



PHILIPPINE BIDDING DOCUMENTS

Procurement of Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists - Rebidding

2016-05

TABLE OF CONTENTS

PART I

SECTION I. REQUEST FOR EXPRESSION OF INTEREST	4
SECTION II. ELIGIBILITY DOCUMENTS	5
SECTION III. ELIGIBILITY DATA SHEET	12

PART II

SECTION I. NOTICE OF ELIGIBILITY AND SHORT LISTING	14
SECTION II. INSTRUCTIONS TO BIDDERS.....	17
SECTION III. BID DATA SHEET	43
SECTION IV. GENERAL CONDITIONS OF CONTRACT.....	50
SECTION V. SPECIAL CONDITIONS OF CONTRACT	75
SECTION VI. TERMS OF REFERENCE.....	78
SECTION VII. BIDDING FORMS.....	79
SECTION VIII. APPENDICES.....	102

PART I

Section I. Request for Expression of Interest



TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY

ISO 9001 : 2008 CERTIFIED

Tatag ng integridad, Scrinisyong Dekalidad, Kaagapay sa Pag-unlad



REQUEST FOR EXPRESSION OF INTEREST FOR PROCUREMENT OF CONSULTING SERVICES FOR TRAINING TOOLS/EQUIPMENT SPECIFICATIONS AND PROCUREMENT SPECIALISTS

1. The **Technical Education and Skills Development Authority (TESDA)**, through **General Appropriations Act for CY 2016** intends to apply the sum of **One Million Two Hundred Seven Thousand Two Hundred Fifty Pesos Only (Php1,207,250.00)** being the Approved Budget for the Contract (ABC) to payments under the contract for the **Procurement of Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists**. Bids received in excess of the ABC shall be automatically rejected at the opening of the financial proposals.
2. The TESDA now calls for the submission of eligibility documents for **procurement of Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists**. Interested consultants must submit their eligibility documents on or before 17 March 2016 at 2:00 P.M. at CSA Conference Room, 2nd Floor, TESDA Administration Building, Taguig City. Applications for eligibility will be evaluated based on a non-discretionary "pass/fail" criterion.
3. The BAC shall draw up the short list of consultants from those who have submitted eligibility documents and have been determined as eligible in accordance with the provisions of Republic Act No. 9184 (RA 9184), otherwise known as the "Government Procurement Reform Act", and its Revised Implementing Rules and Regulations (IRR). The short list shall consist of three (3) prospective bidders who will be entitled to submit bids. The criteria and rating system for short listing are:

The minimum required St for each criterion is as follows:

The numerical weights for each criterion is as follows:

- | | | |
|-----|--|--------------|
| (a) | Quality of personnel to be assigned to the Project | – 35% |
| (b) | Experience and capability of the CONSULTANT | – 40% |
| (c) | Plan of approach and methodology | – 25 % |
| | | 100% (x 85%) |

The minimum St required to pass is 70%.

4. Bidding will be conducted through open competitive bidding procedures using non-discretionary "pass/fail" criterion as specified in the IRR of RA 9184.

17

Section II. Eligibility Documents

1. Eligibility Criteria

- 1.1. **The following persons/entities shall be allowed to participate in the 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, and of which at least sixty percent (60%) interest belongs to citizens 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 bidders may be eligible subject to the qualifications stated in the EDS.**
- 1.4. **Government corporate entities 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 dependent agencies of the GOP or the Procuring Entity.**

2. Eligibility Requirements

2.1. The following eligibility requirements 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 bidders:

(a) Class “A” Documents –

Legal Documents

- (i) Registration certificate from Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or Cooperative Development Authority (CDA) for cooperatives, or any proof of such registration as stated in the EDS;**
- (ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located;**
- (iii) Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.**

Technical Documents

- (iv) Statement of the prospective 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 bid, within the relevant period provided in the EDS. The statement shall include, for each contract, the following:**
 - (iv.1) the name and location of the contract;**
 - (iv.2) date of award of the contract;**
 - (iv.3) type and brief description of consulting services;**
 - (iv.4) consultant’s role (whether main consultant, subcontractor, or partner in a JV)**
 - (iv.5) amount of contract;**
 - (iv.6) contract duration; and**
 - (iv.7) certificate of satisfactory completion or equivalent document specified in the EDS issued by the client, in the case of a completed contract;**

- (v) **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.**

Financial Document

- (vi) **The consultant's audited financial statements, showing, among others, the consultant's total and current assets and liabilities, stamped "received" by the BIR or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission.**

(b) Class "B" Document –

Valid joint venture agreement (JVA), in case a joint venture is already in existence. In the absence of a JVA, duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA in the instance that the bid is successful, shall be included in the bid. Failure to enter into a joint venture in the event of a contract award shall be ground for the forfeiture of the bid security. Each partner of the joint venture shall submit the legal eligibility documents. The submission of technical and financial documents by any of the joint venture partners constitutes compliance.

- 2.2. **In the case of foreign consultants, the foregoing eligibility requirements under Class "A" Documents may be substituted by the appropriate equivalent documents, if any, issued by the foreign consultant's country.**
- 2.3. **The eligibility requirements or statements and all other documents to be submitted to the BAC must be in English. If the eligibility requirements or statements, the 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 bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines.**
- 2.4. **Prospective 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, subcontractors may only participate in the 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.

- 2.5. If a prospective bidder has previously secured a certification from the Procuring Entity to the effect that it has previously submitted the above-enumerated Class "A" Documents, the said certification may be submitted in lieu of the requirements enumerated in Clause 2.1 above.**

3. Format and Signing of Eligibility Documents

- 3.1. Prospective bidders shall submit their eligibility documents through their duly authorized representative on or before the deadline specified in Clause 5.**
- 3.2. Prospective 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, except for unamended printed literature, shall be signed, and each and every page thereof shall be initialed, by the duly authorized representative/s of the prospective bidder.**
- 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 bidder.**

4. Sealing and Marking of Eligibility Documents

- 4.1. Unless otherwise indicated in the EDS, prospective bidders shall enclose their original eligibility documents described in Clause 2.1, in a sealed envelope marked "ORIGINAL – ELIGIBILITY DOCUMENTS". Each copy of 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 indelible ink and shall be signed by the prospective bidder or its duly authorized representative/s.**
- 4.3. All envelopes shall:**
- (a) contain the name of the contract to be bid in capital letters;**
 - (b) bear the name and address of the prospective bidder in capital letters;**
 - (c) be addressed to the Procuring Entity's BAC specified in the EDS;**
 - (d) bear the specific identification of this Project indicated in the EDS; and**

- (e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of eligibility documents, in accordance with Clause 5.

4.4. If the eligibility documents are not sealed and marked as required, the Procuring Entity will assume no responsibility for its misplacement or 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.

6. Late Submission of Eligibility Documents

Any eligibility documents submitted after the deadline for submission and receipt prescribed in Clause 5 shall be declared "Late" and shall not be accepted by the Procuring Entity.

7. Modification and Withdrawal of Eligibility Documents

7.1. The prospective 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 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 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 bidder unopened.

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

8. Opening and Preliminary Examination of Eligibility Documents

8.1. The Procuring Entity's BAC will open the envelopes containing the eligibility documents in the presence of the prospective bidders'

representatives who choose to attend, at the time, on the date, and at the place specified in the EDS. The prospective bidders' representatives who are present shall sign a register evidencing their attendance.

- 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 bidder. If the withdrawing prospective bidder's representative is present during the opening, the original eligibility documents and all copies thereof shall be returned to the representative during the opening of eligibility documents. If no representative is present, the eligibility documents shall be returned unopened by registered mail.
- 8.3. The eligibility documents envelopes and modifications, if any, shall be opened one at a time, and the following read out and recorded:
 - (a) the name of the prospective bidder;
 - (b) whether there is a modification or substitution; and
 - (c) 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 bidder shall be determined by examining each 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 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 bidder is rated "passed" for all the eligibility requirements, he shall be considered eligible to participate in the bidding, and the BAC shall mark the set of eligibility documents of the prospective bidder concerned as "eligible." If a prospective bidder is rated "failed" in any of the eligibility requirements, he shall be considered ineligible to participate in the bidding, and the BAC shall mark the set of eligibility documents of the prospective 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 bidders whose submitted contracts are similar in nature and complexity to the contract to be bid as provided in the EDS shall be considered for short listing.

- 9.2. **The BAC of the Procuring Entity shall draw up the short list of prospective 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 bidding for this project through a Letter of Invitation to Bid issued by the BAC of the Procuring Entity.**
- 9.4. **Only bids from short listed bidders shall be opened and considered for award of contract. These short listed bidders, whether single entities or JVs, should confirm in their bids that the information contained in the submitted eligibility documents remains correct as of the date of bid submission.**

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 revised Implementing Rules and Regulations of Republic Act 9184.

