 Any effort by a proponent/bidder to influence the Procuring Entity in the Procuring Entity's decision in respect of proposal/bid evaluation, proposal/bid comparison or contract award will result in the rejection of the Consultant's proposal/bid.

23. Clarification of Proposals/Bids

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

24. Proposal/Bid Evaluation

- 24.1 For the evaluation of proposals/bids, numerical ratings shall be used. In order to eliminate bias in evaluating the Proposals/Bids, it is recommended that the highest and lowest scores for each Consultant for each criterion shall not be considered in determining the average scores of the Consultants, except when the evaluation is conducted in a collegial manner.
- 24.2 For complex or unique undertakings, such as those involving new concepts/technology or financial advisory services, participating short listed consultants may be required, at the option of the Procuring Entity concerned, to make an oral presentation to be presented by each Consultant, or its nominated Project Manager or head, in case of consulting firms, within fifteen (15) calendar days after the deadline for submission of Technical Proposals.
- 24.3 The entire evaluation process, including the submission of the results thereof to the HoPE for approval, shall be completed in not more than twenty-one (21) calendar days after the deadline for receipt of proposals/bids. The proposal/bid with the highest rank shall be identified as the Highest Rated Proposal/Bid. The HoPE shall approve or disapprove the recommendations of the BAC within two (2) calendar days after receipt of the results of the evaluation from the BAC.
- 24.4 All participating short listed consultants shall be furnished the results (ranking and total scores only) of the evaluation after the approval by the HoPE of the ranking. Said results shall also be posted in the PhilGEPS and the website of the Procuring Entity, if available, for a period of not less than seven (7) calendar days.

25 Evaluation of Technical Proposals

- 25.1 The BAC shall then conduct a detailed evaluation of technical proposals/bids following the procedures specified in the **BDS** depending on the evaluation procedure identified in the Request for Expression of Interest and ITB Clause 1.1.
- 25.2 The BAC evaluates the Technical Proposals on the basis of their compliance with the requirements under ITB Clause 10 and responsiveness to the TOR using the following criteria:
- (a) Quality of personnel to be assigned to the Project which covers suitability of key staff to perform the duties for the Project and general qualifications and competence including education and training of the key staff;
 - (b) Experience and capability of the Consultant which include records of previous engagement and quality of performance in similar and in other projects; relationship with previous and current clients; and, overall work commitments, geographical distribution of current/impending projects and attention to be given by the consultant. The suitability of the Consultant to the Project shall consider both the overall experiences of the firm and the individual experiences of the principal and key staff including the times when employed by other consultants; and
 - (c) Plan of approach and methodology with emphasis on the clarity, feasibility, innovativeness and comprehensiveness of the plan approach, and the quality of interpretation of project problems, risks, and suggested solutions.
- 25.3 The BAC shall assign numerical weights and the minimum required technical score to each of the above criteria which shall be indicated in the **BDS**. A Proposal/Bid shall be rejected at this stage if it does not respond to important aspects of the TOR or if it fails to achieve the minimum Technical Score (St) indicated in the **BDS**.
- 25.4 Technical Proposals shall not be considered for evaluation in any of the following cases:
- (a) late submission, *i.e.*, after the deadline set in the **ITB Clause 18**;
 - (b) failure to submit any of the technical requirements provided under this ITB and TOR;
 - (c) the Consultant that submitted a Proposal/Bid or any of its partner and/or subconsultant belongs to one of the conflict of interest cases as described in ITB Clauses 2.1(a) to (c) and failed to make a proper statement to that effect in the cover letter; or
 - (d) the Technical Proposal included any cost of the services.

26 Opening and Evaluation of Financial Proposals

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

27 Negotiations

- 27.1 Negotiations with the Consultant that submitted the Highest Rated Proposal/Bid shall be held at the address indicated in the **BDS**. The aim is to reach agreement on all points.
- 27.2 Negotiations shall cover the following:
- (a) Discussion and clarification of the TOR and Scope of Services;
 - (b) Discussion and finalization of the methodology and work program proposed by the Consultant;
 - (c) Consideration of appropriateness of qualifications and pertinent compensation, number of man-months and the personnel to be assigned to the job, taking note of over-qualified personnel to be commensurate with the compensation of personnel with the appropriate qualifications, number of man-months and schedule of activities (manning schedule);
 - (d) Discussion on the services, facilities and data, if any, to be provided by Procuring Entity concerned;
 - (e) Unless otherwise indicated in the **BDS**, discussion on the Financial Proposal submitted by the Consultant; and
 - (f) Provisions of the contract.
- 27.3 Having selected the Consultant on the basis of, among other things, an evaluation of the proposed key professional staff, the Procuring Entity expects to negotiate a contract on the basis of the experts named in the proposal/bid. Before contract negotiations, the Procuring Entity shall require assurances that the experts shall be actually available. The Procuring Entity shall not consider substitutions during contract negotiations except for justifiable reason as may be determined by the Procuring Entity, such as illness, death, or resignation, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the Project. If this is not the case and if it is established that key staff were offered in the proposal/bid without confirming their availability, the Consultant may be disqualified. Once the contract has been awarded, no replacement shall be allowed until after fifty percent (50%) of the personnel's man-months have been served, except for justifiable reasons as may be determined by the Procuring Entity. Violators shall be fined an amount equal to the refund of the

replaced personnel's basic rate, which should be at least fifty percent (50%) of the total basic rate for the duration of the engagement.

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

28 Post Qualification

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

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

- 28.3 The determination shall be based upon an examination of the documentary evidence of the Consultant's qualifications submitted pursuant to ITB Clauses 10 and 11, as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion, which shall be completed within a period of twelve (12) calendar days.

- 28.4 If the BAC determines that the Consultant with the Highest Rated Proposal/Bid passes all the criteria for post-qualification, it shall declare the said proposal/bid as the Consultant with the HRRB, and recommend to the HoPE the award of contract to the said Consultant at its submitted price or its calculated proposal/bid price, whichever is lower, subject to ITB Clause 30.3.
- 28.5 A negative determination shall result in rejection of the Consultant's proposal/bid, in which event the BAC shall proceed to the next Highest Rated Proposal/Bid with a fresh period to make a similar determination of that Consultant's capabilities to perform satisfactorily. If the second Consultant, however, fails the post qualification, the procedure for post qualification shall be repeated for the Consultant with the next Highest Rated Proposal/Bid, and so on until the HRRB is determined for recommendation of contract award.
- 28.6 Within a period not exceeding fifteen (15) calendar days from the determination by the BAC of the HRRB and the recommendation to award the contract, the HoPE or his duly authorized representative shall approve or disapprove the said recommendation.
- 28.7 In the event of disapproval, which shall be based on valid, reasonable, and justifiable grounds as provided for under Section 41 of the IRR of RA 9184, the HoPE shall notify the BAC and the Consultant in writing of such decision and the grounds for it. When applicable, the BAC shall conduct negotiations, and if successful, post-qualification of the Consultant with the next Highest Rated Proposal/Bid. A request for reconsideration may be filed by the proponent/bidder with the HoPE in accordance with Section 37.1.3 of the IRR of RA 9184.

29 Reservation Clause

- 29.1 Notwithstanding the eligibility, short listing, or post-qualification of a Consultant, the Procuring Entity concerned reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said Consultant, or that there has been a change in the Consultant's capability to undertake this Project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and proposal/bidding requirements, statements or documents, or any changes in the situation of the Consultant which will affect its capability to undertake the project so that it fails the preset eligibility or proposal/bid evaluation criteria, the Procuring Entity shall consider the said Consultant as ineligible and shall disqualify it from submitting a proposal/bid or from obtaining an award or contract.
- 29.2 Based on the following grounds, the Procuring Entity reserves the right to reject any and all proposals/bids, declare a failure of procurement/ 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 procurement/bidding:

- (a) If there is *prima facie* evidence of collusion between appropriate public officers or employees of the Procuring Entity, or between the BAC and any of the proponents/bidders, or if the collusion is between or among the proponents/bidders themselves, or between a proponent/bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
 - (b) If the Procuring Entity's BAC is found to have failed in following the prescribed procurement/bidding procedures; or
 - (c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GoP as follows:
 - (i) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the HoPE;
 - (ii) If the project is no longer necessary as determined by the HoPE; and
 - (iii) If the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.
- 29.3 In addition, the Procuring Entity may likewise declare a failure of procurement/bidding when:
- (a) No proposals/bids are received;
 - (b) All prospective proponents/bidders are declared ineligible;
 - (c) All proposals/bids fail to comply with all the proposal/bid requirements or there is no successful negotiation, or fail post-qualification; or
 - (d) The proponent/bidder with the HRRB refuses, without justifiable cause to accept the award of contract, and no award is made in accordance with Section 40 of the IRR of RA 9184.

F. Award of Contract

30. Contract Award

- 30.1 Subject to ITB Clause 28, the HoPE or its authorized representative shall award the contract to the Proponent/Bidder whose proposal/bid has been determined to be the HRRB.
- 30.2 Prior to the expiration of the period of proposal/bid validity, the Procuring Entity shall notify the successful Consultant in writing that its proposal/bid has been accepted, through a Notice of Award duly received by the Consultant or its authorized representative personally or by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the

Consultant with the HRRB and submitted personally or sent by registered mail or electronically to the Procuring Entity.

30.3 Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:

- (a) Submission of the following documents within the (10) calendar days from receipt of the Notice of Award:
 - (i) Valid JVA, if applicable;
 - (ii) SEC Certificate of Registration of the foreign consulting firm, and/or the authorization or license issued by the appropriate GoP professional regulatory body of the foreign professionals engaging in the practice of regulated professions and allied professions, where applicable.
- (b) Posting of the performance security in accordance with ITB Clause 32;
- (c) Signing of the contract as provided in ITB Clause 31; and
- (d) Approval by higher authority, if required, as provided in Section 37.3 of the IRR of RA 9184.

31. Signing of the Contract

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

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

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

31.4 The following documents shall form part of the contract:

- (1) Contract Agreement;
- (2) Proposal/Bidding Documents;
- (3) Winning proponent/bidder's proposal/bid, including the Technical and Financial Proposals, and all other documents/statements submitted (*e.g.*, proponent/bidder's response to request for clarifications on the

proposal/bid), including corrections to the proposal/bid, if any, resulting from the Procuring Entity's proposal/bid evaluation;

- (4) Performance Security;
- (5) Notice of Award of Contract; and
- (6) Other contract documents that may be required by existing laws and/or specified in the **BDS**.

32. Performance Security

32.1 Unless otherwise provided in the **BDS**, to guarantee the faithful performance by the winning Consultant of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than the signing of the contract.

32.2 The performance security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount not less than the percentage of the total contract price in accordance with the following schedule:

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

| | |
|---|----------------------|
| <i>Irrevocable Letter of Credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i> | |
| (c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security. | Thirty percent (30%) |

- 32.3 Failure of the successful Consultant to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the proposal/bid security, in which event the Procuring Entity shall have a fresh period to initiate negotiation and if successful, complete post-qualification of the second Highest Rated Proposal/Bid. The procedure shall be repeated until the HRRB is identified and selected for recommendation of contract award. However if no Consultant had a successful negotiation or passed post-qualification, the BAC shall declare the procurement/bidding a failure and conduct a re-bidding/procurement with re-advertisement, if necessary.