Section III. Eligibility Data Sheet

Eligibility Data Sheet

Eligibility Documents	
1.2	Procurement of Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists
1.3	No further instructions.
(i)	No additional Requirements
(iv)	The statement of all ongoing and completed government and private contracts shall include all such contracts within five (5) years prior to the deadline for the submission and receipt of eligibility documents.
(iv.7)	State acceptable proof of satisfactory completion of completed contracts.
4.2	Each prospective bidder shall submit one (1) original and two (2) copies of its eligibility documents.
4.3(c)	Regional Director Francisco B. Jucar, Jr. – Chairperson, BAC Technical Education and Skills Development Authority TESDA Complex East Service Road, South Luzon Expressway, Taguig City, Metro Manila
4.3(d)	Procurement of Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists
5	The address for submission of eligibility documents is 2 nd Floor, CSA Conference Room, TESDA Complex, East Service Road, South Luzon Expressway, Taguig City, Metro Manila. The deadline for submission of eligibility documents is 17 March 2016 at 2:00 pm.
8.1	The place of opening of eligibility documents is 2 nd Floor, CSA Conference Room, TESDA Complex, East Service Road, South Luzon Expressway, Taguig City, Metro Manila. The date and time of opening of eligibility documents is 17 March 2016 at 2:15 pm.
9.1	Similar contracts shall refer to Procurement of Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists.
9.2	The numerical weights for each criterion is as follows: (a) Quality of personnel to be assigned to the Project – 35% (b) Experience and capability of the CONSULTANT – 40% (c) Plan of approach and methodology – 25 % <div style="text-align: right;">100% (x 85%)</div> The minimum St required to pass is 70%.

9

PART II

Section I. Notice of Eligibility and Short Listing

Date: _____

[Name and Address of Short Listed Consultant]

Dear _____:

The Technical Education and Skills Development Authority (hereinafter called "Procuring Entity" has received financing (hereinafter called "funds") from the Government of the Republic of the Philippines through General Appropriations Act for FY 2016 (hereinafter called the "Funding Source") toward the cost of Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists.

The Procuring Entity intends to apply a portion of the funds in the amount of One Million Two Hundred Seven Thousand Two Hundred Fifty Pesos (Php1,207,250.00) to eligible payments under the contract for Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists for which the Bidding Documents is issued.

The Procuring Entity now invites bids to provide the Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists. More details on the services are provided in the Terms of Reference (TOR) for the project.

The Consultant shall be selected and employed in accordance with Quality-Cost Based Evaluation/Selection (QCBE/QCBS) procedures as described in the Bidding Documents.

This notice has been addressed to the following short listed consultants:

[Insert list of short listed consultants]

It is not permissible for you to transfer this invitation to any other consultant.

The Bidding Documents shall be available at the BAC Secretariat, 3rd Floor, Procurement Division, TESDA Administration Building, East Service Road, South Luzon Expressway, Taguig City during 8:00 a.m. to 5:00 p.m. on **04 March 2016** until **2:00 P.M. of 13 April 2016** upon payment of a nonrefundable fee for the Bidding Documents, pursuant to the latest Guidelines issued by the GPPB, in the amount of Five Thousand Pesos (Php5,000.00).

T
af

The TESDA will hold a Pre-Bid Conference on **31 March 2016** at 2:00 pm at CSA Conference Room, 2nd Floor, TESDA Administration Building, Taguig City, which shall be open only to all interested parties who have purchased the Bidding Documents.

Very truly yours,

FRANCISCO B. JUCAR, JR.
BAC Chairperson



Bidding Documents

Republic of the Philippines

Procurement of Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists

Section II. Instructions to Bidders

TABLE OF CONTENTS

A.	GENERAL.....	19
1.	Introduction.....	19
2.	Conflict of Interest.....	19
3.	Corrupt, Fraudulent, Collusive, and Coercive Practices.....	21
4.	Consultant's Responsibilities.....	22
5.	Origin of Associated Goods.....	24
6.	Subcontracts.....	24
B.	CONTENTS OF BIDDING DOCUMENTS.....	24
7.	Pre-Bid Conference.....	24
8.	Clarifications and Amendments to Bidding Documents	25
C.	PREPARATION OF BIDS	25
9.	Language of Bids	25
10.	Documents Comprising the Bid: Technical Proposal.....	26
11.	Documents Comprising the Bid: Financial Proposal.....	28
12.	Alternative Bids	29
13.	Bid Currencies	29
14.	Bid Validity.....	29
15.	Bid Security	30
16.	Format and Signing of Bids	31
17.	Sealing and Marking of Bids	32
D.	SUBMISSION OF BIDS.....	33
18.	Deadline for Submission of Bids	33
19.	Late Bids	33
20.	Modification and Withdrawal of Bids	33
E.	EVALUATION AND COMPARISON OF BIDS	34
21.	Process to be Confidential	34
22.	Clarification of Bids.....	34
23.	Bid Evaluation	34
24.	Opening and Evaluation of Technical Proposals.....	35

25.	Opening and Evaluation of Financial Proposals.....	36
26.	Negotiations.....	36
27.	Post Qualification	37
28.	Reservation Clause	38
F.	AWARD OF CONTRACT	39
29.	Contract Award.....	39
30.	Signing of the Contract.....	40
31.	Performance Security.....	41
32.	Notice to Proceed.....	42

A. General

2. Introduction

- 2.1. The Procuring Entity named in the Bid Data Sheet (BDS) shall select an individual, sole proprietorship, 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.
- 2.2. 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.
- 2.3. Consultants are invited to submit bids composed of a technical proposal and a financial proposal for Consulting Services required for this Project described in the BDS. Bids shall be the basis for contract negotiations and ultimately for a signed contract with the selected Consultant.
- 2.4. 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.
- 2.5. Consultants must familiarize themselves with local conditions and take them into account in preparing their bids. To obtain firsthand information on the project and on the local conditions, Consultants are encouraged to visit the Procuring Entity before submitting a bid and to attend the pre-bid conference specified in ITB Clause 8.
- 2.6. The Consultants' costs of preparing their bids and negotiating the contract, including a visit to the Procuring Entity, are not reimbursable as a direct cost of the project.
- 2.7. Consultants shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive, or coercive practices issued by the Funding Source or the Procuring Entity in accordance with ITB Clause 4.1.

3. Conflict of Interest

- 3.1. 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;**
- (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 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 subcontractors) and any subsidiaries or entities controlled by such Consultant shall not be recruited for the relevant project. The duties of the Consultant depend on the circumstances of each case. While continuity of consulting services may be appropriate in particular situations where no conflict exists, a Consultant cannot be recruited to carry out a project that, by its nature, shall result in conflict with a prior or current project of such Consultant. Examples of the situations mentioned are when a Consultant engaged to prepare engineering design for an infrastructure project shall not be recruited to prepare an independent environmental assessment for the same project; similarly, a Consultant assisting a Procuring Entity in privatization of public assets shall not purchase, nor advise purchasers, of such assets; or a Consultant hired to prepare Terms of Reference (TOR) for a project shall not be recruited for the project in question.**

3.2. Consultants shall not be related to the Head of the Procuring Entity, 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; or**

- (d) **If the Consultant is a JV, the provisions of items (a), (b), or (c) 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 bid.

- 3.3. **Subject to the provisions of ITB Clause 3, 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 bid. Consultants should clarify their situation in that respect with the Procuring Entity before preparing its bid.**
- 3.4. **Failure by a Consultant to fully disclose potential conflict of interest at the time of 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.**
- 3.5. **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.**
- 3.6. **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 Bidding Documents all information that would in that respect give each Consultant a competitive advantage.**

4. Corrupt, Fraudulent, Collusive, and Coercive Practices

- 4.1. **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 Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.**
 - (iii) **“collusive practices” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.**
 - (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;**
 - (b) **will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.**
- 4.2. **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 4.1(a).**
- 4.3. **Furthermore, the Funding Source and the Procuring Entity reserve the right to inspect and audit records and accounts of a Consultant in the bidding for and performance of a contract themselves or through independent auditors as reflected in the GCC Clause 51.**

5. Consultant’s Responsibilities

- 5.1. **The Consultant or its duly authorized representative shall submit a sworn statement in the form prescribed in Section VII. Bidding Forms as required in ITB Clause 11.2(c).**
- 5.2. **The Consultant is responsible for the following:**
- (a) **Having taken steps to carefully examine all of the 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 9.3.**
- (e) **Ensuring that it is not "blacklisted" or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;**
- (f) **Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;**
- (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 Bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the Bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture;**
- (i) **Complying with the disclosure provision under Section 47 of the Act in relation to other provisions of Republic Act 3019; and**
- (j) **Complying with existing labor laws and standards, if applicable.**

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

- 5.3. **It shall be the sole responsibility of the prospective 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.**
- 5.4. **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.**

- 5.5. Before submitting their 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.
- 5.6. The Consultant shall bear all costs associated with the preparation and submission of his bid, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 5.7. Consultants should note that the Procuring Entity will only accept bids only from those that have paid the nonrefundable fee for the Bidding Documents at the office indicated in the Request for Expression of Interest.

6. 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.

7. Subcontracts

- 7.1. 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.
- 7.2. Subcontractors must comply with the eligibility criteria and the documentary requirements specified in the BDS. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Consulting Services shall be disallowed.
- 7.3. The Consultant may identify the subcontractor to whom a portion of the Consulting Services will be subcontracted at any stage of the bidding process or during contract implementation. If the Consultant opts to disclose the name of the subcontractor during bid submission, the Consultant shall include the required documents as part of the technical component of its bid.

B. Contents of Bidding Documents

8. Pre-Bid Conference

- 8.1. If so specified in the BDS, a pre-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.
- 8.2. Consultants are encouraged to attend the pre-bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-

attendance of the Consultant will in no way prejudice its bid; however, the Consultant is expected to know the changes and/or amendments to the Bidding Documents discussed during the pre-bid conference.

- 8.3. Any statement made at the pre-bid conference shall not modify the terms of the Bidding Documents unless such statement is specifically identified in writing as an amendment thereto and issued as a Supplemental/Bid Bulletin.

9. Clarifications and Amendments to Bidding Documents

- 9.1. Consultants who have purchased the Bidding Documents may request for clarifications on any part of the Bidding Documents for an interpretation. 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 bids.
- 9.2. Supplemental/Bid Bulletins may be issued upon the Procuring Entity's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than seven (7) calendar days before the deadline for the submission and receipt of bids. Any modification to the Bidding Documents shall be identified as an amendment.
- 9.3. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted on the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the Procuring Entity concerned, if available. It shall be the responsibility of all Consultants who secure the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, Consultants who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids in accordance with ITB Clause 21.

C. Preparation of Bids

10. Language of Bids

The Bid, as well as all correspondence and documents relating to the bid exchanged by the Consultant and the Procuring Entity, shall be written in English. If the eligibility requirements or statements, the 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 bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines. The English translation shall govern, for purposes of interpretation of the bid.

11. Documents Comprising the Bid: Technical Proposal

11.1. 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. 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.**

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

- (a) Bid security as prescribed in ITB Clause 16. If the Procuring Entity requires the bidders to submit the 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 an authorized Insurance Commission that a surety or insurance company is authorized to issue such instrument.**
- (b) Information indicated in the paragraphs below must be provided by the Consultant and each partner and/or subcontractor, if any, following the formats described in Section VI. Terms of Reference:**
 - (i) A brief description of the organization and outline of recent experience of the Consultant and each partner and/or subcontractor 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 subcontractors, 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) A concise, complete, and logical description of how the Consultant's team shall carry out the services to meet all requirements of the TOR.
- (iii) 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.
- (iv) 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.
- (v) An organization chart indicating relationships amongst the Consultant and any partner and/or subcontractor, the Procuring Entity, the Funding Source and the GOP, and other parties or stakeholders, if any, involved in the project.
- (vi) 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.
- (vii) A list of facilities requested by the Consultant to be provided by the Procuring Entity 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.

- (viii) 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.
- (ix) Only one CV for each consultant involved in the Project may be submitted for each position.
- (x) 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:
 - (x.1) is proposed for a domestic position but is not a Filipino citizen;
 - (x.2) failed to state nationality on the CV; or
 - (x.3) the CV is not signed in accordance with paragraph (x) above.
- (c) Sworn statement in accordance with Section 25.2(b)(iv) of the IRR of RA 9184 and using the form prescribed in Section VII. Bidding Forms.

12. Documents Comprising the Bid: Financial Proposal

- 12.1. 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.
- 12.2. 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.
- 12.3. 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.

- 12.4. 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.
- 12.5. 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.
- 12.6. 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 subcontractors, and its personnel (other than Philippine Nationals or permanent residents of the Philippines).
- 12.7. Unless otherwise provided in the BDS, total calculated 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.

13. Alternative Bids

Consultants shall submit only one bid and shall not associate with any other entity other than those already provided in its eligibility documents and allowed by the Procuring Entity.

14. Bid Currencies

- 14.1. All bid prices shall be quoted in Philippine Pesos unless otherwise provided in the BDS. However, for purposes of bid evaluation, bids denominated in foreign currencies shall be converted to Philippine currency based on the exchange rate prevailing on the day of the bid opening.
- 14.2. If so allowed in accordance with ITB Clause 14.1, the Procuring Entity for purposes of bid evaluation and comparing the bid prices will convert the amounts in various currencies in which the 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 bid opening.
- 14.3. Unless otherwise specified in the BDS, payment of the contract price shall be made in Philippine Pesos.

15. Bid Validity

- 15.1. 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 bids.

- 15.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Consultants to extend the period of validity of their bids. The request and the responses shall be made in writing. The bid security described in ITB Clause 16 should also be extended corresponding to, at least, the extension of the bid validity period. A Consultant may refuse the request without forfeiting its bid security, but his 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 bid.

16. Bid Security

- 16.1. The bid security, issued in favor of the Procuring Entity, in the amount stated in the BDS shall be equal to the percentage of the ABC in accordance with the following schedule:

Form of Bid Security	Amount of Bid Security (Equal to Percentage of the ABC)
a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Two percent (2%)
b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Five percent (5%)
d) Any combination of items (a) to (c) above.	Proportionate to share of form with respect to total amount of security
e) Bid Securing Declaration	No percentage required.

For biddings conducted by LGUs, the procuring entity may also require bidders to submit bid securities in the form of cashier's/manager's check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the BSP as authorized to issue such financial statement.

The Bid Securing Declaration mentioned above is an undertaking which states, among others, that the bidder shall enter into contract with the procuring entity and furnish the performance security required under ITB Clause 31.2, from receipt of the Notice of Award, and committing to pay the corresponding 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.

- 16.2. The bid security should be valid for the period specified in the BDS. Any bid not accompanied by an acceptable bid security shall be rejected by the Procuring Entity as non-responsive.
- 16.3. No bid securities shall be returned to the Consultants after the opening of 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 motion for reconsideration and/or protest. Without prejudice on its forfeiture, bid securities shall be returned only after the bidder with the Lowest Calculated and Responsive Bid has signed the contract and furnished the performance security, but in no case later than the expiration of the bid security validity period indicated in ITB Clause 16.2.
- 16.4. 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 bid security will be discharged, but in no case later than the bid security validity period as indicated in ITB Clause 16.2.
- 16.5. The bid security may be forfeited:
 - (a) if a Consultant:
 - (i) withdraws its bid during the period of bid validity specified in ITB Clause 16.2;
 - (ii) does not accept the correction of errors pursuant to ITB Clause 12.7;
 - (iii) fails to submit the requirements within the prescribed period or a finding against their veracity as stated in ITB Clause 28.2; or
 - (iv) any other reason stated in the BDS.
 - (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.

17. Format and Signing of Bids

- 17.1. Consultants shall submit their bids through their duly authorized representative using the appropriate forms provided in Section VII. Bidding Forms on or before the deadline specified in the ITB Clause 19 in two (2) separate sealed bid envelopes, and which shall be submitted

simultaneously. The first shall contain the technical proposal and the second shall contain the financial proposal.

- 17.2. Forms as mentioned in ITB Clause 17.1 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.
- 17.3. The Consultant shall prepare an original of the first and second envelopes as described in ITB Clauses 11 and 12. 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.
- 17.4. The bid, except for unamended printed literature, shall be signed, and each and every page thereof shall be initialed, by the duly authorized representative/s of the Consultant.
- 17.5. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Consultant.

18. Sealing and Marking of Bids

- 18.1. Unless otherwise indicated in the BDS, Consultants shall enclose their original technical proposal described in ITB Clause 11, 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 BID".
- 18.2. 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.
- 18.3. The original and the number of copies of the bid as indicated in the BDS shall be typed or written in indelible ink and shall be signed by the bidder or its duly authorized representative/s.
- 18.4. All envelopes shall:
 - (a) contain the name of the contract to be 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 identified in ITB Clause 9.1;
 - (d) bear the specific identification of this bidding process indicated in the Request for Expression of Interest; and

- (e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with ITB Clause 19.
- 18.5. If bids are not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the bid.

D. Submission of Bids

19. Deadline for Submission of Bids

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.

20. Late Bids

Any bid submitted after the deadline for submission and receipt of bids prescribed by the Procuring Entity, pursuant to ITB Clause 19, shall be declared "Late" and shall not be accepted by the Procuring Entity.

21. Modification and Withdrawal of Bids

- 21.1. The Consultant may modify its 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 bids. The Consultant shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed, properly identified, linked to its original bid marked as "TECHNICAL MODIFICATION" or "FINANCIAL MODIFICATION" and stamped "received" by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Consultant unopened.
- 21.2. A Consultant may, through a letter of withdrawal, withdraw its 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 bids.
- 21.3. Bids requested to be withdrawn in accordance with ITB Clause 21.1 shall be returned unopened to the Consultants. A Consultant may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of bids. A Consultant that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.
- 21.4. No bid may be modified after the deadline for submission of bids. No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Consultant on the Financial Bid Form. Withdrawal of a bid during this interval shall result in the forfeiture of the Consultant's bid security,

pursuant to ITB Clause 16.5, and the imposition of administrative, civil, and criminal sanctions as prescribed by R.A. 9184 and its IRR.