33. Notice to Proceed

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

34. Protest Mechanism

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

Section III. Proposal/Bid Data Sheet

Proposal/Bid Data Sheet

| ITB Clause | |
|------------|--|
| 1.1 | <p>The Procuring Entity is National Economic and Development Authority (NEDA).</p> <p>The evaluation procedure is Quality Cost Based Evaluation/Selection (QCBES).</p> <p><i>QCBE/QCBS – Technical and Financial Scores are combined to determine the winner. ABC is stated and Financial Proposals above this amount are rejected.</i></p> |
| 1.2 | <p>The Funding Source is the Government of the Philippines (GoP) through the Project Development and Other Related Studies (PDRS) Fund under the FY 2018 General Appropriations Act.</p> <p>The name of the project is Consulting Services for the Conduct of Feasibility Study of the North Philippine Dry Port Container Rail Transport Service.</p> |
| 1.3 | <i>See attached Terms of Reference (TOR)</i> |
| 1.4 | The Project shall not be phased. |
| 5 | No further instructions. |
| 6.1 | <p>The Consultant may not subcontract portions of the Consulting Services except to an extent as may be approved by the NEDA. However, subcontracting of any portion shall not relieve the Consultant from any liability or obligation that may arise from the contract for this Project.</p> <p><i>NOTE: Only a maximum of twenty percent (20%) of the Consulting Services may be subcontracted.</i></p> |
| 6.2 | Subcontractors must comply with the eligibility criteria and the documentary requirements specified in the <i>Eligibility Data Sheet</i> as attached in the <i>Request for Expression of Interest (REI)</i> . In the event that any subcontractor is found by the NEDA to be ineligible, the subcontracting of such portion of the Consulting Services shall be disallowed. |
| 7.1 | <p>The Procuring Entity will hold a pre-proposal/pre-bid conference for this Project on 16 November 2018 at 12:20 P.M. at the OADG-IP Conference Room, 4/F NEDA-sa-Pasig Building, 12 Blessed Josemaria Escriva Drive, Ortigas Center, Pasig City.</p> <p><i>All Consultants' representative/s shall secure and bring a written authority from their authorized official (e.g., president, governing boards if</i></p> |

| | | | | | | | | | | | | | | | |
|--------------------------------------|---|----------------|---------------|--------------|------------|--------------------------------------|--------------------|--------------|-------------|-------------------|-----------|--------------|------------|---------------------------|--------------------|
| | <p><i>Corporation) to be presented to the NBAC-CS during the Pre-Proposal/Pre-Bid Conference stating that said representative is an authorized person to speak for on behalf of their office/company. Representative/s with no such authorization shall not be allowed to raise questions/clarifications during the conference.</i></p> | | | | | | | | | | | | | | |
| 8.1 | <p>Assistant Secretary JONATHAN L. UY Chairperson, NEDA BAC for Consulting Services c/o Procurement Management Division Administrative Staff 2/F NEDA-sa-Pasig Building 12 Saint Josemaria Escriva Drive Ortigas Center, Pasig City</p> | | | | | | | | | | | | | | |
| 10.1(b) | <p>The number of professional staff-months shall be based on the number of professional staff-months estimated by the Consultant. Consultants are given the flexibility in determining and proposing the most appropriate time input / man-months of the identified/proposed expert relative to the realization of the required activities and/or outputs under the TOR.</p> | | | | | | | | | | | | | | |
| 10.1(c) | <p>The Consultant/s must, at a minimum, have the experience indicated in the TOR preferably working under conditions similar to those prevailing in the Republic of the Philippines.</p> | | | | | | | | | | | | | | |
| 11.5 | <p>The Consulting Firm shall be subjected to Philippine taxes on amounts payable by the NEDA under the contract through mandated withholding by local tax authorities of specified percentages of such amounts or otherwise.</p> <p>The NEDA shall withhold a Final VAT of five percent (5%) on the total taxable base of Lump Sum Amount (exclusive of 12% VAT).</p> <p>In addition, Section 2 of BIR Revenue Regulation No. 11-2018 dated January 31, 2018, as amended by BIR Revenue Regulation No. 14-2018 dated March 28, 2018, provides that there shall be withheld a creditable income tax on the gross professional, promotional, and talent fees or any other form of remuneration for the services rendered by the following:</p> <p><u>Non-individual payee:</u> If gross income for the year did not exceed - Ten percent (10%) ₱720,000.00 If gross income exceeds ₱720,000.00 - Fifteen percent (15%)</p> <p>Below is a sample computation for reference:</p> <table border="1"> <tr> <td>Contract Price</td><td>₱1,000,000.00</td></tr> <tr> <td>Less 12% VAT</td><td>107,142.86</td></tr> <tr> <td>Net of 12% VAT (Taxable Base)</td><td>₱892,857.14</td></tr> <tr> <td>Taxable Base</td><td>₱892,857.14</td></tr> <tr> <td>Less 5% Final VAT</td><td>44,642.86</td></tr> <tr> <td>Less 15% EWT</td><td>133,928.60</td></tr> <tr> <td>Net Contract Price</td><td>₱714,285.68</td></tr> </table> | Contract Price | ₱1,000,000.00 | Less 12% VAT | 107,142.86 | Net of 12% VAT (Taxable Base) | ₱892,857.14 | Taxable Base | ₱892,857.14 | Less 5% Final VAT | 44,642.86 | Less 15% EWT | 133,928.60 | Net Contract Price | ₱714,285.68 |
| Contract Price | ₱1,000,000.00 | | | | | | | | | | | | | | |
| Less 12% VAT | 107,142.86 | | | | | | | | | | | | | | |
| Net of 12% VAT (Taxable Base) | ₱892,857.14 | | | | | | | | | | | | | | |
| Taxable Base | ₱892,857.14 | | | | | | | | | | | | | | |
| Less 5% Final VAT | 44,642.86 | | | | | | | | | | | | | | |
| Less 15% EWT | 133,928.60 | | | | | | | | | | | | | | |
| Net Contract Price | ₱714,285.68 | | | | | | | | | | | | | | |

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| 11.7 | <p>The ABC is FIFTY MILLION PESOS (PhP50,000,000.00). Any proposal/bid with a financial component exceeding this amount shall not be accepted.</p> <p><i>Note: Financial Proposal should be inclusive of 12% VAT.</i></p> |
| 13.1 | The proposal/bid prices shall be quoted in Philippine Pesos. |
| 13.3 | No further instructions. |
| 14.1 | Proposals/Bids will be valid until one hundred twenty (120) calendar days from the date of the opening of proposals/bids. |
| 15.1 | <p>The proposal/bid security shall be limited to any of the following forms and amounts:</p> <ol style="list-style-type: none"> 1. Bid Securing Declaration; or 2. The amount of not less than PhP1,000,000.00 if proposal/bid security is in cash, cashier's/manager's check, bank draft/guarantee or irrevocable letter of credit; or 3. The amount of not less than PhP2,500,000.00 if proposal/bid security is in Surety Bond. |
| 15.2 | The proposal/bid security shall be valid until 120 calendar days from the date of opening of proposals. |
| 15.5(b)(iii) | No further instructions. |
| 17.1 | No further instructions. |
| 17.3 | Each Proponent/Bidder shall submit one (1) original and four (4) copies of the first and second components of its proposal/bid. |
| 18 | <p>The address for submission of proposals/bids is:</p> <p>NEDA Bids and Awards Committee – Consulting Services (NBAC-CS) c/o Procurement Management Division Administrative Staff 2/F NEDA-sa-Pasig Building 12 Saint Josemaria Escriva Drive Ortigas Center, Pasig City</p> <p>The deadline for submission of proposals/bids is 04 December 2018, 12:00 noon.</p> <p><i>In case the deadline for submission of bids fall on a non-working day duly declared by the president, governor or mayor or other government official authorized to make such declaration, the deadline shall be the next working day.</i></p> |

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| | <p><i>Please note that for the local declaration, said statement will only apply in the City of Pasig where bids are to be submitted.</i></p> |
| 21.2 | <p>The address for opening of proposals/bids is:</p> <p>OADG-IP Conference Room 4/F NEDA-sa-Pasig Building 12 Saint Josemaria Escriva Drive Ortigas Center, Pasig City</p> <p>The date and time for opening of proposals/bids is 04 December 2018, 1:30 PM.</p> <p><i>The proponents/bidders or their duly authorized representatives may attend the opening of proposals/bids. All Consultants' representative/s shall secure and bring a written authority from their authorized official (e.g., president, governing boards if Corporation) to be presented to the NBAC-CS during the Opening of Proposals/Bids/Technical Proposals stating that said representative is an authorized person to speak for and in behalf of their office/company. Representative/s with no such authorization shall not be allowed to attend the opening of proposals.</i></p> |
| 22.1 | No further instructions. |
| 25.1 | <p>The following processes for the opening and evaluation of proposals/bids shall be adopted:</p> <ol style="list-style-type: none"> The technical proposal together with the financial proposal shall be considered in the ranking of consultants. The technical proposals shall be evaluated first using the criteria in ITB Clause 25.2. The financial proposals of the consultants who meet the minimum technical score shall then be opened. The financial and technical proposals shall be given 20% and 80% weights, respectively. The BAC shall rank the consultants in descending order based on the combined numerical ratings of their technical and financial proposals and identify the Highest Rated Proposal/Bid. The HoPE shall approve or disapprove the recommendations of the BAC within two (2) calendar days after receipt of the results of the evaluation from the BAC. After approval by the HoPE of the Highest Rated Proposal/Bid, the BAC shall, within three (3) calendar days, notify and invite the consultant with the Highest Rated Proposal/Bid for negotiation in accordance with ITB Clause 27. |

| 25.3 | <p>The numerical weight and the minimum required St for each criterion are as follows:</p> <table border="1" data-bbox="422 302 1374 750"> <thead> <tr> <th>Criteria/Particulars</th><th>Firm</th></tr> </thead> <tbody> <tr> <td>I. Qualification of Personnel to be Assigned to the Study*</td><td>50 points</td></tr> <tr> <td>A. Education</td><td></td></tr> <tr> <td>B. Related Trainings Acquired</td><td></td></tr> <tr> <td>C. Experience</td><td></td></tr> <tr> <td>II. Plan of Approach and Methodology</td><td>40 points</td></tr> <tr> <td>A. Substance of the Proposal</td><td></td></tr> <tr> <td>B. Completeness of the Proposal</td><td></td></tr> <tr> <td>C. Clarity of Methods and Approaches</td><td></td></tr> <tr> <td>III. Experience and Capability of the Firm</td><td>10 points</td></tr> <tr> <td>A. Years in the Consulting Industry</td><td></td></tr> <tr> <td>B. Related Experience</td><td></td></tr> <tr> <td>Grand Total</td><td>100 points</td></tr> </tbody> </table> <p>* The personnel to be proposed/nominated under the technical proposal (of shortlisted consultants) may not be the same personnel nominated in the shortlisting, provided that, the technical proposal (of shortlisted consultants) must include a signed written commitment from the nominated personnel that they will make themselves available for the project should the firm be awarded the contract.</p> <p>* Only those Shortlisted Consultants who passed shall be evaluated.</p> <p>* Shortlisted Consultants should get a total of at least 70 points from the above criteria.</p> <p>The attention of the Consultant is drawn to Technical Proposal Forms – Proposals/Bids must adhere to the maximum number of pages outlined in Clause 10.2(b).</p> | Criteria/Particulars | Firm | I. Qualification of Personnel to be Assigned to the Study* | 50 points | A. Education | | B. Related Trainings Acquired | | C. Experience | | II. Plan of Approach and Methodology | 40 points | A. Substance of the Proposal | | B. Completeness of the Proposal | | C. Clarity of Methods and Approaches | | III. Experience and Capability of the Firm | 10 points | A. Years in the Consulting Industry | | B. Related Experience | | Grand Total | 100 points |
|--|---|----------------------|------|--|-----------|--------------|--|-------------------------------|--|---------------|--|--------------------------------------|-----------|------------------------------|--|---------------------------------|--|--------------------------------------|--|--|-----------|-------------------------------------|--|-----------------------|--|--------------------|-------------------|
| Criteria/Particulars | Firm | | | | | | | | | | | | | | | | | | | | | | | | | | |
| I. Qualification of Personnel to be Assigned to the Study* | 50 points | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A. Education | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B. Related Trainings Acquired | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| C. Experience | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| II. Plan of Approach and Methodology | 40 points | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A. Substance of the Proposal | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B. Completeness of the Proposal | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| C. Clarity of Methods and Approaches | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| III. Experience and Capability of the Firm | 10 points | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A. Years in the Consulting Industry | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B. Related Experience | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Grand Total | 100 points | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 26.1 | <p>The opening of Financial Proposals shall be within one (1) week from notification of Consultants passing the minimum qualifying mark for technical proposals at the OADG-IP Conference Room, 4/F NEDA-sa-Pasig Building, 12 Saint Josemaria Escriva Drive, Ortigas Center, Pasig City.</p> <p><i>Financial Proposals shall be opened in the presence of Consultants which opted to send representative/s provided that they bring with them a written authority from their authorized official (e.g., president, governing boards if Corporation) to be presented to the NBAC-CS during the opening of the financial proposal stating that said representative is an authorized person to speak for and in behalf of their office/company. Representative/s with no such authorization shall not be allowed to attend the opening of financial proposals.</i></p> | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 26.2 | <p>After the evaluation of quality is completed, the Procuring Entity shall notify those Consultants whose Proposals/Bids did not meet the minimum qualifying mark or were considered non-responsive to the Proposal/Bidding Documents and TOR, indicating that their Financial Proposals shall be returned unopened after completing the selection process. The Procuring Entity shall simultaneously notify the Consultants that have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals. The opening date shall not be sooner than two weeks after the notification date unless otherwise specified in ITB Clause 26.1.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| | <p>The notification may be sent by registered letter, facsimile, or electronic mail.</p> <p>The Financial Proposals shall be opened publicly in the presence of the Consultants' representatives who choose to attend. The name of the Consultant, the quality scores, and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Procuring Entity shall prepare minutes of the public opening.</p> <p>The BAC shall determine whether the Financial Proposals are complete, <i>i.e.</i>, whether all the documents mentioned in ITB Clause 11 are present and all items of the corresponding Technical Proposals that are required to be priced are so priced. The BAC shall correct any computational errors, and convert prices in various currencies to the Philippine Peso at the rate indicated in ITB Clause 13. The Financial Proposal shall not exceed the ABC and shall be deemed to include the cost of all taxes, duties, fees, levies, and other charges imposed under the applicable laws. The evaluation shall include all such taxes, duties, fees, levies, and other charges imposed under the applicable laws; where special tax privileges are granted to a particular class or nationality of Consultant by virtue of the GoP's international commitments, the amount of such tax privileges shall be included in the Financial Proposal for purposes of comparative evaluation of Proposals/Bids.</p> <p>The lowest Financial Proposal (Fl) shall be given a Financial Score (Sf) of 100 points. The Sf of other Financial Proposals shall be computed based on the formula indicated below:</p> $Sf = 100 \times Fl/F$ <p>Where:</p> <p>Sf is the financial score of the Financial Proposal under consideration,</p> <p>Fl is the lowest Financial Proposal, and</p> <p>F is the Financial Proposal under consideration.</p> <p>Using the formula $S = St \times T\% + Sf \times F\%$, the Proposals/Bids shall then be ranked according to their combined St and Sf using the weights (St is the technical score of the Technical Proposal under consideration; T = the weight given to the Technical Proposal; F = the weight given to the Financial Proposal; $T + F = 1$) indicated below:</p> <p>T 0.80; and</p> <p>F 0.20;</p> <p>provided that the total weights given to the Technical and Financial Proposals shall add up to 1.0.</p> |
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| 27.1 | The address for negotiations is OADG-IP Conference Room, 4/F NEDA-sa-Pasig Building, 12 Saint Josemaria Escriva Drive, Ortigas Center, Pasig City. |
| 27.2(e) | No negotiations pertaining to the Financial Proposal shall be undertaken except for clarifications. |
| 28.2 | No additional requirement. |
| 31.4.6 | <ol style="list-style-type: none"> 1. Supplemental/Bid Bulletins; 2. Notice to Proceed; 3. Confidentiality/Non-Disclosure Agreements; and 4. Other contract documents that may be required by existing laws |
| 32.1 | No further instructions. |
| 33.2 | The contract shall take effect upon the Consultant's receipt of the Notice to Proceed. |

Section IV. General Conditions of Contract

TABLE OF CONTENTS

| | | |
|-----|---|----|
| 1. | DEFINITIONS | 67 |
| 2. | HEADINGS | 68 |
| 3. | LOCATION | 68 |
| 4. | LAW GOVERNING CONTRACT AND SERVICES..... | 68 |
| 5. | LANGUAGE | 69 |
| 6. | CONSULTANTS AND AFFILIATES NOT TO ENGAGE IN CERTAIN ACTIVITIES | 69 |
| 7. | AUTHORITY OF MEMBER IN CHARGE..... | 69 |
| 8. | RESIDENT PROJECT MANAGER | 69 |
| 9. | ENTIRE AGREEMENT | 69 |
| 10. | MODIFICATION AND AMENDMENT..... | 70 |
| 11. | RELATIONSHIP OF PARTIES | 70 |
| 12. | AUTHORIZED REPRESENTATIVES | 70 |
| 13. | GOOD FAITH | 70 |
| 14. | OPERATION OF THE CONTRACT | 70 |
| 15. | NOTICES | 71 |
| 16. | WARRANTY AS TO ELIGIBILITY | 71 |
| 17. | CONFIDENTIALITY | 71 |
| 18. | PAYMENT | 71 |
| 19. | CURRENCY OF PAYMENT..... | 72 |
| 20. | LIABILITY OF THE CONSULTANT | 72 |
| 21. | INSURANCE TO BE TAKEN OUT BY THE CONSULTANT..... | 72 |
| 22. | EFFECTIVITY OF CONTRACT | 72 |
| 23. | COMMENCEMENT OF SERVICES | 72 |
| 24. | EXPIRATION OF CONTRACT | 72 |
| 25. | FORCE MAJEURE..... | 72 |
| 26. | SUSPENSION..... | 74 |
| 27. | TERMINATION BY THE PROCURING ENTITY | 74 |
| 28. | TERMINATION BY THE CONSULTANT | 75 |

| | | |
|-----|---|----|
| 29. | PROCEDURES FOR TERMINATION OF CONTRACTS | 76 |
| 30. | CESSATION OF SERVICES | 77 |
| 31. | PAYMENT UPON TERMINATION | 77 |
| 32. | DISPUTES ABOUT EVENTS OF TERMINATION | 77 |
| 33. | CESSATION OF RIGHTS AND OBLIGATIONS | 77 |
| 34. | DISPUTE SETTLEMENT | 78 |
| 35. | DOCUMENTS PREPARED BY THE CONSULTANT AND SOFTWARE DEVELOPED TO BE THE PROPERTY OF THE PROCURING ENTITY | 78 |
| 36. | EQUIPMENT AND MATERIALS FURNISHED BY THE PROCURING ENTITY | 78 |
| 37. | SERVICES, FACILITIES AND PROPERTY OF THE PROCURING ENTITY | 78 |
| 38. | CONSULTANT’S ACTIONS REQUIRING PROCURING ENTITY’S PRIOR APPROVAL | 79 |
| 39. | PERSONNEL | 79 |
| 40. | WORKING HOURS, OVERTIME, LEAVE, ETC. | 80 |
| 41. | COUNTERPART PERSONNEL | 81 |
| 42. | PERFORMANCE SECURITY | 81 |
| 43. | STANDARD OF PERFORMANCE | 82 |
| 44. | CONSULTANT NOT TO BENEFIT FROM COMMISSIONS, DISCOUNTS, ETC. | 82 |
| 45. | PROCUREMENT BY THE CONSULTANT | 83 |
| 46. | SPECIFICATIONS AND DESIGNS | 83 |
| 47. | REPORTS | 83 |
| 48. | ASSISTANCE BY THE PROCURING ENTITY ON GOVERNMENT REQUIREMENTS | 83 |
| 49. | ACCESS TO LAND | 84 |
| 50. | SUBCONTRACT | 84 |
| 51. | ACCOUNTING, INSPECTION AND AUDITING | 84 |
| 52. | CONTRACT COST | 85 |
| 53. | REMUNERATION AND REIMBURSABLE EXPENDITURES | 85 |
| 54. | FINAL PAYMENT | 86 |
| 55. | LUMP SUM CONTRACTS | 87 |
| 56. | LIQUIDATED DAMAGES FOR DELAY | 87 |

1. Definitions

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

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

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

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

2. Headings

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

3. Location

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

4. Law Governing Contract and Services

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

5. Language

This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

6. Consultants and Affiliates Not to Engage in Certain Activities

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

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

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

7. Authority of Member in Charge

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

8. Resident Project Manager

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

9. Entire Agreement

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

10. Modification and Amendment

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

Any amendment on the date of completion and submission of deliverables shall be made by mutual agreement of both parties. The Consultant shall put in writing and officially transmit the request to the Procuring Entity for approval. All other terms and conditions of the Contract Agreement, except insofar as the same are amended, shall remain binding and subsisting.

11. Relationship of Parties

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

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

12. Authorized Representatives

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

13. Good Faith

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

14. Operation of the Contract

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

15. Notices

- 15.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when received by the concerned party, either in person or through an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram or facsimile to such Party at the address specified in the SCC.
- 15.2 Notice shall be deemed to be effective as specified in the SCC.
- 15.3 A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the SCC with respect to GCC Clause 15.2.

16. Warranty as to Eligibility

- 16.1 The Consultant represents, warrants, and confirms that it, as well as its Subconsultant, if any, is eligible, *i.e.*, has the legal personality to act as a consultant in accordance with Part I, Section II. Eligibility Documents issued for this project.
- 16.2 The Consultant shall fulfill its obligations under this Contract by using knowledge according to the best accepted professional standards. The Consultant shall exercise all reasonable skill, care and diligence in the discharge of duties agreed to be performed and shall work in the best interest of the GoP.

17. Confidentiality

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

18. Payment

- 18.1 In consideration of the Services performed by the Consultant under this Contract, the Procuring Entity shall make to the Consultant such payments and in such manner as is provided by GCC Clause 53 of this Contract. However, the Procuring Entity may refuse to make payments when the terms and conditions of the contract are not satisfactorily performed by the Consultant.
- 18.2 Subject to the ceilings specified in GCC Clause 52 hereof, the Procuring Entity shall pay to the Consultant: (i) remuneration as set forth in GCC Clause 53.2; and (ii) reimbursable expenditures as set forth in GCC Clause 53.4. Said remuneration shall not be subject to price adjustment.

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

19. Currency of Payment

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

20. Liability of the Consultant

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

21. Insurance to be Taken Out by the Consultant

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

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

22. Effectivity of Contract

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

23. Commencement of Services

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

24. Expiration of Contract

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

25. Force Majeure

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

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

alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

- 25.3 Unless otherwise agreed herein, force majeure shall not include:
- (a) any event which is caused by the negligence or intentional action of a Party or such Party's Subconsultants or agents or employees;
 - (b) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations hereunder;
 - (c) insufficiency of funds or failure to make any payment required hereunder; or
 - (d) the Procuring Entity's failure to review, approve or reject the outputs of the Consultant beyond a reasonable time period.
- 25.4 A Party affected by an event of force majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder immediately or within a reasonable time.
- 25.5 A Party affected by an event of force majeure shall notify the other Party of such event as soon as possible, and in any event not later than fifteen (15) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- 25.6 The Parties shall take all reasonable measures to minimize the consequences of any event of force majeure.
- 25.7 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a direct and proximate result of force majeure.
- 25.8 During the period of their inability to perform the Services as a direct and proximate result of an event of force majeure, the Consultant shall be entitled to continue receiving payment under the terms of this Contract as well as to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period, provided that such costs are still within the total contract price. However, the foregoing provision shall not apply if the Procuring Entity suspends or terminates this Contract in writing, notice thereof duly received by the Consultant, pursuant to GCC Clauses 26 and 27 hereof with the exception of the direct and proximate result of force majeure.
- 25.9 Not later than fifteen (15) days after the Consultant, as the direct and proximate result of an event of force majeure, has become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures considering the circumstances.

- 25.10 In the case of disagreement between the parties as to the existence, or extent of force majeure, the matter shall be submitted to arbitration in accordance with GCC Clause 34 hereof.

26. Suspension

- 26.1 The Procuring Entity shall, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fail to perform any of their obligations due to their own fault or due to force majeure or other circumstances beyond the control of either party (*e.g.* suspension of civil works being supervised by the consultant) under this Contract, including the carrying out of the Services, provided that such notice of suspension:
- (a) shall specify the nature of the failure; and
 - (b) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.
- 26.2 The Consultant may, without prejudice to its right to terminate this Contract pursuant to GCC Clause 28, by written notice of suspension, suspend the Services if the Procuring Entity fails to perform any of its obligations which are critical to the delivery of the Consultant's services such as, non-payment of any money due the Consultant within forty-five (45) days after receiving notice from the Consultant that such payment is overdue.

27. Termination by the Procuring Entity

- 27.1 The Procuring Entity shall terminate this Contract when any of the following conditions attends its implementation:
- (a) Outside of force majeure, the Consultant fails to deliver or perform the Outputs and Deliverables within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to a request made by the Consultant prior to the delay;
 - (b) As a result of force majeure, the Consultant is unable to deliver or perform a material portion of the Outputs and Deliverables for a period of not less than sixty (60) calendar days after the Consultant's receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased;
 - (c) In whole or in part, at any time for its convenience, the HoPE may terminate the Contract for its convenience if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and National Government policies;
 - (d) If the Consultant is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction; in which event, termination

will be without compensation to the Consultant, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Consultant;

- (e) In case it is determined *prima facie* that the Consultant has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation, such as, but not limited to, the following: corrupt, fraudulent, collusive, coercive, and obstructive practices; drawing up or using forged documents; using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and any other act analogous to the foregoing. For purposes of this clause, corrupt, fraudulent, collusive, coercive, and obstructive practices shall have the same meaning as that provided in ITB Clause 3.1(a):
- (f) The Consultant fails to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to GCC Clause 15.2 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Procuring Entity may have subsequently approved in writing;
- (g) The Consultant's failure to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 34 hereof; or
- (h) The Consultant fails to perform any other obligation under the Contract.