E. Evaluation and Comparison of Bids

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 bids until the issuance of the Notice of Award, unless otherwise allowed in the BDS or in the case of ITB Clause 23.**
- 22.2. Any effort by a bidder to influence the Procuring Entity in the Procuring Entity's decision in respect of bid evaluation, bid comparison or contract award will result in the rejection of the Consultant's bid.**

23. Clarification of Bids

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

24. Bid Evaluation

- 24.1. For the evaluation of bids, numerical ratings shall be used. In order to eliminate bias in evaluating the 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 Head of the Procuring Entity for approval, shall be completed in not more than twenty-one (21) calendar days after the deadline for receipt of bids. The bid with the highest rank shall be identified as the Highest Rated Bid. The Head of the Procuring Entity 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 Head of the Procuring Entity 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. Opening and Evaluation of Technical Proposals

- 25.1. The Procuring Entity shall conduct a detailed evaluation of 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 11 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 to each of the above criteria which shall be indicated in the BDS. A 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 19;
 - (b) failure to submit any of the technical requirements provided under this ITB and TOR;

- (c) the Consultant that submitted a Bid or any of its partner and/or subcontractor belongs to one of the conflict of interest cases as described in ITB Clauses (a) to (b) 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 2.1 using the corresponding procedure provided in the BDS.

27. Negotiations

- 27.1. Negotiations 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 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 other than for reasons of death or illness 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 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. 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 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 Procuring Entity shall determine to its satisfaction whether the Consultant that is evaluated as having submitted the Highest Rated Bid (HRB) complies with and is responsive to all the requirements and conditions specified in the Eligibility Documents and ITB Clauses 11 and 12.
- 28.2. Within a non-extendible period of three (3) calendar days from receipt by the Consultant of the notice from the BAC that it is the HRB, the Consultant shall submit the following documentary requirements:
- (a) Latest income and business tax returns in the form specified in the BDS;
 - (b) Certificate of PhilGEPS Registration or PhilGEPS Registration Number if the procuring entity is a Philippine foreign office or post, provided that participating bidders should register with the PhilGEPS prior to bid opening; and

- (c) Other appropriate licenses and permits required by law and stated in the BDS.

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

- 28.3. The determination shall be based upon an examination of the documentary evidence of the Consultant's qualifications submitted pursuant to ITB Clauses 11 and 12, as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion.
- 28.4. If the BAC determines that the Consultant with the HRB passes all the criteria for post-qualification, it shall declare the said bid as the Consultant with the Highest Rated and Responsive Bid (HRRB), and recommend to the Head of the Procuring Entity the award of contract to the said Consultant at its submitted price or its calculated bid price, whichever is lower, subject to ITB Clause 30.3.
- 28.5. A negative determination shall result in rejection of the Consultant's bid, in which event the Procuring Entity shall proceed to the next HRB 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 HRB, and so on until the HRRB is determined for contract award.
- 28.6. Within a period not exceeding seven (7) calendar days from the date of receipt of the recommendation of the BAC, the Head of the Procuring Entity shall approve or disapprove the said recommendation. In the case of GOCCs and GFIs, the period provided herein shall be fifteen (15) calendar days.

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 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 bid evaluation criteria, the Procuring Entity shall consider the said Consultant as ineligible and shall disqualify it from submitting a 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 bids, declare a failure of bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:**

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

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

- (a) **No bids are received;**
- (b) **All prospective bidders are declared ineligible;**
- (c) **All bids fail to comply with all the bid requirements or fail post-qualification; or**
- (d) **The bidder with the HRRB refuses, without justifiable cause to accept the award of contract, and no award is made.**

F. Award of Contract

30. Contract Award

30.1. **Subject to ITB Clause 28, the Procuring Entity shall award the contract to the Bidder whose bid has been determined to be the HRRB.**



- 30.2. Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Consultant in writing that its bid has been accepted, through a Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the 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 valid JVA, if applicable, within ten (10) calendar days from receipt by the Consultant of the notice from the BAC that the Consultant has the HRRB;
 - (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.

31. Signing of the Contract

- 31.1. At the same time as the Procuring Entity notifies the successful Bidder that its bid has been accepted, the Procuring Entity shall send the Contract Form to the Bidder, which contract has been provided in the Bidding Documents, incorporating therein all agreements between the parties.
- 31.2. Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security and sign and date the contract and return it to the Procuring Entity.
- 31.3. The Procuring Entity shall enter into contract with the successful Bidder within the same ten (10) calendar day period provided that all the documentary requirements are complied with.
- 31.4. The following documents shall form part of the contract:
- (a) Contract Agreement;
 - (b) Bidding Documents;
 - (c) Winning bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted;
 - (d) Performance Security;
 - (e) Notice of Award of Contract; and

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

Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five percent (5%)
(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.	
(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; and/or	Thirty percent (30%)
(d) Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security

- 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 bid security, in which event the Procuring Entity shall initiate and complete the post qualification of the second HRB. The procedure shall be repeated until the HRRB is identified and selected for contract award. However if no Consultant passed post-qualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement.**

33. Notice to Proceed

- 33.1. Within three (3) calendar days from the date of approval of the contract by the appropriate government approving authority, the Procuring Entity shall issue its Notice to Proceed to the Consultant.**
- 33.2. The date of the Consultant's receipt of the Notice to Proceed will be regarded as the effective date of the contract, unless otherwise specified in the BDS.**

Section III. Bid Data Sheet

Bid Data Sheet

ITB Clause	
2.1	<p>The Procuring Entity is Technical Education and Skills Development Authority.</p> <p>The evaluation procedure is Quality Cost Based Evaluation/Selection (QCBE/QCBS)</p> <p><i>QCBE/QCBS – Technical and Financial Scores are combined to determine the winner. ABC is stated and Financial Proposal above this amount are rejected except in the case of WB, no ABC or cost estimate is included in the Bidding Documents except for an estimate of the staff months required to complete the Project.</i></p>
2.2	<p>The Funding Source is:</p> <p>The Government of the Philippines (GOP) through the General Appropriations Act for CY 2016.</p> <p>The name of the project is Procurement of Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists.</p>
2.3	Consulting Services for Training Tools/Equipment Specifications and Procurement Specialists.
2.4	The Project shall not be phased.
6	No further instructions.
7.1	Subcontracting is not allowed.
7.2	Not applicable.
8	The Procuring Entity will hold a pre-bid conference for this Project on 31 March 2016 at 2:00 pm at 2 nd Floor, CSA Conference Room, TESDA Complex, East Service Road, South Luzon Expressway, Taguig City,

	Metro Manila.
9.1	<p>The Procuring Entity's address is:</p> <p>Technical Education and Skills Development Authority TESDA Complex East Service Road, South Luzon Expressway, Taguig City, Metro Manila</p>
11.1(b)	Not applicable
11.1(c)	<p>The minimum required experience of proposed professional staff is as follows:</p> <ul style="list-style-type: none"> • Must have working knowledge of integrated commodity management approaches; • Must have a necessary experience for the last five (5) years in tools and equipment procurement and specifications writing; • Should have undertaken at least two (2) projects which are similar in nature and bulk in terms of budgetary requirements; • Must have no existing business relation or interest with any of the employees of TESDA; • Must be registered with and authorized by the Securities and Exchange Commission (SEC) to engage in Consulting Services; • Must have no existing business relation or interest with any of the pre-qualified bidders in this project; • Must meet all the requirements set forth by the law specifically R.A. 9184 and its implementing rules and regulations.
12.5	<p>Taxes:</p> <p>12% - Value Added Tax (VAT) Included in the Contract Price</p> <p>5% - Value Added Tax (VAT)</p> <p>2% - Expanded Withholding Tax (EWT)</p>
12.7	The ABC is One Million Two Hundred Seven Thousand Two Hundred Fifty Pesos (Php1,207,250.00) . Any bid with a financial component exceeding this amount shall not be accepted.
14.1	The bid prices shall be quoted in Philippine Pesos.