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

28. Termination by the Consultant

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

- (a) The Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same within sixty (60) calendar days following its receipt of the Consultant's notice specifying such breach;
- (b) The Procuring Entity's failure to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 34 hereof
- (c) As the direct and proximate result of force majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

- (d) The Procuring Entity fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to GCC Clause 32 hereof within eighty four (84) days after receiving written notice from the Consultant that such payment is overdue.

29. Procedures for Termination of Contracts

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

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Procuring Entity shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Procuring Entity, the HoPE shall terminate this Contract only by a written notice to the Consultant conveying such termination. The notice shall state:
 - (i) that the contract is being terminated for any of the ground(s) aforementioned, and a statement of the acts that constitute the ground(s) constituting the same;
 - (ii) the extent of termination, whether in whole or in part;
 - (iii) an instruction to the Consultant to show cause as to why the contract should not be terminated; and
 - (iv) special instructions of the Procuring Entity, if any.

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

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

- (f) The HoPE may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the HoPE.

30. Cessation of Services

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

31. Payment Upon Termination

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

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

32. Disputes about Events of Termination

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

33. Cessation of Rights and Obligations

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

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

34. Dispute Settlement

- 34.1 If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with the implementation of this Contract, the Parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 34.2 Any and all disputes arising from the implementation of this Contract shall be submitted to arbitration in accordance with the rules of procedure specified in the SCC.

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

- 35.1 All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Procuring Entity under this Contract shall become and remain the property of the Procuring Entity, and the Consultant shall, prior to termination or expiration of this Contract, deliver all such documents to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. The plans, drawings, specifications, designs, reports, other documents and software, including restrictions on future use of such documents and software, if any, shall be specified in the SCC.
- 35.2 All computer programs developed by the Consultant under this Contract shall be the sole and exclusive property of the Procuring Entity; provided, however, that the Consultant may use such programs for its own use with prior written approval of the Procuring Entity. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements. In such cases, the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

36. Equipment and Materials Furnished by the Procuring Entity

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

37. Services, Facilities and Property of the Procuring Entity

The Procuring Entity shall make available to the Consultant and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property

described in Appendix V at the terms and in the manner specified in said appendix, provided that if such services, facilities and property shall not be made available to the Consultant as and when so specified, the Parties shall agree on:

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

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

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

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

39. Personnel

- 39.1 The Consultant shall employ and provide such qualified and experienced Personnel and Subconsultants as are required to carry out the Services.
- 39.2 The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Personnel are described in Appendix III.
- 39.3 The Key Personnel and Subconsultants listed by title as well as by name in Appendix III are hereby approved by the Procuring Entity. In respect of other Key Personnel which the Consultant proposes to use in the carrying out of the Services, the Consultant shall submit to the Procuring Entity for review and

approval a copy of their biographical data and, in the case of Key Personnel to be assigned within the GoP, a copy of a satisfactory medical certificate attached as part of Appendix III. If the Procuring Entity does not object in writing; or if it objects in writing but fails to state the reasons for such objection, within twenty-one (21) calendar days from the date of receipt of such biographical data and, if applicable, such certificate, the Key Personnel concerned shall be deemed to have been approved by the Procuring Entity.

- 39.4 The Procuring Entity may request the Consultants to perform additional services not covered by the original scope of work but are determined by the Procuring Entity to be critical for the satisfactory completion of the Services, subject to GCC Clause 55.6.
- 39.5 No changes shall be made in the Key Personnel, except for justifiable reasons as may be determined by the Procuring Entity, as indicated in the SCC, and only upon prior approval of the Procuring Entity. If it becomes justifiable and necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications. If the Consultant introduces changes in Key Personnel for reasons other than those mentioned in the SCC, the Consultant shall be liable for the imposition of damages as described in the SCC.
- 39.6 Any of the Personnel provided as a replacement under GCC Clauses 39.5 and 39.7, the rate of remuneration applicable to such person as well as any reimbursable expenditures the Consultant may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Procuring Entity. Except as the Procuring Entity may otherwise agree, the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.
- 39.7 If the Procuring Entity finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action as defined in the Applicable Law, or has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Procuring Entity's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity.

40. Working Hours, Overtime, Leave, etc.

- 40.1 Working hours and holidays for Key Personnel are set forth in Appendix III. Any travel time prior to and after contract implementation shall not be considered as part of the working hours.
- 40.2 The Key Personnel shall not be entitled to claim payment for overtime work, sick leave, or vacation leave from the Procuring Entity since these items are already covered by the Consultant's remuneration. All leaves to be allowed to the Personnel are included in the staff-months of service set forth in Appendix

III. Taking of leave by any Personnel should not delay the progress and adequate supervision of the Services.

- 40.3 If required to comply with the provisions of GCC Clause 43.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix III may be made by the Consultant by prior written notice to the Procuring Entity, provided that:
- (a) such adjustments shall not alter the originally estimated period of engagement of any individual by more than ten percent (10%); and
 - (b) the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in GCC Clause 52.1 of this Contract. Any other such adjustments shall only be made with the Procuring Entity's prior written approval.

41. Counterpart Personnel

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

42. Performance Security

- 42.1 Unless otherwise specified in the **SCC**, within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the Consultant shall furnish the performance security in any the forms prescribed in the ITB Clause 32.2.
- 42.2 The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the Consultant is in default in any of its obligations under the contract.

- 42.3 The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 42.4 The performance security may be released by the Procuring Entity and returned to the Consultant after the issuance of the Certificate of Final Acceptance subject to the following conditions:
- (a) There are no pending claims against the Consultant or the surety company filed by the Procuring Entity;
 - (b) The Consultant has no pending claims for labor and materials filed against it; and
 - (c) Other terms specified in the SCC.
- 42.5 In case of a reduction of the contract value, the Procuring Entity shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.

43. Standard of Performance

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

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

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

45. Procurement by the Consultant

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

46. Specifications and Designs

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

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

47. Reports

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

48. Assistance by the Procuring Entity on Government Requirements

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

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

- (a) provide the Consultant, Subconsultants, and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Subconsultants, or Personnel to perform the Services;
- (b) arrange for the foreign Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, and any other documents required for their stay in the Philippines for the duration of the Contract;
- (c) facilitate prompt clearance through customs of any property required for the Services and of the necessary personal effects of the foreign Personnel and their eligible dependents;

- (d) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services; and
- (e) grant to foreign Consultant, any foreign Subconsultant and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into the Government's country reasonable amounts of foreign currency for purposes of the Services or for the personal use of the foreign Personnel and their dependents.

49. Access to Land

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

50. Subcontract

- 50.1 Subcontracting of any portion of the Consulting Services, if allowed in the BDS, does not relieve the Consultant of any liability or obligation under this Contract. The Consultant will be responsible for the acts, defaults, and negligence of any subconsultant, its agents, servants or workmen as fully as if these were the Consultant's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 50.2 Subconsultants disclosed and identified during the procurement/bidding may be changed during the implementation of this Contract, subject to compliance with the required qualifications and the approval of the Procuring Entity.

51. Accounting, Inspection and Auditing

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

- (c) permit the Funding Source to inspect the Consultant's accounts and records relating to the performance of the Consultant and to have them audited by auditors approved by the Funding Source, if so required.
- 51.2 The basic purpose of this audit is to verify payments under this Contract and, in this process, to also verify representations made by the Consultant in relation to this Contract. The Consultant shall cooperate with and assist the Procuring Entity and its authorized representatives in making such audit. In the event the audit discloses that the Consultant has overcharged the Procuring Entity, the Consultant shall immediately reimburse the Procuring Entity an amount equivalent to the amount overpaid. If overpayment is a result of the Consultant having been engaged in what the Procuring Entity (or, as the case may be, the Funding Source) determines to constitute corrupt, fraudulent, or coercive practices, as defined in GCC Clause 27(e) and under the Applicable Law, the Procuring Entity shall, unless the Procuring Entity decides otherwise, terminate this Contract.
- 51.3 The determination that the Consultant has engaged in corrupt, fraudulent, coercive practices shall result in the Procuring Entity and/or the Funding Source seeking the imposition of the maximum administrative, civil and criminal penalties up to and in including imprisonment.

52. Contract Cost

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

53. Remuneration and Reimbursable Expenditures

- 53.1 Payments of Services do not relieve the Consultant of any obligation hereunder.
- 53.2 Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services including other additional factors indicated in the **SCC** after the date determined in accordance with GCC Clause 22, or such other date as the Parties shall agree in writing, including time for necessary travel via the most direct route, at the rates referred to, and subject to such additional provisions as are set forth, in the **SCC**.
- 53.3 Remuneration for periods of less than one month shall be calculated on an hourly basis for time spent in home office (the total of 176 hours per month shall apply) and on a calendar-day basis for time spent away from home office (1 day being equivalent to 1/30th of a month).
- 53.4 Reimbursable expenditures actually and reasonably incurred by the Consultants in the performance of the Services are provided in the **SCC**.

53.5 Billings and payments in respect of the Services shall be made as follows:

- (a) The Procuring Entity shall cause to be paid to the Consultant an advance payment as specified in the SCC, and as otherwise set forth below. The advance payment shall be due after the Consultant provides an irrevocable standby letter of credit in favor of the Procuring Entity issued by an entity acceptable to the Procuring Entity in accordance with the requirements provided in the SCC.
- (b) As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, the Consultant shall submit to the Procuring Entity, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to GCC Clauses 52.1 and 53 for such month. Separate monthly statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each separate monthly statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures.
- (c) The Procuring Entity shall cause the payment of the Consultant's monthly statements within sixty (60) days after the receipt by the Procuring Entity of such statements with supporting documents. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Procuring Entity may add or subtract the difference from any subsequent payments. Interest shall be paid for delayed payments following the rate provided in the SCC.

54. Final Payment

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

by the Procuring Entity of a final report and a final statement approved by the Procuring Entity in accordance with the above.

55. Lump Sum Contracts

- 55.1 For Lump Sum Contracts when applicable, notwithstanding the terms of GCC Clauses 10, 18.1, 31(c), 41.3, 53.2, 53.3, 53.4, 53.5, and 54.1, the provisions contained hereunder shall apply.
- 55.2 Personnel - Any replacement approved by the Procuring Entity in accordance with ITB Clause 27.3 shall be provided by the Consultant at no additional cost.
- 55.3 Staffing Schedule - Should the rate of progress of the Services, or any part hereof, be at any time in the opinion of the Procuring Entity too slow to ensure that the Services are completed in accordance with the Staffing Schedule, the Procuring Entity shall so notify the Consultant in writing and the Consultant shall at its sole cost and expense, thereupon take such steps as necessary, subject to the Procuring Entity's approval, or as reasonably required by the Procuring Entity, to expedite progress so as to ensure that the Services are completed in accordance with the Staffing Schedule.
- 55.4 Final payment pursuant to the Payment Schedule in Appendices IV and V shall be made by the Procuring Entity after the final report has been submitted by the Consultant and approved by the Procuring Entity.
- 55.5 Termination - Upon the receipt or giving of any notice referred to in GCC Clause 29 and if the Consultant is not in default under this Contract and has partly or substantially performed its obligation under this Contract up to the date of termination and has taken immediate steps to bring the Services to a close in prompt and orderly manner, there shall be an equitable reduction in the maximum amount payable under this Contract to reflect the reduction in the Services, provided that in no event shall the Consultant receive less than his actual costs up to the effective date of the termination, plus a reasonable allowance for overhead and profit.
- 55.6 Unless otherwise provided in the SCC, no additional payment for variation order, if any, shall be allowed for this Contract.

56. Liquidated Damages for Delay

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

Section V. Special Conditions of Contract

Special Conditions of Contract

| GCC Clause | |
|------------|---|
| 1.1(g) | The Funding Source is the Government of the Philippines (GoP) 2018 General Appropriations Act (GAA) Project Development and Other Related Studies (PDRS) Fund. |
| 6.2(b) | Any business or professional activities in the Government's country which would conflict with the activities that have been assigned to them under this Contract. |
| 7 | <p>The Member in Charge is <i>[name of member, address, and other necessary contact information]</i>.</p> <p>NOTE: <i>If the Consultant consists only of one entity, state "Not applicable".</i></p> |
| 8 | <p><i>If there is a resident project manager, state here:</i></p> <p>The person designated as resident project manager in Appendix III shall serve in that capacity, as specified in GCC Clause 8.</p> <p><i>If there is no such manager, state:</i> Not Applicable.</p> |
| 10 | No further instructions. |
| 12 | <p>The Authorized Representatives are as follows:</p> <p>For the Procuring Entity: <u>USec. ROLANDO G. TUNGPALAN</u></p> <p>For the Consultant: _____</p> <p>NOTE: <i>Name of authorized representative to be filled out by winning consultant prior to contract signing.</i></p> |
| 15.1 | <p>The addresses are:</p> <p>Procuring Entity: <u>National Economic and Development Authority</u> Attention: <u>USec. ROLANDO G. TUNGPALAN</u> Address: <u>12 Josemariá Escrivá Drive, Ortigas Center, Pasig City 1605</u> Telephone: <u>631-2186</u> Facsimile: <u>631-2186</u> Email Address: <u>RGTungpalan@neda.gov.ph</u></p> <p>Consultants: <i>[insert name of the Consultant]</i> Attention: <i>[insert name of the Consultant's authorized representative]</i> Address: _____ Facsimile: _____ Email Address: _____</p> |

| | |
|---------|---|
| | <i>NOTE: Contact details to be filled out by winning consultant prior to contract signing.</i> |
| 15.2 | <p>Notice shall be deemed to be effective as follows:</p> <p>(a) in the case of personal delivery or registered mail, on delivery;</p> <p>(b) in the case of facsimiles, within 4 hours following confirmed transmission; or</p> <p>(c) in the case of telegrams, within 4 hours following confirmed transmission.</p> |
| 18.3 | <p><i>State here Consultant's account where payment may be made.</i></p> <p><i>NOTE: Details of account to be filled out by winning consultant prior to contract signing.</i></p> |
| 19 | No further instructions. |
| 20 | If the Consultant is a joint venture, all partners to the joint venture shall be jointly and severally liable to the Procuring Entity. |
| 22 | <p>The effectiveness conditions are the following:</p> <ol style="list-style-type: none"> 1. Approval of the Contract by NEDA; and 2. Consultant's receipt of the NTP. |
| 24 | Unless sooner terminated pursuant to GCC Clauses 27 or 28 hereof, this Contract shall terminate one (1) month after the issuance by NEDA of the Certificate of Completion and Satisfactory Service or such other time period as the parties may agree in writing. |
| 34.2 | Any and all disputes arising from the implementation of this contract shall be submitted to arbitration in the Philippines according to the provisions of Republic Acts 876 and 9285, as required in Section 59 of the IRR of RA 9184. |
| 35.1 | All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the NEDA under this Contract shall become and remain the property of the NEDA , and the Consultant shall, prior to termination or expiration of this Contract, deliver all such documents to the NEDA , together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. Future use, reproduction, distribution or citation of such property by the Consultant for any purpose is prohibited unless written consent is given by the NEDA . |
| 38.1(d) | No further instructions. |
| 39.5 | The Consultant may change its Key Personnel only for justifiable reasons as may be determined by the Procuring Entity, such as death, serious illness, |

| | |
|---------|---|
| | <p>incapacity of an individual Consultant, resignation, among others, or until after fifty percent (50%) of the Personnel's man-months have been served.</p> <p>Violators will be fined an amount equal to the refund of the replaced Personnel's basic rate (for the unserved man-months/duration), which should be at least fifty percent (50%) of the total basic rate for the duration of the engagement.</p> |
| 42.1 | No further instructions. |
| 42.4(c) | No further instructions. |
| 52.1 | <p>The total ceiling amount in Philippine Pesos is <i>[insert amount]</i>.</p> <p>NOTE: <i>The contract amount is to be filled out by the BAC Secretariat prior to contract signing.</i></p> |
| 52.2 | No further instructions. |
| 53.2 | No additional instructions. |
| 53.4 | See TOR. |
| 53.5(a) | See TOR. |
| (c) | The interest rate is: 0% |
| 55.6 | No further instructions. |

Section VI. Terms of Reference

Terms of Reference

CONSULTING SERVICES FOR THE CONDUCT OF FEASIBILITY STUDY OF THE NORTH PHILIPPINE DRY PORT CONTAINER RAIL TRANSPORT SERVICE

1. BACKGROUND/RATIONALE

1.1. Contracting Authority

The General Appropriations Act (GAA) for 2018 has allocated the amount One Billion and Five Hundred Fifty-Nine Million Pesos under the Project Development and other Related Studies (PDRS) Fund to be administered by the National Economic and Development Authority (NEDA) for the conduct of pre-investment activities for key infrastructure projects of the government. Thus, the Philippine National Railways (PNR) submitted the subject proposal to NEDA for consideration and inclusion under the said fund.

NEDA shall be the Executing Agency while DOTr-PNR shall be the Implementing Agency. The proposed project is one of PNR's priority major programs/projects/activities (PPA).

1.2. Project Background

The Manila International Container Terminal Services (MICT) plans to build a dry port in Northern Philippines, to service the provinces of Bulacan, Pampanga, and Tarlac, among others. To complement such initiative, PNR is looking into the establishment of a Container Rail Transport Service to move containerized cargo to and from the North Philippine Dry Port and Manila Port. This will entail the repair of an ± 82 km railway line, installation of signalling systems and re-opening of the ± 4 km railway from Tutuban to Manila Port.

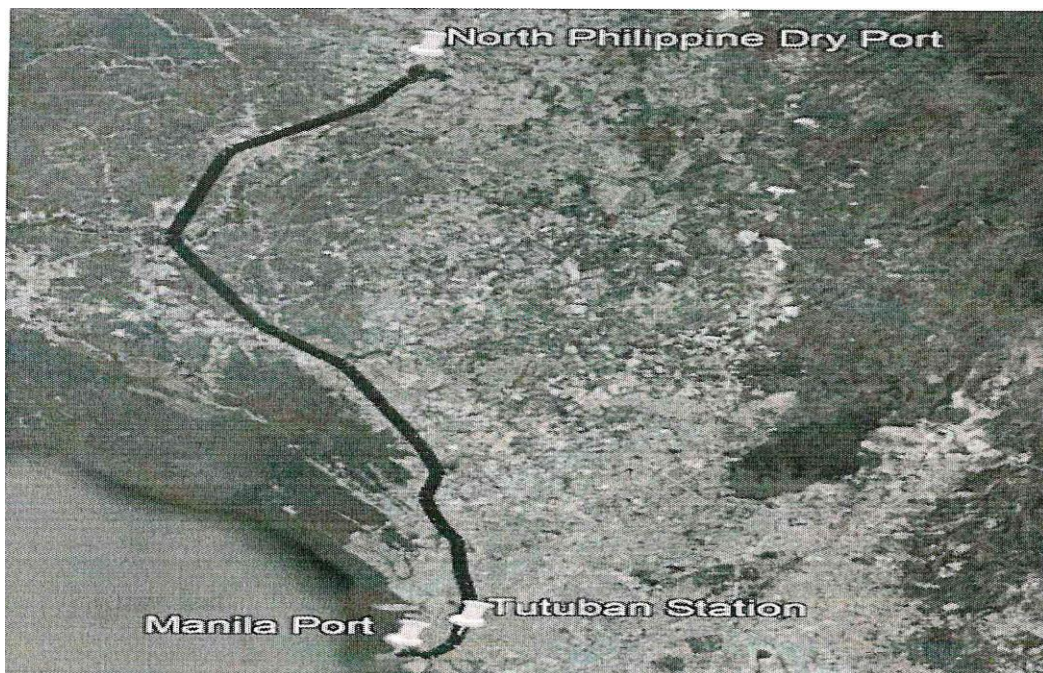


Figure 1. Proposed Alignment

Specifically, planning for the Container Rail Transport Service includes;

- a. Railway repairs;
- b. New railway construction;
- c. Signalling and train crossing construction;
- d. Station construction;
- e. Bridge construction over river crossings; and
- f. Underpass or overpass construction, as necessary.

2. OBJECTIVE & EXPECTED OUTPUTS

2.1. Objectives

- 2.1.1. The overall goal of the Study is to come up with a detailed Feasibility Study (F/S) of the North Philippine Dry Port Container Rail Transport Service with Basic Design documents for the implementation of the project. The F/S shall determine the best implementation options/configurations, that would generate the highest value-for-money (VfM) through Value Engineering/Value Analysis (VE/VA)³, which includes the most appropriate alignment.
- 2.1.2. The specific objectives of the project include:
 - a. Determination of targets and constraints of project;
 - b. Evaluation of technical choices and the availability of technology and services needed;
 - c. Determination of major concerns/constraints and corresponding solutions to overcome problems, including the form of any government support, as needed;
 - d. Identify risk factor and corresponding mitigation plans;
 - e. Identify requirements for work implementation;
 - f. Identification of necessary institutional and policy reforms; and
 - g. Recommendation on the commercial aspects (e.g., risk allocation, payment methodologies, etc.).

2.2. Expected Outputs

By the end of the contract period, the Consulting Firm is expected to submit all of the results of activities undertaken, which shall consist of, but shall not be limited to, the following outputs:

- 2.2.1. F/S document that plans rail transport service construction;
- 2.2.2. Basic design of North Philippine Dry Port Container Rail Transport Service consisting of:
 - a. Drawing documents, construction plans that include rail transport service infrastructure (railway, bridges, and stations), electromechanical systems and rolling stock requirements; and
 - b. Investment cost documents, including civil works cost, operational and maintenance costs, reinvestment costs, etc.

3. SCOPE OF WORK

The primary task of the Consulting Firm is to deliver a comprehensive and detailed F/S which shall include, but shall not be limited to, the following scope of works:

³ For reference, the Value Analysis Handbook for NEDA (2009) may be downloaded from: <http://www.neda.gov.ph/wp-content/uploads/2014/01/Value-Analysis-Handbook.pdf>.

3.1 On the Technical Aspect

- 3.1.1 Review of previous traffic-related studies;
- 3.1.2 Formulate a Container Rail Transport Service which incorporates the needs of the concerned stakeholders;
- 3.1.3 Review and conduct transport/traffic surveys to determine projected traffic demand as well as the optimum number/fleet requirements, and configurations to be acquired;
- 3.1.4 Conduct a detailed technical assessment/analysis of the proposed alignment of railway service as well as its surrounding areas, taking into consideration actual physical characteristics;
- 3.1.5 Conduct of primary data gathering to determine the optimal location and size of the stations of the railway service; and
- 3.1.6 Prepare an initial design and output specifications of the railway service accompanied with complete drawing documents of construction plans, electromechanical requirements, and rolling stock requirements, among others.

3.2 On the Economic and Financial Aspects

- 3.2.1. Conduct market sounding based on the previous studies' information/data, and conducted traffic/transport surveys;
- 3.2.2. Conduct of cost and risk analysis and recommend alternative options for the investment and operations of the railway service, e.g. through Public Private Partnership (PPP);
- 3.2.3. Conduct of tariff structure analysis taking into consideration results of the willingness-to-pay surveys, among others; and
- 3.2.4. Prepare the base case project cost estimates for the capital, and operations and maintenance (O&M) expenditures covering the proposed civil works, O&M including refurbishments of trains, reinvestment, land acquisition, taxes, and the required contingencies, among others; and
- 3.2.5. Conduct of financial and economic analyses to determine the viability of the project.

3.3 On the Social and Environmental Aspects

- 3.3.1. Prepare/review, as necessary, the Initial Environment Examination (IEE) and social risk assessment and analyses, considering all environmental and social factors, and necessary mitigation measures;
- 3.3.2. Prepare/review, as necessary, the corresponding Land Use Plan for the project, taking into consideration planned developments along the alignment and in the study area;
- 3.3.3. Update/conduct a climate and disaster risk vulnerability assessment, identifying potential threats and risks due to climate and geo-hazard situations/conditions in the covered/service areas; and
- 3.3.4. Update/prepare an appropriate poverty reduction and social strategy framework (e.g., gender action plans and resettlement plans, etc.) with recommendations for involuntary resettlement and gender safeguards in accordance with the requirements in the Philippines.

3.4 Legal/Institutional Analysis

- 3.4.1 Recommendation of an institutional/legal framework to support the chosen financing/implementation scheme.