14.3	No further instructions.
15.1	Bids will be valid until 120 calendar days from the date of bid opening.
16.1	<p>The bid security shall be in the following amount:</p> <ol style="list-style-type: none"> 1. 2% of ABC, if bid security is in cash, cashier's/manager's check, bank draft/guarantee or irrevocable letter of credit; 2. 5% of ABC, if bid security is in Surety Bond; 3. Bid Securing Declaration pursuant to GPPB Circular No. 01-2014 issued on 23 May 2014; or 4. Any combination of the foregoing proportionate to the share of form with respect to total amount of security.
16.2	The bid security shall be valid until 120 calendar days from the date of bid opening.
16.5(a)(iv)	<ol style="list-style-type: none"> 1. Submission of eligibility requirements containing false information or falsified documents. 2. Submission of bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding. 3. Allowing the use of one's name, or using the name of another for purposes of public bidding. 4. Withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the Lowest Calculated and Responsive Bid. 5. Refusal or failure to post the required performance security within the prescribed time. 6. Refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification. 7. Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor. 8. Failure of the potential joint venture partners to enter into the joint

	<p>venture after the bid is declared as successful.</p> <p>9. All other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.</p>
16.5(b)(iii)	No further instructions.
18.1	No further instructions.
18.3	Each Bidder shall submit one (1) original and two (2) copies of the first and second components of its bid.
19	<p>The address for submission of bids is:</p> <p>TESDA BAC Secretariat 3rd Floor, TESDA Administrative Building TESDA Complex, East Service Road South Luzon Expressway, Taguig City</p> <p>The deadline for submission of bids is 13 April 2016, at 2:00 pm.</p>
22.1	No further instructions.
25.1	<p>The following processes for the opening and evaluation of bids shall be adopted:</p> <p>a) The technical proposal together with the financial proposal shall be considered in the evaluation 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.</p> <p>b) The financial and technical proposals shall be given corresponding weights with the financial proposal given a minimum weight of fifteen percent (15%) up to a maximum of forty percent (40%). The weight of the technical criteria shall be adjusted accordingly such that their total weight in percent together with the weight given to the financial proposal shall add to one hundred percent (100%). 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 Bid.</p> <p>c) The Head of the Procuring Entity 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.</p> <p>d) After approval by the Head of the Procuring Entity of the Highest Rated Bid, the BAC shall, within three (3) calendar days, notify and</p>

	invite the consultant with the Highest Rated Bid for negotiation in accordance with ITB Clause 27.
25.3	<p>The minimum required St for each criterion is as follows: The numerical weights for each criterion is as follows:</p> <p>(a) Quality of personnel to be assigned to the Project – 35%</p> <p>(b) Experience and capability of the CONSULTANT – 40%</p> <p>(c) Plan of approach and methodology – 25 % 100% (x 85%)</p> <p>The minimum St required to pass is 70%.</p> <p>The attention of the Consultant is drawn to Technical Proposal Forms – Bids must adhere to the maximum number of pages outlined in this clause.</p>
26.1	<p>The opening of Financial Proposals shall be on 13 April 2016, at 2:15 pm at 2nd Floor, CSA Conference Room, TESDA Complex, East Service Road, South Luzon Expressway, Taguig City, Metro Manila.</p> <p>Financial Proposals shall be opened in public.</p> <p>All bidder representative/s will have to secure and bring a written authority from their authorized official (e.g., president, governing boards if Corporation) to be presented to the Central Office BAC during the Bid Opening stating that said representative is an authorized person to speak for and in behalf of their office/company.</p>
26.2	<p>After the evaluation of quality is completed, the Procuring Entity shall notify those Consultants whose Bids did not meet the minimum qualifying mark or were considered non-responsive to the 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. 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 12 are present and all items of the corresponding Technical Proposals that are required to be priced are so priced. If not, the Procuring Entity shall reject the proposal. The BAC shall correct any computational errors, and convert</p>

	<p>prices in various currencies to the Philippine Peso at the rate indicated in ITB Clause 14. 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 Bids.</p> <p>The lowest Financial Proposal (Fm) 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> $Sf = 100 \times Ff/F$ <p>Where:</p> <p>Sf is the financial score of the Financial Proposal under consideration,</p> <p>Ff is the price of the Fm, and</p> <p>F is the price of the Financial Proposal under consideration.</p> <p>Using the formula $S = St \times T\% + Sf \times P\%$, the Bids shall then be ranked according to their combined St and Sf using the weights (T = the weight given to the Technical Proposal; F = the weight given to the Financial Proposal; $T + F = 1$) indicated below:</p> <p>T - 0.85; and P - 0.15;</p> <p>provided that the total weights given to the Technical and Financial Proposals shall add up to 1.0.</p>
27.1	The address for negotiations is 2 nd Floor, CSA Conference Room, TESDA Complex, East Service Road, South Luzon Expressway, Taguig City, Metro Manila.
27.2(e)	No negotiations pertaining to the Financial Proposal shall be undertaken.
28.2(a)	<p><i>Only tax returns filed and taxes paid through the BIR Electronic Filing and Payment System (EFPS) shall be accepted.</i></p> <p><i>NOTE: The latest income and business tax returns are those within the last six months preceding the date of bid submission.</i></p>
28.2	<i>List licenses and permits relevant to the Project and the corresponding law requiring it.</i>

31.4(f)	<i>List additional contract documents relevant to the Project that may be required by existing laws and/or the Procuring Entity.</i>
32.1	No further instructions.
33.2	The effective date of the contract is upon receipt of the Notice to Proceed.

Section IV. General Conditions of Contract

TABLE OF CONTENTS

1.	DEFINITIONS.....	53
2.	HEADINGS	54
3.	LOCATION	54
4.	LAW GOVERNING CONTRACT AND SERVICES.....	54
5.	LANGUAGE.....	55
6.	CONSULTANTS AND AFFILIATES NOT TO ENGAGE IN CERTAIN ACTIVITIES	55
7.	AUTHORITY OF MEMBER IN CHARGE	55
8.	RESIDENT PROJECT MANAGER	55
9.	ENTIRE AGREEMENT	55
10.	MODIFICATION	56
11.	RELATIONSHIP OF PARTIES	56
12.	AUTHORIZED REPRESENTATIVES.....	56
13.	GOOD FAITH.....	56
14.	OPERATION OF THE CONTRACT	56
15.	NOTICES	56
16.	WARRANTY AS TO ELIGIBILITY	57
17.	CONFIDENTIALITY	57
18.	PAYMENT	57
19.	CURRENCY OF PAYMENT.....	58
20.	LIABILITY OF THE CONSULTANT.....	58
21.	INSURANCE TO BE TAKEN OUT BY THE CONSULTANT	58
22.	EFFECTIVITY OF CONTRACT	58
23.	COMMENCEMENT OF SERVICES	58
24.	EXPIRATION OF CONTRACT	58

25.	FORCE MAJEURE	58
26.	SUSPENSION	60
27.	TERMINATION BY THE PROCURING ENTITY	60
28.	TERMINATION BY THE CONSULTANT	61
29.	PROCEDURES FOR TERMINATION OF CONTRACTS.....	62
30.	CESSATION OF SERVICES	63
31.	PAYMENT UPON TERMINATION	63
32.	DISPUTES ABOUT EVENTS OF TERMINATION	64
33.	CESSATION OF RIGHTS AND OBLIGATIONS	64
34.	DISPUTE SETTLEMENT.....	64
35.	DOCUMENTS PREPARED BY THE CONSULTANT AND SOFTWARE DEVELOPED TO BE THE PROPERTY OF THE PROCURING ENTITY.....	64
36.	EQUIPMENT AND MATERIALS FURNISHED BY THE PROCURING ENTITY	65
37.	SERVICES, FACILITIES AND PROPERTY OF THE PROCURING ENTITY	65
38.	CONSULTANT'S ACTIONS REQUIRING PROCURING ENTITY'S PRIOR APPROVAL.....	65
39.	PERSONNEL	66
40.	WORKING HOURS, OVERTIME, LEAVE, ETC.....	67
41.	COUNTERPART PERSONNEL.....	67
42.	PERFORMANCE SECURITY	68
43.	STANDARD OF PERFORMANCE	69
44.	CONSULTANT NOT TO BENEFIT FROM COMMISSIONS, DISCOUNTS, ETC.	69
45.	PROCUREMENT BY THE CONSULTANT	69
46.	SPECIFICATIONS AND DESIGNS	69
47.	REPORTS.....	70
48.	ASSISTANCE BY THE PROCURING ENTITY ON GOVERNMENT REQUIREMENTS	70
49.	ACCESS TO LAND	70
50.	SUBCONTRACT	71
51.	ACCOUNTING, INSPECTION AND AUDITING	71
52.	CONTRACT COST	72

53.	REMUNERATION AND REIMBURSABLE EXPENDITURES	72
54.	FINAL PAYMENT.....	73
55.	LUMP SUM CONTRACTS	74
56.	LIQUIDATED DAMAGES FOR DELAY	74

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 Highest Rated and Responsive Bid determined by the Procuring Entity as such in accordance with the ITB and specified in the SCC.
- (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 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 Sub-Consultant 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, and LGU 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) “Sub-consultant” 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 Sub-Consultant.

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 Sub-Consultant, as well as the Personnel of the Consultant and any Sub-Consultant, 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 Sub-Consultant and any entity affiliated with such Sub-Consultant, 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 Sub-Consultants 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, 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

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.

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 Sub-Consultants, 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 Sub-Consultant, 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

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

This Contract shall take effect on the date of the Consultant's receipt of the NTP, in accordance with ITB Clause 33, 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 Sub-Consultants 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 Head of the Procuring Entity 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 and coercive 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, and coercive practices shall have the same meaning as that provided in ITB Clause 4.1(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 Head of the Procuring Entity 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 Head of the Procuring Entity 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 Head of the Procuring Entity 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 Head of the Procuring Entity 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 Head of the Procuring Entity 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 Head of the Procuring Entity.