3.5 Options analysis, i.e., Value Engineering/Value Analysis (VE/VA)⁴

3.5.1 Analysis of options, including associated costs, benefits, and risks, in the delivery of the project and its components (i.e., alignment, transport mode or combination of modes, and financing/implementation scheme, among others) through the conduct of VE/VA using a methodology similar to that outlined in the VA Handbook for NEDA (2009) to ensure that project goals/objectives⁵ are met, and project component functions are maximized at minimal cost.

3.6 The Consultant shall conduct a training/workshop in order to train/capacitate NEDA, DOTr-PNR, and its counterparts (at least 20 personnel) on the various planning tools, techniques and skill sets employed in the conduct of the Study. A study tour/learning visit shall also be conducted to expose the concerned government personnel to the experiences of certain jurisdictions in implementing railway transport projects.

3.7 The Consultant shall also conduct consultative workshops with representatives of relevant government agencies, non-government organizations, and other concerned stakeholders to obtain their view, comments, recommendations, and other inputs for the conduct of the Study.

4. TIMELINESS AND DELIVERABLES

4.1 Commencement Date and Period of Implementation

The Study shall be completed within a period of **nine (9) months**, with **6.5 man-months** of work for the Consulting Firm commencing from the date of receipt of Notice to Proceed (NTP). Refer to **Annex A** for the indicative timeline of the Study.

4.2 Table of Deliverables

A detailed Work and Financial Plan (WFP) in traceable Excel format shall be submitted by the Consulting Firm to DOTr and PNR for review (copy furnished NEDA for monitoring purposes and payment processing) within ten (10) working days from the date of commencement as indicated in the NTP.

The deliverables for the subject study enumerated below shall be prepared by the Consultancy Firm and shall be cleared by the Team Leader.

Subsequently, the Consulting Firm shall submit five (5) hard copies of the deliverables to NEDA for review of the concerned entities. Electronic/soft copies of the deliverable documents shall also be submitted to the DOTr, PNR and NEDA.

Based on the proposed deliverables, the timeline of submission of the reports may be scheduled as follows:

⁴ For reference, the Value Analysis Handbook for NEDA (2009) may be downloaded from the NEDA Website through the following link: <http://www.neda.gov.ph/wp-content/uploads/2014/01/Value-Analysis-Handbook.pdf>

⁵ At the minimum, identified project goals/objectives should be consistent with the principles set forth in the National Transport Policy.

| Deliverable⁶ | Timeline |
|--------------------------------|--|
| Draft Inception Report | Within one (1) month from receipt of NTP |
| Draft Interim Report | Within one (1) month from acceptance of Inception Report |
| Draft VE/VA Report | Within one (1) month from acceptance of Interim Report |
| Draft Final Report | Within one (1) month from acceptance of VE/VA Report |
| Final Report | Within one (1) month from acceptance of Draft Final Report |

The Inception Report and Work and Financial Plan, which shall be submitted to NEDA for approval, shall include the detailed work program for the scope of work, a detailed schedule for all work, including field work related to applicable tasks. The Inception Report shall consist of preface, methodology and theory that used in the study, brief overview, planning work, timeline schedule, and primary data collection in this research, including secondary data.

The Progress Report, to be submitted by the Consulting Firm to NEDA for monitoring purposes shall include updates on the physical and financial accomplishments of each of the activities under the WFP, including the difficulties encountered and measures taken to overcome them.

The Interim Report shall include, among others, the findings and results of the studies conducted on the different aspects of feasibility including results of relevant value/options analysis done, as well as the status and preliminary findings of ongoing activities. This report shall also consist of primary survey report, study case of similar case, and secondary data needed.

The Value Engineering/Value Analysis (VE/VA) Report shall contain an analysis of all proposed alternatives relative to the implementation options/configurations of the Study, including the associated costs, benefits, and risks, among others, as well as the recommendations for the best configuration that would most appropriately address the identified objectives and outputs of the project

The Final Report, which shall be submitted within one (1) month from acceptance of Draft Final Report. The Final report shall be submitted with an Executive Summary Report, Outline Business Case, basic design drawings (in size format of A3 sheet), and electronic copies of Excel Files in traceable format of the financial and economic analyses. The report should contain all pertinent findings concerning the scope of works of the projects as described in Section 3 of this TOR.

5. EXPERTISE REQUIREMENTS AND QUALIFICATIONS

- 5.1.** A consulting firm with at least ten (10) years of experience in the consulting industry, with minimum five (5) years actual engagements/services rendered in similar/relevant studies within the last 25 years, and extensive local knowledge of the Philippine economy, particularly of the Philippine transportation sector, will take the lead in undertaking the study and presenting the findings and recommendations of the reports to NEDA, DOTr-PNR, and in all related stakeholder consultations. Consultants may engage foreign experts provided that man-months shall not exceed 40% of the total man-months requirement of the undertaking. The team should have at least the following expertise:

5.1.1. Team Leader

⁶ Each deliverable shall be accompanied with a progress report for monitoring purposes.

- at least a Bachelor's Degree, or its equivalent, in Engineering, Economics, or related fields;
- minimum ten (10) years related experience in the transport sector with at least 36 man-months of actual expert services in the last 20 years; and
- with experience as Team Leader for at least three (3) infrastructure projects

5.1.2. Railway Infrastructure Expert

- at least a Bachelor's Degree, or its equivalent, in Civil Engineering, or related fields;
- minimum eight (8) years related experience in transport infrastructure with at least 30 man-months of actual expert services in the last 20 years; and
- with experience as Railway Infrastructure Expert for at least two (2) infrastructure projects

5.1.3. Port Infrastructure Expert

- at least a Bachelor's Degree, or its equivalent, in Civil Engineering, or related fields;
- minimum eight (8) years related experience in transport infrastructure with at least 30 man-months of actual expert services in the last 20 years; and
- with experience as Port Infrastructure Expert for at least two (2) infrastructure projects

5.1.4. Two (2) Transport Engineers

- at least a Bachelor's Degree, or its equivalent, in Civil Engineering, or related fields; and
- minimum seven (7) years related experience in transportation engineering with at least 24 man-months of actual expert services in the last 20 years

5.1.5. Structural Engineer

- at least a Bachelor's Degree, or its equivalent, in Civil Engineering, or related fields; and
- minimum seven (7) years related experience in structural engineering with at least 24 man-months of actual expert services in the last 20 years

5.1.6. Transport Economist

- at least a Bachelor's Degree, or its equivalent, in Economics, Finance, or related fields; and
- minimum seven (7) years related experience in transport infrastructure economics with at least 24 man-months of actual expert services in the last 20 years

5.1.7. Transport Financial Analyst

- at least a Bachelor's Degree, or its equivalent, in Finance, Economics, or related fields; and
- minimum seven (7) years related experience in transport infrastructure finance with at least 24 man-months of actual expert services in the last 20 years

5.1.8. Geodetic Engineer

- at least a Bachelor's Degree, or its equivalent, in Geodetic Engineering, or related fields; and
- minimum seven (7) years related experience in geodetic engineering with at least 24 man-months of actual expert services in the last 20 years

5.1.9. Two (2) Institutional/Legal Specialists

- at least a Bachelor's Degree, or its equivalent, in Law, Public Administration, Political Science, or related fields; and
- minimum seven (7) years related experience in institutional/organizational analysis with at least 18 man-months of actual expert services in the last 20 years

5.1.10. Two (2) Environmental Assessment Specialists

- at least a Bachelor's Degree, or its equivalent, in Engineering, Environmental Science, Urban Planning, or related fields; and
- minimum seven (7) years related experience in environmental management and development with at least 18 man-months of actual expert services in the last 20 years

5.1.11. Two (2) Social Assessment Specialists

- at least a Bachelor's Degree, or its equivalent, in Social Science, Community Development, Anthropology or related fields; and
- minimum seven (7) years related experience in sustainable development and social growth with at least 18 man-months of actual expert services in the last 20 years.

5.1.12. Certified VE/VA Specialist (CVS)

- Must be certified by organizations such as Society of American Value Engineers (SAVE) International, Society of Japanese Value Engineers, Association Française de l'Analyse de la Valeur, and other similar organizations, and must have handled at least two (2) VE/VA studies of infrastructure projects.

5.1.13. The Consulting Firm may also hire, as it deems necessary, additional experts to ensure quality and timely delivery of the scope of work of the consultancy service, and/or support staff to undertake administrative and/or logistical functions, as well as research work and/or technical writing, among others, provided that the total contract cost does not exceed the ABC.

5.2. Selection Criteria for Shortlisting

5.2.1. Prospective bidder shall follow the guidelines in the preparation of eligibility requirements as stipulated in section 24.1 and 24.2 of the revised IRR of the GPRA.

5.2.2. Participating consultancy firms shall be shortlisted based on the following:

- a) Experience⁷ and capability of the firm;
- b) Qualification of officers and/or key organic personnel who may be assigned to the undertaking, including non-organic personnel⁸; and
- c) Financial capacity⁹

5.2.3. Eligible Consultants should pass the hurdle score of 70 out of 100 points to be considered shortlisted in order to participate in this procurement activity¹⁰. The points/weights of the criteria for shortlisting are shown in Annex B (Criteria for Shortlisting)

5.3. Selection Criteria for proposals

5.3.1. Prospective bidders shall follow the bidding documents and guidelines in the submission of proposals/bids as stipulated in Section 25 of the Revised IRR of the GPRA.

5.3.2. Shortlisted bidders shall be evaluated using the Quality-Cost Based Evaluation/Selection (QCBE/QCBS) procedure under RA No. 9184 and its Revised IRR at eighty percent (80%) for the Technical Proposal and twenty percent (20%) for the financial proposal

The technical proposals of the shortlisted firms shall be evaluated based on the criteria stated in **Annex C** (Criteria for Technical Evaluation).

6. SOURCE OF FUNDS

Funds for the conduct of the Study will be sourced from NEDA Project Development and other Related Studies (PDRS) Fund.

7. INSTITUTIONAL SET-UP/RESPONSIBILITIES

7.1. Executing Agency (EA)/NEDA

7.1.1 Shall be the Executing Agency (i.e. representative of the Government in the Contract Agreement with the Consultant);

⁷**Similar experience** – This shall be defined as previous accomplishments/contracts with scope of works involving the conduct of pre-F/S, F/S or VE/VA for railway transport sector.

Relevant experience – This shall be defined as previous accomplishments/contracts with scope of works involving (i) the conduct of pre-F/S, F/S or VE/VA, detailed engineering, advisory services or related studies/services conducted for projects in other transport subsectors concerning freight and logistics, and/or public transportation development; (ii) detailed engineering, advisory services, other related studies/services or components of an F/S (e.g., demand forecast, economic, financial, etc.) for transportation subsectors, and (iii) construction, supervision, civil works or operations and maintenance (O&M) of projects pertaining to public transportation development.

⁸ In the case of a nominated consultant, he/she should submit a signed written commitment stating that he/she shall work for the Study once awarded the contract.

⁹ This will be based on the balance sheet/audited financial statement of the Firm. The difference of current assets and current liabilities, or net current assets, of the Firm should be able to support minimum of five percent (5%) of the contract amount. In the case of winning bidder with zero rating as for financial capacity, the same will be required to put up an amount, whether in cash or irrevocable letter of credit, equivalent to five percent (5%) of the contract amount.

¹⁰ Nominated personnel for shortlisting are preferred to be the personnel that will be proposed for the actual conduct of work.

- 7.1.2 Shall be responsible for the procurement and tendering of the consultancy services in compliance with R.A. No. 9184 and its Revised IRR through its NEDA Bids and Awards Committee (NBAC) with the Implementing Agency as end-user;
- 7.1.3 Shall be responsible for contract implementation and management, including ensuring the quality of outputs. Further, NEDA shall be responsible for the monitoring and evaluation of the progress of the Study and approval of reports to ensure delivery of outputs as specified in this TOR;
- 7.1.4 Shall provide assistance in coordination with other agencies related to the Study;
- 7.1.5 Shall provide the Consulting Firm necessary/available information/data (i.e., relevant written/published comments, that are in possession of NEDA and other NGAs, it can hold of) and also, if available, copies of previous related studies as well as necessary counterpart staff to assist the consultants in conducting the services, subject to the execution of a Non-Disclosure Agreement, as necessary;
- 7.1.6 Shall evaluate acceptability/correctness of the deliverables for the purposes of fund release/payment to the consultants;
- 7.1.7 Shall be responsible for the preparation and submission of financial reports as required by the Department of Budget and Management (DBM) and other reportorial requirements regarding the F/S Fund Administration; and
- 7.1.8** Shall have the option to detail up to five (5) Government personnel, subject to coordination / agreement with DOTr-PNR, to the project for the purpose of on-the-job capacity building/technology transfer.

7.2. Implementing Agency (IA)/DOTr-PNR

- 7.2.1. Shall be the beneficiary/end-user of the consultancy services;
- 7.2.2. Shall be responsible for the contract implementation and management, including ensuring quality of outputs. Further, DOTr-PNR shall be responsible for the monitoring and evaluation of the progress of the study and approval of reports to ensure delivery of outputs specified in Sections 2, 3 and 4 of this TOR;
- 7.2.3. Shall provide assistance in coordination with other agencies related to the study;
- 7.2.4. Shall warrant that Consulting Firm shall have free and unimpeded access to all lands and properties required for the effective execution of the services. Likewise, it shall be responsible for any damage to such land or any property thereon resulting from such access (unless such damage is caused by the wilful default or negligence of the Consulting Firm or its Staff);
- 7.2.5. Shall provide the necessary information and if available, copies of previous related studies to the Consulting Firm; and
- 7.2.6. Shall have the option to detail up to five (5) Government personnel, subject to coordination / agreement with NEDA, to the project for the purpose of on-the-job capacity building/technology transfer.

7.3. Consulting Firm

- 7.3.1. Shall be responsible for the conduct of the study and the timely delivery of results/outputs as indicated in this TOR, under the supervision and management of the Team Leader;
- 7.3.2. Shall be responsible for the provision of necessary office space, which shall be in close proximity to DOTr-PNR, for their project staff as well the Government's detailed personnel, including necessary office equipment (i.e., computer, printers, office supplies, etc.) for the conduct of the study. All equipment procured for the development of the project shall be transferred to the Government (NEDA) by the end of the project;
- 7.3.3. Shall shoulder all expenses required in the conduct of the study, including all arrangements for the conduct of meetings, and travel costs, food and lodging of Government counterpart staff during field visits, except for their salaries;
- 7.3.4. Shall: (a) carry out the services with sound engineering theories and Practices to ensure that the final works will provide the most economical and feasible development for the study; (b) accept full responsibility for the consulting services to be performed under this TOR; (c) perform the work in an efficient and diligent manner without impairing the quality of services rendered; and (d) comply with, and strictly observe any laws regarding workmen's health and safety, workmen's welfare, compensation for injuries, minimum wage, hours of labour and other labour laws;
- 7.3.5. Shall: (a) keep accurate and systematic records and accounts in respect of the services in such form and detail as is customary and sufficient to establish accurately that the costs and expenditures under this TOR have been duly incurred; and (b) permit the duly authorized representatives of the Government from time to time to inspect its records and accounts as well as to audit the same;
- 7.3.6. Shall present the deliverables to NEDA and DOTr-PNR before the submission of the final version of the deliverable;
- 7.3.7. Shall not assign nor sub-contract any part of the professional engineering Services under this TOR to any person or firm, except with prior written consent of DOTr-PNR. The approval by the Government to the assignment of any part of said services or to the engagement by the Consulting Firm of sub-contractors to perform any part of the same shall not relieve the Consulting Firm of any obligations under this TOR;
- 7.3.8. Shall prohibit full-time foreign staff during his/her assignment under this TOR to engage, directly or indirectly, either in his/her name, or through the Consulting Firm, in any business or professional activities in the Philippines other than the performance of his/her duties or assignment under this TOR;
- 7.3.9. Shall not at any time communicate to any person or entity any information disclosed to them for the purpose of this services, nor shall the Consulting Firm make public any information as to the recommendations formulated in the course of or as a result of the services, except with prior consent of NEDA;
- 7.3.10. Shall agree that nothing contained herein shall be construed as establishing or creating between the Government and the Consulting Firm, the relationship of employer and employee or principal and agent, it being understood that the position of the Consulting Firm and anyone else performing the services is that of an independent contractor;

7.3.11. Shall hold the Government free from any and all liabilities, suits, actions, demands, or damages arising from death or injuries to persons or properties, or any loss resulting from or caused by said personnel incident to or in connection with the services under this TOR. The Consulting Firm shall agree to indemnify, protect and defend at its own expense the Government and its agents from and against all actions, claims and liabilities arising out of acts done by the Consulting Firm or its staff in the performance of the services, including the use of, or violation of any copyrighted materials, patented invention, article or appliance; and

7.3.12. Shall provide on-the-job capacity building and technology transfer to the Government's personnel detailed to the project, for both NEDA and DOTr-PNR.

8. MODE OF PROCUREMENT AND APPROVED BUDGET FOR THE CONTRACT (ABC)

8.1. The procurement of consulting services for the Study shall be through competitive public bidding. The ABC for the proposed Study is **FIFTY MILLION PESOS (PhP50,000,000.00)** inclusive of all applicable Government taxes and charges, professional fees, and other incidental and administrative costs (i.e., transportation/travel expenses, printing, reproduction and packaging of hard and soft copies of reports, expenses for meetings, etc.) which shall be paid in a lump sum basis. Attached as **Annex D** is the breakdown of the ABC.

8.2. Note that this Consulting Services contract shall be a *fixed price contract*. Any extension of contract time shall not involve any additional cost to the Government.

8.3. All manuals, reports, materials, references (including digital files and software) acquired for the Project shall be turned over to NEDA at the conclusion of the Project.

9. PAYMENT SCHEME/SCHEDULE

9.1. The following is the payment scheme/schedule of the deliverables to be submitted in relation to the consultancy services:

| Description | Payment |
|---|----------------|
| Upon acceptance of the Final Inception Report | 15% |
| Upon acceptance of the Final Interim Report | 25% |
| Upon acceptance of Final VE/VA Report | 20% |
| Upon acceptance of the Draft Final Report | 20% |
| Upon acceptance of the Final Report | 20% |
| | 100% |

9.2. An advance payment shall be made to cover mobilization costs, but shall not exceed fifteen PERCENT (15%) of the contract amount, subject to the posting of an irrevocable standby letter of credit issued by an entity acceptable to NEDA and of an equal amount to the advance payment. The advance payment shall be repaid by the Consulting Firm by deducting from his subsequent billings/payment such sum as agreed upon during contract negotiations until fully liquidated within the duration of the contract.

10. RETENTION PAYMENT

- 10.1. A retention payment of ten percent (10%) shall be withheld. It shall be based on the total amount due to the Consulting Firm prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of study, as determined by NEDA, are completed. If, after fifty percent (50%) completion, the study is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall be imposed.
- 10.2. The total "retention money" shall be due for release upon approval of the Final Report. The Consulting Firm may, however, request the substitution of the retention money for each progress billing with irrevocable standby Letters of Credit from a commercial bank, bank guarantees, or surety bonds callable on demand, of amounts equivalent to the retention money substituted for and acceptable to NEDA, provided that the project is on schedule and is satisfactorily undertaken. Otherwise, the ten percent (10%) retention shall be made. Said irrevocable standby Letters of Credit, bank guarantees and/or surety bonds, to be posted in favour of NEDA shall be valid for the duration of the contract.

11. LIQUIDATED DAMAGES

- 11.1. Where the Consultant refuses or fails to satisfactorily complete the work within the specified contract time, plus any time extension duly granted and is thereby in default under the contract, the Consultant shall pay NEDA for liquidated damages, and not by way of penalty, an amount, as provided in the conditions of contract, equal to at least one tenth (1/10) of one percent (1%) of the cost of the unperformed portion of the works for every day of delay. Should the amount of liquidated damages reach ten percent (10%) of the contract amount, NEDA shall, at its own discretion, terminate the contract without prejudice to any further action it may take to recover whatever losses incurred due to non-performance of the Consultant.
- 11.2. To be entitled to such liquidated damages, NEDA does not have to prove that it has incurred actual damages. Such amount shall be deducted from any money due or which may become due to the Consultant under the contract and/or collect such liquidated damages from the retention money or other securities posted by the contractor whichever is convenient to NEDA.

ANNEX A

SCHEDULE/WORK PLAN

The consulting services will be undertaken over a period of nine (9) months, inclusive of the 2.5 - month review period of NEDA and DOTr-PNR, as shown below:

| ACTIVITIES | DURATION | M1 | | | | M2 | | | | M3 | | | | M4 | | | | M5 | | | | M6 | | | | M7 | | | | M8 | | | | M9 | | | |
|---|---|----|---|---|---|----|---|---|---|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 |
| Preparation of the Draft Inception Report and Work and Financial Plan | 25 working days spread over 35 working days | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Submission/Presentation of Draft Inception Report and Work and Financial Plan | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Review of the Draft Inception Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Preparation/Submission of the Revised Inception Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Preparation of the Draft Interim Report | 25 working days spread over 35 working days | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Submission/Presentation of Draft Interim Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Review of the Draft Interim Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Submission of the Revised Interim Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Preparation of the Draft VE/VA Report | 25 working days spread over 35 working days | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Submission/Presentation of the Draft VE/VA Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Review of the Draft VE/VA Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Submission of the Revised VE/VA Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Preparation of the Draft Final Report | 55 working days spread over 75 working days | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Submission/Presentation of the Draft Final Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Review of the Draft Final Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Incorporation of Revisions in the Final Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Presentation/Submission of the Final Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Review of Final Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Incorporation of Further Revisions in the Final Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Submission of the Revised Final Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Progress Reports | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 130 working days spread over 180 working days | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

ANNEX B

CRITERIA FOR SHORTLISTING

| Criteria/Particulars | Firm |
|--|-------------------|
| I. Experience and Capability of the Firm <ul style="list-style-type: none"> ▪ Completed consulting services of size, complexity and technical specialty comparable to job under consideration, including quality of performance ▪ Other completed consulting services related to the job under consideration ▪ Known cases of prior performance, including quality of work conforming to obligations and cost of services | 60 points |
| II. Quality of Key Personnel Who May Be Assigned to the Project ¹¹ | 30 points |
| III. Financial/Job Capacity <ul style="list-style-type: none"> ▪ Absorptive capacity to do additional works other than those currently being undertaken (overall workload relative to capacity) | 10 points |
| Grand Total | 100 points |

*Note: **Similar experience** – This shall be defined as previous accomplishments/contracts with scope of works involving the conduct of pre-F/S, F/S or VE/VA for railway transport sector.*

Relevant experience – This shall be defined as previous accomplishments/contracts with scope of works involving (i) the conduct of pre-F/S, F/S or VE/VA, detailed engineering, advisory services or related studies/services conducted for projects in other transport subsectors concerning freight and logistics, and/or public transportation development; (ii) detailed engineering, advisory services, other related studies/services or components of an F/S (e.g., demand forecast, economic, financial, etc.) for transportation subsectors, and (iii) construction, supervision, civil works or operations and maintenance (O&M) of projects pertaining to public transportation development.

$$\text{Financial Capacity} = \frac{\text{Current Asset} - \text{Current Liabilities} - 2 \text{ months of all ongoing contracts}}{5\% \text{ month of the ABC}}$$

¹¹ Non-organic personnel may be nominated for the purpose of eligibility and shortlisting provided that he/she should submit a signed written commitment stating that he/she shall work for the Study once awarded the contract. The Team Leader may only be nominated by one (1) firm.

ANNEX C

CRITERIA FOR TECHNICAL EVALUATION

| Criteria/Particulars | Firm |
|---|-------------------|
| I. Qualification of Personnel to be Assigned to the Study* | 50 points |
| A. Education B. Related Trainings Acquired C. Experience | |
| II. Plan of Approach and Methodology | 40 points |
| A. Substance of the Proposal B. Completeness of the Proposal C. Clarity of Methods and Approaches | |
| III. Experience and Capability of the Firm | 10 points |
| A. Years in the Consulting Industry B. Related Experience | |
| Grand Total | 100 points |

* The personnel to be proposed/nominated under the technical proposal (of shortlisted consultants) may not be the same personnel nominated in the shortlisting, provided that, the technical proposal (of shortlisted consultants) must include a signed written commitment from the nominated personnel that they will make themselves available for the project should the firm be awarded the contract.

* Only those Shortlisted Consultants who passed shall be evaluated.

* Shortlisted Consultants should get a total of at least 70 points from the above criteria.