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 27.1(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 51.1(b) and 51.1(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 Sub-Consultant 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 Sub-Consultant 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 Sub-Consultants 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 Sub-Consultants 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 beyond the control of the Consultant, 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 Sub-Consultants 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 Sub-Consultants, 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 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, Sub-Consultants, 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, Sub-Consultants, and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants, 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 Sub-Consultant 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 Sub-Consultant 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 sub-consultant, 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. Sub-consultants disclosed and identified during the 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 27.1(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. 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 a bank guarantee in favor of the Procuring Entity issued by a bank 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 (b)	The Funding Source is: The Government of the Philippines (GOP)
6.2(b)	<p><i>NOTE: It is essential that Consultants that advise PROCURING ENTITIES on the privatization of state owned enterprises or other assets (or on related problems), be prohibited from "switching sides" upon completion of their obligations and then either appearing as purchaser of these enterprises/assets or advising potential purchasers in this context. In these situations, the following provision must be used:</i></p> <p>For a period of two years after the expiration of this Contract, the Consultant shall not engage, and shall cause its Personnel as well as their Sub-Consultants and its Personnel not to engage, in the activity of a purchaser (directly or indirectly) of the assets on which they advised the Procuring Entity under this Contract nor in the activity of an adviser (directly or indirectly) of potential purchasers of such assets. The Consultant also agree that their affiliates shall be disqualified for the same period of time from engaging in the said activities.</p>
7	Not applicable.
8	Not Applicable.
10	No further instructions.
12	<p>The Authorized Representatives are as follows:</p> <p>For the Procuring Entity: <u>Regional Director Francisco B. Jucar</u></p> <p>For the Consultant: _____</p>
15.1	<p>The addresses are:</p> <p>Procuring Entity: Technical Education and Skills Development Authority</p> <p>Attention: The BAC Chairman</p> <p>Address: <u>TESDA Complex, East Service Road, South Luzon Expressway, Taguig City, Metro Manila</u></p> <p>Facsimile: (02) 893-8296</p>

	Email Address: _____ Consultants: <i>[insert name of the Consultant]</i> Attention: <i>[insert name of the Consultant's authorized representative]</i> Address: _____ Facsimile: _____ Email Address: _____
15.2 and 15.3	Notice shall be deemed to be effective as follows: (a) in the case of personal delivery or registered mail, on delivery; (b) in the case of facsimiles, within four (4) hours following confirmed transmission; or (c) in the case of telegrams, within four (4) hours following confirmed transmission.
18.3	<i>State here Consultant's account where payment may be made.</i>
20	No additional provision.
22	The contract shall take effect seven (7) working days from receipt of the Notice to Proceed.
24	The time period shall be three (3) months after the submission of the Consultant final report 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	The drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Procuring Entity under this Contract that shall become and remain the property of the Procuring Entity.
38.1(d)	The Consultant's actions requiring the Procuring Entity's prior approval are: 1. Finalization of expected deliverables 2. Selection of training venues and participants, and finalization of other logistical requirements for the trainings

39.5	<p>The Consultant may change its Key Personnel only for reasons of death, serious illness, incapacity of an individual Consultant, 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, 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	The total ceiling amount in Philippine Pesos is <i>[insert financial bid amount of winning bidder]</i> .
53.2	No additional instructions.
53.4	<i>Not applicable.</i>
53.5(a)	<p>The following provisions shall apply to the advance payment and the advance payment guarantee:</p> <p>(a) An advance payment of 2.00% of contract in Philippine peso shall be made after signing of contract.</p> <p>(b) The advance payment shall be made only upon the submission to and acceptance by the Procuring Entity of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee or a surety bond callable upon demand, issued by a duly licensed surety or insurance company and confirmed by the Procuring Entity.</p>
53.5(c)	The interest rate is zero.
55.6	No further instructions.

Section VI. Terms of Reference

TERMS OF REFERENCE

CONSULTANCY SERVICES

I. PROJECT TITLE : TRAINING TOOLS/EQUIPMENT SPECIFICATIONS and PROCUREMENT SPECIALISTS

II. BACKGROUND

In accordance with the TESDA 2012-2016 Roadmap, to fulfill its commitment in **contributing to quality jobs generation, increased productivity and competitiveness of the Filipino workforce**, TESDA needs to offer higher level training programs (Levels III, IV, and V of the Philippine Qualifications Framework).

To operationalize such commitment, TESDA needs to upgrade the facilities and equipment of its own selected Technology Training Institutions, specifically its 23 Centers of Technical Excellence, based on the approved Distinctive Areas of competency/ies (DACs). TESDA has an allocation of P230 Million equipment outlay under the 2016 National Expenditure Program.

To date, TESDA lacks the immediate capability to identify the corresponding training tools and equipment for higher level technologies, more so, in specifying such tools and equipment. To ensure the quality and timely delivery of **appropriate and suitable higher technology** training tools and equipment and prevent **costly delays** in the delivery of much needed **higher level training programs**, there is a need for TESDA to hire a **firm** to provide consultancy services for **Training Tools/Equipment Specifications and Procurement Specialists**.

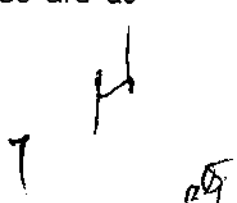
The Training Tools/Equipment Specifications and Procurement Specialists shall work closely with the Executive Director of the National Institute for Technical Education and Skills Development (NITESD), the TESDA National Bids and Awards Committee (BAC) and the Chief of Services for Administration.

III. PROJECT OBJECTIVE

The hiring/engagement of a consultancy firm as a Training Tools/Equipment Specifications and Procurement Specialist is aimed to ensure quality provision of appropriate and suitable training tools and equipment in most efficient and effective manner in accordance with the provisions of RA 9184 for the higher level technology programs identified by TESDA thru NITESD.

IV. SCOPE AND COVERAGE OF THE CONSULTANCY SERVICES

Under the overall supervision of the Executive Director NITESD and the Chief of Services for Administration, the two (2) core process owners of the proposed project, the consultancy firm scope and coverage of services are as follows:



1. Identification and listings of training tools/equipment based on identified DACs, complete with specifications and price derivation;
2. Preparation of Procurement Plans, and other related Bidding documents including Contract in accordance with RA 9184;
3. Provision of technical inputs and expert's advice in the implementation of the Procurement Plans from pre-procurement, procurement process, contract preparation and signing, delivery, inspection and acceptance of delivered training tools and equipment;
4. The duration of the consultancy services shall be within the period that will be agreed upon by the process owners in accordance with the approved plans which shall be submitted as part of the bidding documents.

V. RESPONSIBILITIES OF THE CONSULTANCY FIRM

In accordance with the provisions of the IRR of R.A. 9184, the responsibilities of the Consultancy Firm are as follows:

1. Preparation and submission of training tools and equipment listings based on identified DACs complete with specifications and price derivation for the twenty three (23) Centexes list of which is attached as Annex A. In instances where **there are no promulgated Training Regulations (TRs)** to be used as a basis for detailed equipment listings and specifications, the **consultant must be able to identify/recommend the appropriate and suitable higher technology training tools and equipment** for higher level programs in identified DACs, complete with specifications and price derivation;
2. Ensure that the training tools and equipment listings include appropriate list and quantity of critical spare parts and operations manual (in English);
3. Preparation and submission of detailed Procurement Plans, and other related bidding documents, including contract for the procurement of P230 Million training tools and equipment mentioned above.
4. Provision of technical inputs and expert's advice on implementation of the approved Procurement Plan from pre-procurement, pre-bid conference, bid evaluation and award, contract preparation and signing, delivery, inspection, installation and acceptance of delivered tools and equipment in close coordination and under supervision of the National BAC, the NITESD and the Chief of Services for Administration;
5. Ensure that the training equipment installed are in accordance with the specifications agreed/approved by the Procuring Entity/NITESD/ and the National BAC.

7

ab

6. Ensure the proper training and acquisition of competencies of TESDA Centex administrators, trainers and staff in the operation and maintenance of delivered training tools and equipment;
7. Ensure proper coordination of all TESDA process owners to ensure delivery of appropriate training tools and equipment in accordance with the approved procurement plan;
8. Restriction from meeting privately with the training tools and equipment bidder/contractor or any of its personnel throughout the project life. The consultant will only be allowed to discuss or give directions to the contractor with the presence of the Executive Director NITVET and Director of CSA or their authorized representatives;
9. Site inspection of the 23 Centexes in coordination with the NITESD and the Director, CSA to ensure proper training tools and equipment identification/listings/specifications, delivery, inspection, installation and acceptance;
10. Submission of regular reports to the concerned process owners as indicated in the schedule of activities attached as **Annex A**.

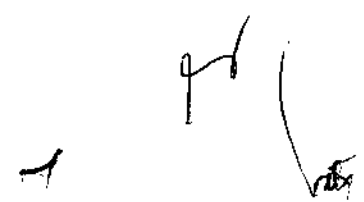
VI. RESPONSIBILITIES OF TESDA:

1. Provide the Consultant with a convenient working table/space and necessary facilities such as telephone landline and internet access during the duration of the project.
2. Provide the Consultant access to the project sites (23 Centexes).
3. Provide immediate formal feedback to the Consultant on matters requiring comments/decisions/approval after thorough review of all documents and materials submitted by the Consultant and render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the PROJECT.
4. Give prompt written notice to the Consultant upon knowledge of any comments pertaining to this PROJECT.

VII. QUALIFICATION OF THE CONSULTANCY FIRM:

The Training Tools/Equipment Specifications and Procurement Specialists shall have the following qualifications:

- Must have working knowledge of integrated commodity management approaches.
- Must have a necessary experience for the last five (5) years in tools and equipment procurement and specifications writing;



- Should have undertaken at least two (2) projects which are similar in nature and bulk in terms of budgetary requirements;
- Must have no existing business relation or interest with any of the employees of TESDA;
- Must be registered with and authorized by the Securities and Exchange Commission (SEC) to engage in Consulting Services;
- Must have no existing business relation or interest with any of the pre-qualified bidders in this project;
- Must meet all the requirements set forth by the law specifically R.A. 9184 and its implementing rules and regulations.

VIII. DURATION:

The Consultant shall be hired through the duration of the project starting from the site inspection of the 23 CenTexes up to the delivery of training tools and equipment and its installation to the beneficiary institutions and the coordination with the supplier/s on conduct of the needed training for the operation and maintenance of the delivered equipment.

Duration shall be determined through the schedules to be submitted by the Consultant based on the prioritization of works to be approved by TESDA.

IX. ESTIMATED PROJECT COST

Items of Expenditures	Estimated Cost
• Professional fees	PhP 800,800
• Estimated Travel/Accommodation Expenses (reimbursable based on actual expenses)	296,700
• Plus: 10% Contingency (per Accounting)	109,750
GRAND TOTAL	PhP 1,207,250

Please refer to the **Cost Derivation** attached as **Annex B**.

X. MODE OF PAYMENT:

The Consultant shall be paid on as per **SUBMITTED ACCOMPLISHMENT** basis upon presentation of firm's accomplishment report duly signed and accepted by the head of the procuring entity as provided in Annex B.

7 



XI. MISCELLANEOUS PROVISIONS

1. The **Consultant** shall hold TESDA free from any and all claims, liabilities, losses and suits arising from the Consultant's services, or the acts or omissions or conduct of all persons employed or allowed by the Consultant to participate or assist in the performance of its obligations under this agreement.
2. If the **Consultant** violates any of the terms and conditions of this Agreement, or shall neglect to perform any of their work, duties, functions, responsibilities or obligations stipulated herein, or for any other causes fails to carry out the tasks in an acceptable manner, any by reason thereof, TESDA suffers damages or losses, the Consultant shall be assessed a penalty in the form of liquidated damages in the amount equivalent to One-Tenth of One Percent (0.001) of the total consultancy cost per day of delay, in addition to the actual loss damages which TESDA may prove.
3. If the work under this agreement is abandoned or suspended at the instance of TESDA, in whole or in part, the **Consultant** shall be paid for the services rendered corresponding to the fees due at the stage of suspension or abandonment of work based on the stages specified therein. However, TESDA shall have the right to declare this agreement rescinded and terminated after due notice upon failure of the Designer/Consultant to comply with any terms and conditions of this Agreement without prejudice to such other rights of TESDA to proceed against the Designer/Consultant as may be warranted by the circumstances, and / or the filing of appropriate administrative, civil and / or criminal charges against responsible persons.
4. The **Consultant** shall not sub-contract the performance of the SERVICES subject of this agreement or any part thereof without the written consent of TESDA.
5. Any extension of the contract duration shall be subject to the provisions of RA 9184 and shall not involve any additional cost to TESDA.
6. The **Consultant** shall comply with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect the contract in any way, including the express and implied warranties and liabilities which may be found therein.

7 *ab*

7. The **Consultant** shall commit himself to complete this project from conception up to the execution/construction of the works duly approved by the head of this agency to the best of his ability and knowledge.

Prepared by:



IMEIDA B. TAGANAS
Chief of Staff, ODG
Executive Director, QSO

Recommending Approval:



PILAR G. DE LEON
Director IV, Chief of
Services for Administration

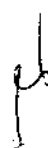


ELMER K. TALAVERA
Executive Director, NITESD

Approved by:



SEC. IRENE M. ISAAC
Director General, TESDA



1



ANNEX A

Hiring of Training Tools/Equipment Specifications and Procurement Specialists

ID	Task Name	Duration	Start	Finish	H2	2016	H1	H2	2017	H1
1	Terms of Reference Preparation and Approval	9 days	Mon 1/11/16	Thu 1/21/16						
2	Preparation	5 days	Mon 1/11/16	Fri 1/15/16						
3	Approval	1 day	Thu 1/21/16	Thu 1/21/16						
4	Bidding Process	61 days	Wed 1/27/16	Tue 4/26/16						
5	Pre-Procurement Conference	1 day	Wed 1/27/16	Wed 1/27/16						
6	Advertisement/Posting and Publication of the Invitation To Bid/Request for Expression of Interest	7 days	Fri 1/29/16	Tue 2/9/16						
7	Eligibility check(and shortlistings)	3 days	Wed 2/10/16	Fri 2/12/16						
8	Issuance and Availability of Bid documents	29 days	Fri 1/29/16	Fri 3/11/16						
9	Pre-Bid Conference	1 day	Wed 2/24/16	Wed 2/24/16						
10	Bid Opening/Submission of Bids	1 day	Fri 3/11/16	Fri 3/11/16						
11	Bid Evaluation	5 days	Mon 3/14/16	Fri 3/18/16						
12	Notification for Negotiation	2 days	Mon 3/21/16	Tue 3/22/16						
13	Negotiation	2 days	Mon 3/28/16	Tue 3/29/16						
14	Post Qualification	6 days	Wed 3/30/16	Wed 4/6/16						
15	Approval of BAC Resolution/Issuance of Notice of Award	2 days	Thu 4/7/16	Fri 4/8/16						
16	Contract preparation and signing	3 days	Mon 4/11/16	Wed 4/13/16						
17	Approval of Contract	4 days	Thu 4/14/16	Tue 4/19/16						
18	Issuance of Notice to Proceed	5 days	Wed 4/20/16	Tue 4/26/16						
19	Equipment listings/identification	15 days	Wed 4/27/16	Tue 5/17/16						
20	Coordination with concerned Executive offices and CenTexes for the equipment identification and listings (thru workshops and/or site visits)	2 days	Wed 4/27/16	Thu 4/28/16						
21	Preparation of Equipment listings complete with specifications and cost derivation	10 days	Fri 4/29/16	Thu 5/12/16						
22	Preparation of detailed procurement plan	1 day	Fri 5/13/16	Fri 5/13/16						

Project: Procurement Specialist Consultancy Services

Task

Progress

Summary

Split

Milestone

Project Summary

ANNEX A

Hiring of Training Tools/Equipment Specifications and Procurement Specialists

ID	Task Name	Duration	Start	Finish	2016				2017	
					H2	H1			H2	H1
23	Provide technical assistance in the finalization of the Biddings documents, including the general conditions and specific conditions of contract	2 days	Mon 5/16/16	Tue 5/17/16						
24	Bidding Process of Tools/Equipment worth P230M (Tentative Schedule)	69 days	Tue 5/24/16	Tue 8/30/16						
25	Pre-Procurement Conference	1 day	Tue 5/24/16	Tue 5/24/16						
26	Advertisement/Posting of Invitation	7 days	Mon 5/30/16	Tue 6/7/16						
27	Pre-Bid Conference	1 day	Wed 6/22/16	Wed 6/22/16						
28	Bid Opening	1 day	Mon 7/11/16	Mon 7/11/16						
29	Bid Evaluation	7 days	Tue 7/12/16	Wed 7/20/16						
30	Post-qualification	5 days	Thu 7/21/16	Wed 7/27/16						
31	Approval of BAC Resolution	3 days	Thu 7/28/16	Mon 8/1/16						
32	Notice of Award, Approval of Contract and Issuance of Notice to Proceed (for approval of the TESDA Board)	20 days	Tue 8/2/16	Tue 8/30/16						
33	Equipment Delivery/Installation/Inspection and Acceptance	95 days	Thu 9/1/16	Tue 1/17/17						
34	Equipment delivery	90 days	Thu 9/1/16	Tue 1/10/17						
35	Inspection and Acceptance	5 days	Wed 1/11/17	Tue 1/17/17						

ANNEX B

COST DERIVATION for HIRING OF TRAINING TOOLS/EQUIPMENT SPECIFICATIONS AND PROCUREMENT SPECIALISTS

ACTIVITIES	EXPECTED OUTPUT	ESTIMATED NO. OF MAN DAYS (no. of pax x no. of days)	ESTIMATED RATE PER DAY (PhP) Based on the Dir. II SG	TOTAL ESTIMATED BUDGET REQUIREMENT (PhP)
1. Coordination with concerned Offices and CenTexes for tools/equipment identification and listings; Concerned Executive Offices (NITESD, CSA); Bids and Awards Committee; Regional Offices of 23 identified CenTexes	Approved Tools/Equipment List complete with specifications and cost derivation	144 (12x12)	2,600.00	374,400.00
2. Preparation of detailed Procurement Plan	Approved Detailed Procurement Plan	1 (1x1)	2,600.00	2,600.00
3. Provide technical assistance in the finalization of the bidding documents, including general conditions and specific conditions of the contract	Technical assistance provided in finalization of Bidding Documents	4 (2x2)	2,600.00	10,400.00
4. Provide technical assistance in Bid Evaluation	Technical assistance provided in Evaluated Bids	84 (12x7)	2,600.00	218,400.00
5. Provide technical assistance in Post Qualification of Bidders	Post qualified bidders	15 (3x5)	2,600.00	39,000.00
6. Provide technical assistance in inspection and acceptance of delivered goods	Delivered and accepted goods	60 (12x5)	2,600.00	156,000.00
Sub-TOTAL: Professional Fees		308		800,800.00
Plus: Estimated Travel Expenses including accommodation (reimbursable based on receipts):				296,700.00
Plus: 10% Contingency (Per Accounting)				109,750.00
GRAND TOTAL BUDGET				1,207,250.00