ANNEX D

BREAKDOWN OF THE APPROVED BUDGET OF THE CONTRACT

| CONDUCT OF FEASIBILITY STUDY OF THE NORTH PHILIPPINE DRY PORTS CONTAINER RAIL TRANSPORT SERVICE APPROVED BUDGET for the CONTRACT (ABC) | |
|--|----------------------|
| PARTICULARS | AMOUNT (PhP) |
| A. Consultancy Staff Team Leader Two (2) Railway Infrastructure Experts Two (2) Transport Engineers Structural Engineer Transport Economist Transport Financial Analyst Geodetic Engineer Certified VE/VA Specialist Two (2) Institutional/Legal Specialists Two (2) Environmental Assessment Specialists Two (2) Social Assessment Specialists Four (4) Administrative Support B. Surveys and Investigations C. Operations and Maintenance Costs Field Office Rent ¹² Utilities Consultations/Meetings ¹³ Travel Expenses (Field Visits) Office Supplies/Materials and Printing Communications Trainings/Workshops Miscellaneous and Other Fees Best Practice Study Visits* | |
| GRAND TOTAL | 50,000,000.00 |

*Study visits shall be conducted after the acceptance of the Interim Report.

¹² As stated in Section 7.3.2, provision of office space shall be in close proximity to DOTr-PNR (and the project location, as necessary).

¹³ Consultations and meetings to be conducted shall include kick-off meeting, presentations of the five (5) major deliverables, and at least (4) stakeholder consultations in a venue that shall be approved by NEDA, and would require at least 30 participants representing NEDA, DOTr-PNR, the Consulting Firm, all other concerned agencies and stakeholders.

Section VII. Proposal/Bidding Forms

Eligibility Documents Submission Form..... 110

Technical Proposal Forms..... 111

Omnibus Sworn Statement 121

Proposal/Bid Securing Declaration 124

Financial Proposal Forms..... 126

Form of Contract Agreement 133

ELIGIBILITY DOCUMENTS SUBMISSION FORM

[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

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

In line with this submission, we certify that:

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

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

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

Yours sincerely,

Signature
Name and Title of Authorized Signatory
Name of Consultant
Address

TECHNICAL PROPOSAL FORMS

Notes for Consultants

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

Cover Letter

Use TPF 1. Technical Proposal Submission Form.

Experience of the Firm

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

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

General approach and methodology, work and staffing schedule

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

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

Curriculum Vitae (CV)

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

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

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

TPF 1. TECHNICAL PROPOSAL SUBMISSION FORM

[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

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

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

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

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

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

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

We remain,

Yours sincerely,

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

TPF 2. CONSULTANT'S REFERENCES

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

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

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

Consultant's Name: _____

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

On the Terms of Reference:

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

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

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

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

TPF 5. TEAM COMPOSITION AND TASK

| 1. Technical/Managerial Staff | | |
|-------------------------------|----------|------|
| Name | Position | Task |
| | | |
| | | |
| | | |
| | | |
| | | |

| 2. Support Staff | | |
|------------------|----------|------|
| Name | Position | Task |
| | | |
| | | |
| | | |
| | | |

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

| |
|--|
| |
|--|

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

Proposed Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

Years with Firm/Entity: _____ Nationality: _____

Membership in Professional Societies: _____

Detailed Tasks Assigned: _____

Key Qualifications:

[Give an outline of staff member's experience and training most pertinent to tasks on project (in months and years with detailed description/discussion on the nature and scope of work). Describe degree of responsibility held by staff member on relevant previous projects and give dates and locations.]

Education:

[Summarize college/university and other specialized education of staff members, giving names of schools, dates attended, and degrees obtained.]

Employment Record:

*[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of projects. **For experience in last twenty years (in man-months), also indicate role played and types of activities performed and client references, where appropriate. Failure to indicate details of role and duration shall merit zero points.**]*

Trainings Attended:

[Summarize trainings/seminars attended as participant indicating topic and specific duration (in hours/days). Failure to indicate details shall merit zero points.]

Languages:

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

Certification:

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

Commitment:

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

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

Full name of staff member: _____
Full name of authorized representative: _____

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

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

NAME OF NOTARY PUBLIC

Serial No. of Commission _____
Notary Public for _____ **until** _____
Roll of Attorneys No. _____
PTR No. __, [date issued], [place issued]
IBP No. __, [date issued], [place issued]
Doc. No. ____
Page No. ____
Book No. ____
Series of ____.

TPF 7. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL

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

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

Part-time: _____

Signature: _____
(Authorized representative)

Full Name: _____
Title: _____
Address: _____

TPF 8. ACTIVITY (WORK) SCHEDULE

A. Field Investigation and Study Items

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

B. Completion and Submission of Reports

| Reports | Date |
|------------------------|------|
| Draft Inception Report | |
| Draft Interim Report | |
| Draft VE/VA Report | |
| Draft Final Report | |
| Final Report | |

OMNIBUS SWORN STATEMENT

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

AFFIDAVIT

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

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

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

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

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

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

If a partnership, corporation, cooperative, or joint venture: I am granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the proposal/bid, and to sign and execute the ensuing contract for *[Name of the Project]* of the *[Name of the Procuring Entity]*, accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary's Certificate, whichever is applicable;

3. *[Name of Consultant]* is not "blacklisted" or barred from procurement/bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board;
4. Each of the documents submitted in satisfaction of the procurement/bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;

5. *[Name of Consultant]* is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;

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

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

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

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

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

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

[Proponent's/Bidder's Representative/Authorized Signatory]

SUBSCRIBED AND SWORN to before me this ____ day of *[month]* *[year]* at *[place of execution]*, Philippines. Affiant/s is/are personally known to me and was/were identified by me

through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her *[insert type of government identification card used]*, with his/her photograph and signature appearing thereon, with no. _____.

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

NAME OF NOTARY PUBLIC

Serial No. of Commission _____

Notary Public for _____ **until** _____

Roll of Attorneys No. _____

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

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

Doc. No. ____

Page No. ____

Book No. ____

Series of ____.

Proposal/Bid-Securing Declaration

(REPUBLIC OF THE PHILIPPINES)

CITY OF _____) S.S.

X-----X

Invitation to Bid *[Insert reference number]*

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

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, proposals/bids must be supported by a Proposal/Bid Security, which may be in the form of a Proposal/Bid-Securing Declaration.
2. I/We accept that: (a) I/we will be automatically disqualified from procurement/bidding for any contract with any procuring entity for a period of two (2) years upon receipt of your Blacklisting Order; and, (b) I/we will pay the applicable fine provided under Section 6 of the Guidelines on the Use of Proposal/Bid Securing Declaration, within fifteen (15) days from receipt of written demand by the procuring entity for the commission of acts resulting to the enforcement of the proposal/bid securing declaration under Sections 23.1(b), 34.2, 40.1 and 69.1, except 69.1 (f), of the IRR of RA 9184; without prejudice to other legal action the government may undertake.
3. I/We understand that this Proposal/Bid-Securing Declaration shall cease to be valid on the following circumstances:
 - a. Upon expiration of the proposal/bid validity period, or any extension thereof pursuant to your request;
 - b. I am/we are declared ineligible or post-disqualified upon receipt of your notice to such effect, and (i) I/we failed to timely file a request for reconsideration or (ii) I/we filed a waiver to avail of said right;
 - c. I am/we are declared as the proponent/bidder with the Highest Rated Responsive Proposal/Bid, and I/we have furnished the performance security and signed the Contract.

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

[Insert NAME OF PROPONENT'S/BIDDER'S AUTHORIZED REPRESENTATIVE]
[Insert signatory's legal capacity]

Affiant

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

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

NAME OF NOTARY PUBLIC

Serial No. of Commission _____
Notary Public for _____ **until** _____
Roll of Attorneys No. _____
PTR No. __, *[date issued]*, *[place issued]*
IBP No. __, *[date issued]*, *[place issued]*
Doc. No. ____
Page No. ____
Book No. ____
Series of ____.

FINANCIAL PROPOSAL FORMS

Notes for Consultants

The following summarizes the content of the Financial Proposal.

Cover Letter

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

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

Costs of Consulting Services

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

FPF 1. FINANCIAL PROPOSAL SUBMISSION FORM

[Date]

[Name and address of the Procuring Entity]

Ladies/Gentlemen:

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

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

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

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

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

We remain,

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

FPF 2. SUMMARY OF COSTS

| Costs | Currency(ies) ¹⁴ | Amount in Philippine Peso |
|------------------------------------|-----------------------------|---------------------------|
| Subtotal | | |
| Local Taxes | | |
| Total Amount of Financial Proposal | | _____ |

¹⁴ In cases of contracts involving foreign consultants, indicate the exchange rate used.

FPF 3. BREAKDOWN OF PRICE PER ACTIVITY

| | | |
|------------------------|-----------------------------|---------------------------|
| Activity No.:_____ | Activity No.:_____ | Description:_____ |
| Price Component | Currency(ies) ¹⁵ | Amount in Philippine Peso |
| Remuneration | | |
| Reimbursables | | |
| Miscellaneous Expenses | | |
| Subtotal | | _____ |

¹⁵ In cases of contracts involving foreign consultants, indicate the exchange rate used.

FPF 4. BREAKDOWN OF REMUNERATION PER ACTIVITY

| Activity No. _____ | | Name: _____ | | |
|--------------------|----------|---------------------|------------------------------------|--------|
| Names | Position | Input ¹⁶ | Remuneration Currency(ies) Rate | Amount |
| Regular staff | | | | |
| Local staff | | | | |
| Consultants | | | | |
| Grand Total | | | | _____ |

¹⁶ Staff months, days, or hours as appropriate.

FPF 5. REIMBURSABLES PER ACTIVITY

Activity No: _____

Name: _____

| No. | Description | Unit | Quantity | Unit Price In | Total Amount In |
|-----|---|------|----------|---------------|-----------------|
| 1. | International flights _____ | Trip | | | |
| 2. | Miscellaneous travel expenses | Trip | | | |
| 3. | Subsistence allowance | Day | | | |
| 4. | Local transportation costs ¹⁷ | | | | |
| 5. | Office rent/accommodation/ clerical assistance | | | | |
| | Grand Total | | | | _____ |

¹⁷ Local transportation costs are not included if local transportation is being made available by the Entity. Similarly, in the project site, office rent/accommodations/clerical assistance costs are not to be included if being made available by the Entity.

FPF 6. MISCELLANEOUS EXPENSES

Activity No. _____ Activity Name: _____

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

FORM OF CONTRACT AGREEMENT

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

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

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

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

execute and complete the Consulting Services and remedy any defects therein in conformity with the provisions of this Consultant in all respects.

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

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

Binding Signature of Procuring Entity

Binding Signature of Consultant

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

Section VIII. Appendices (to GCC)

I. Description of Services

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

(To be consistent with TOR)

II. Reporting Requirements

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

(To be consistent with TOR)

III. Key Personnel and Subconsultants

List under:

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

(To be consistent with Winning Proposal)

IV. Breakdown of Contract Price

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

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

(To be consistent with Winning Proposal)

V. Services and Facilities Provided by the Client

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

(To be consistent with TOR)

VI. Consultant's Representations Regarding Costs and Charges

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

1. Review of Remuneration Rates

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

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

(i) Salary

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

(ii) Bonus

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

(iii) Social Costs

Social costs are the costs to the Consultant of staff's non-monetary benefits. These items include, *inter alia*, pension, medical and life insurance costs, and the cost of a staff member being sick or on vacation. In this regard, the cost of leave for public

holidays is not an acceptable social cost nor is the cost of leave taken during the Contract if no additional staff replacement has been provided. Additional leave taken at the end of the Contract in accordance with the Consultant's leave policy is acceptable as a social cost.

(iv) Cost of Leave

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

$$\text{Leave cost as percentage of salary}^{18} = \frac{\text{total days leave} \times 100}{[365 - w - ph - v - s]}$$

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

(v) Overheads

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

(vi) Fee or Profit

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

(vii) Away from Headquarters Allowance or Premium

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

(viii) Subsistence Allowances

¹⁸ Where w = weekends, ph = public holidays, v = vacation, and s = sick leave.

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

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

2. Reimbursables

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

3. Bank Guarantee

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

VII. BREAKDOWN OF AGREED FIXED RATES¹⁹

[Currencies: _____²⁰]

| Consultants | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-------------|----------|--------------------------|-----------------------------|------------------------|----------|-------------------|--|-------------------------|---------------------------------|
| Name | Position | Basic Rate ²¹ | Social Charge (__% of 1) | Overhead (__% of 1) | Subtotal | Fee (__% of 4) | Away from Headquarters Allowance (__% of 1) | Total Agreed Fixed Rate | Agreed Fixed Rate (__% of 1) |
| Philippines | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| Home Office | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |

Signature of Consultant: _____

Date: _____

Authorized Representative: _____

Name: _____

Title: _____

¹⁹ This model form is given for negotiation purposes only. It is not part of the proposals (technical or financial).

²⁰ If different currencies, a different table for each currency should be used.

²¹ Per month, day, or hour as appropriate.