1

1

mb

List of TESDA "CenTex 23"

REGION	PROVINCE	NO	NAME OF INSTITUTION	ADDRESS	DISTINCTIVE AREA OF COMPETENCE	Current NC Level	Proposed Qualification and NC Level
CAR	Benguet	1	Regional Training Center- TESDA CAR	Magsaysay Drive, Loakan, Baguio City	CNC Machining	CNC Lathe Machine Operator NC III	CNC Lathe Machine Operator NC IV
						CNC Milling Machine Operator NC III	CNC Milling Machine Operator NC IV
I	Ilocos Norte	2	Bangui Institute of Technology	Manayon, Bangui, Ilocos Norte	Aquaculture	Aquaculture NC II	*Aquaculture (for possible horizontal bundling)
	Pangasinan	3	Pangasinan School of Arts & Trades	Alvear St. West, Lingayen, Pangasinan	Electrical Installation and Maintenance	Electrical Installation and Maintenance NC II	Electrical Installation and Maintenance NC III
II	Isabela	4	Southern Isabela College of Arts and Trades	Calaocan, Santiago City, Isabela	Automotive	Automotive Servicing NC I / II / III / IV	Diploma in Automotive (NTR)
	Isabela	5	Isabela School of Arts and Trades	Calamagui 2nd, Ilagan, Isabela	RAC Servicing	RAC Servicing (DomRac) NC II	RAC Servicing (PACU/CRE) NC III
III	Bulacan	6	Regional Training Center- TESDA Region III (Guiguinto)	Tabang, Guiguinto, Bulacan	Warehousing Services		**Warehousing Services NC II
IVA	Quezon	7	Quezon National Agricultural School	Malicboy, Pagbilao, Quezon	Agricultural Crops Production	Agricultural Crops Production NC III	Agricultural Crops Production NC IV
	Laguna	8	Jacobo Z. Gonzales Memorial School of Arts & Trades	San Antonio, Biñan, Laguna	Mechatronics	Mechatronics Servicing NC III	Mechatronics Servicing NC IV
IVB	Oriental Mindoro	9	Simeon Suan Vocational Technical College	Brgy. Pag-asa, Bansud, Oriental Mindoro	Welding	Welding - SMAW NC I/II/III	Welding - SMAW NC IV
						Welding - GTAW NC II	***Welding - GTAW NC IV
NCR	Taguig	10	TESDA Women's Center	TESDA Complex, Taguig City	Welding	Welding - SMAW NC II	Welding - SMAW NC III
						Welding - GTAW NC II	***Welding - GTAW NC IV
						Welding - GMAW NC II	Welding-GMAW NC III
V	Albay	11	San Francisco Institute of Science and Technology	San Francisco, Malilipot, Albay	Electrical Installation and Maintenance	Electrical Installation and Maintenance NC II	Electrical Installation and Maintenance NC III
	Camarines Sur	12	Camarines Sur Institute of Fisheries and Marine Sciences	Pasacao, Camarines Sur	Aquaculture	Aquaculture NC II	*Aquaculture (for possible horizontal bundling)
VI	Capiz	13	Dumalag Vocational Technical School	Dumalag, Capiz	Cookery	Cookery NC II	Commercial Cooking NC III

* Horizontal Bundling to be determined for Aquaculture.

** Training Regulation development is on-going for Warehousing Services.

*** No GTAW NC III in the latest version of Training Regulation

**** Diagonal bundling to be determine for Machining

REGION	PROVINCE	NO.	NAME OF INSTITUTION	ADDRESS	DISTINCTIVE AREA OF COMPETENCE	Current NC Level	Proposed Qualification and NC Level
	Iloilo	14	Leon Ganson Polytechnic College	Balasan, Iloilo	Food Processing	Food Processing NC II	Food Processing NC III
VII	Cebu	15	Regional Training Center- TESDA Region VII	Archbishop Reyes Ave., Cor. Salinas Drive Lahug, Cebu City	CNC Machining	CNC Lathe Machine Operator NC II	CNC Lathe Machine Operator NC III
						CNC Milling Machine Operator NC II	CNC Milling Machine Operator NC III
VIII	Northern Samar	16	Balicuatro College of Arts & Trades	Allen, Northern Samar	RAC Servicing	RAC Servicing (DomRac) NC II	RAC Servicing (PACU/CRE) NC III
IX	Zamboanga Sibugay	17	Kabasalan Institute of Technology	F.L. Pena, Kabasalan, Zamboanga Sibugay	Machining	Machining NC I / II / III	**** Machining (for possible diagonal bundling)
X	Cagayan de Oro	18	Cagayan de Oro (Bugo) School of Arts & Trades	Reyes Village Subdivision, Bugo, Cagayan de Oro City	Automotive	Automotive Servicing NC II	Automotive Servicing NC III
	Camiguin	19	Camiguin School of Arts & Trades	Lumad, Mambajao, Camiguin	Food and Beverage Services	Food and Beverage Services NC II	Food and Beverage Services NC III
XI	Davao City/Sur	20	RTC/KorPhil VTC-Davao	Buhisan, Tibungco, Davao City	Farm Mechanization	Rice Machinery Operation NC II	Diploma in Farm Mechanization (NTR)
	Davao Oriental	21	Lupon School of Fisheries	Roxas Street, Poblacion, Lupon, Davao Oriental	Aquaculture	Aquaculture NC II	*Aquaculture (for possible horizontal bundling)
XII	Gen. Santos City	22	Gen. Santos National School of Arts & Trades	Tiongson St., Lagao, General Santos City	RAC Servicing	RAC Servicing (DomRac) NC II	RAC Servicing (PACU-CRE) NC III
Caraga	Agusan del Norte	23	Northern Mindanao School of Fisheries	Matabao, Buenavista, Agusan del Norte	Aquaculture	Aquaculture NC II	*Aquaculture (for possible horizontal bundling)


* Horizontal Bundling to be determined for Aquaculture.

** Training Regulation development is on-going for Warehousing Services.


*** No GTAW NC III in the latest version of Training Regulation

**** Diagonal bundling to be determine for Machining


Prepared by:


ROWELL E. RODRIGUEZ
 TESD Specialist II
 TTDD, NITESD


Attested by:


NOEL J. CUEVAS
 Chief TESD Specialist
 TTDD, NITESD

Endorsed by:


FELICIDAD B. ZURBANO
 Assistant Executive Director
 NITESD

Approved by:


ELMER K. TALAVERA, CESO III
 Executive Director
 NITESD

Section VII. Bidding Forms

Eligibility Documents Submission Form	80
Technical Proposal Forms	81
Financial Proposal Forms	91
Form of Contract Agreement.....	98
Omnibus Sworn Statement.....	100



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 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

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 subcontractors, 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 subcontractors, 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 subcontractor 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 subcontractor, and include the legal eligibility documents of such subcontractor.

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 Bidding Documents dated *[insert date]* and our Bid. We are hereby submitting our Bid, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

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

In accordance with GCC Clause 18 we acknowledge and accept the PROCURING ENTITY's right to inspect and audit all records relating to our Bid irrespective of whether we enter into a contract with the Procuring Entity as a result of this Bid or not.

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

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 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**

7
20

TPF 5. TEAM COMPOSITION AND TASK PROJECTS

1. Technical/Managerial Staff		
Name	Position	Task

2. Support Staff		
Name	Position	Task

28
7

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. Describe degree of responsibility held by staff member on relevant previous projects and give dates and locations. Use about half a page.]

Education:

[Summarize college/university and other specialized education of staff members, giving names of schools, dates attended, and degrees obtained. Use about one quarter of a page.]

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 ten years, also give types of activities performed and client references, where appropriate. Use about two pages.]

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: _____

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:

$$\text{Leave cost as percentage of salary}^{10} = \frac{\text{total days leave} \times 100}{[365 - w - ph - v - s]}$$

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.

¹⁰ Where w = weekends, ph = public holidays, v = vacation, and s = sick leave.

(viii) Subsistence Allowances

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 RATES¹¹

[Currencies: _____¹²]

Consultants		1	2	3	4	5	6	7	8
Name	Position	Basic Rate ¹³	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: _____

¹¹ This model form is given for negotiation purposes only. It is not part of the proposals (technical or financial).

¹² If different currencies, a different table for each currency should be used.

¹³ Per month, day, or hour as appropriate.

Republic of the Philippines



Government Procurement Policy Board

st