



BAGUIO WATER DISTRICT

"Serving Mankind is Serving God"



Bidding Documents for the Procurement of BULK WATER SUPPLY

January 2025

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Section I. Instructions to Bidders

1.Scope of Bid

- 1.1. BWD invites Bids for the procurement of bulk water supply described in the Bid Data Sheet (**BDS**). The name and identification number of the Contract is provided in the **BDS**.
- 1.2. The BWD has an approved budget in the amount indicated in the **BDS**.

2.Source of Funds

BWD has a budget named in the **BDS** and in the amount indicated in the **BDS**.

3.Corrupt, Fraudulent, and Coercive Practices

- 3.1 The BWD requires that the Bidders and Suppliers shall observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the BWD:
 - 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 Government, 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 BWD, 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 BWD 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 BWD, designed to establish Bid prices at artificial, non-competitive levels; and
 - iv. "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;

v. “obstructive practice” is

(aa) deliberately destroying, falsifying, altering, or concealing of evidence material to an administrative proceeding or investigation or making false statements to investigators in order to materially impede an administrative proceeding or investigation of the BWD or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigations; or from pursuing such proceedings or investigation; or

(bb) an act intended to materially impede the exercise of the inspection and audit rights of the BWD of any foreign government/foreign or international financing institution herein.

- b. will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract; and

3.2 Further, the BWD will seek to impose the maximum penalties for civil and criminal liability available under the applicable law on individuals and organizations deemed to be involved in corrupt or fraudulent practices.

3.3 Furthermore, the BWD reserves the right to inspect and audit records and accounts of a bidder or supplier in the Bidding for and performance of a contract themselves or through independent auditors.

4. Conflict of Interest

4.1 All Bidders found to have conflicting interests shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described in paragraphs (a) through (c) and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (f) below:

- a. A Bidder has controlling shareholders in common with another Bidder;
- b. A Bidder receives or has received any direct or indirect subsidy from any other Bidder;
- c. A Bidder has the same legal representative as that of another Bidder for purposes of this Bid;
- d. A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder or influence the decisions of the BWD regarding this bidding process. This will include a firm or an organization who lends, or temporarily seconds,

its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the contract if the personnel would be involved in any capacity on the same contract;

- e. A Bidder who participated as a consultant in the preparation of the design or technical specifications of the goods and related services that are the subject of the Bid;
- f. A Bidder who lends, or temporary seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the contract, if the personnel would be involved in any capacity on the same contract;
- g. A Bidder submits more than one bid in this bidding process.

4.2 In accordance with Section 47 of the IRR-A of R.A. 9184, all Bidding Documents shall be accompanied by a sworn affidavit of the Bidder that it is not related to the head of the BWD by consanguinity or affinity up to the third civil degree or any of the BWD's officers or employees having direct access to information that may substantially affect the result of the bidding, such as, but not limited to, the members of the BAC, the members of the Technical Working Group (TWG), the BAC Secretariat or the end-user. This Clause shall apply to the following persons:

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

Relationship of the nature described above or failure to comply with this Clause will result in the automatic disqualification of a Bidder.

5. Eligible Bidders

5.1 Unless otherwise indicated in the **BDS**, the following persons shall be eligible to participate in this bidding:

- 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 interest belongs to citizens of the Philippines;
- d. Cooperatives duly organized under the laws of the Philippines; or
- e. Persons/entities forming themselves into a JV, *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 of the joint venture concerned 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.

5.2 Foreign bidders may be eligible to participate when any of the following circumstances exist, as specified in the **BDS**:

When a Treaty or International or Executive Agreement as provided in Section 4 of the RA 9184 and its IRR allow foreign bidders to participate;

When the foreign supplier is a citizen, corporation or association of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations or associations of the Philippines;

When the Goods sought to be procured are not available from local suppliers; or

When there is a need to prevent situations that defeat competition or restrain trade.

5.3 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 BWD.

5.4 Unless otherwise provided in the **BDS**, the Bidder must have completed within the period specified in the Invitation to Bid, a Single Largest Completed Contract (SLCC) that is similar to the contract to be bid, and whose value, adjusted to current prices using the Philippine Statistics Authority (PSA) consumer price indices, must be at least fifty percent (50%) of the ABC. However, in the case of Expendable Supplies, said SLCC must be at least twenty five percent (25%) of the ABC.

5.5 Unless otherwise provided in the **BDS**, the Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC) or a committed Line of Credit (CLC) issued by a Universal or Commercial Bank and confirmed or authenticated by a local Universal or Commercial Bank.

The computation of a prospective bidder's NFCC must be at least equal to the ABC to be bid, calculated as follows:

NFCC = [(Current assets minus current liabilities) (15)] minus the value of all outstanding or uncompleted portions of the contract under ongoing contracts, including awarded contracts yet to be started coinciding with the contract to be bid.

The values of the domestic bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements submitted to the BIR.

For purposes of computing the foreign bidders' NFCC, the value of the current assets and current liabilities shall be based on their Audited Financial Statements prepared in accordance with international financial reporting standards.

If the prospective bidder submits a committed Line of Credit, it must be at least equal to ten percent (10%) of the ABC to be bid: Provided, that if the same is issued by a foreign Universal or Commercial Bank, it shall be confirmed or authenticated by a local Universal or Commercial Bank.

6. Bidder's Responsibilities

6.1 The Bidder or its duly authorized representative shall submit a sworn statement in the form prescribed in Section V (Bidding Forms) as required in ITB Clause 12.

6.2 The Bidder is responsible for the following:

- a. Having taken steps to carefully examine all of the Bidding Documents and Terms of Reference;
- 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 the contract to be bid, if any;
- d. Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin(s) as provided under ITB Clause 10.3;
- 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 BWD 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 RA 9184 in relation to other provisions of RA 3019; and

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

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

- 6.3 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents and Terms of Reference. Unless otherwise indicated in the **BDS**, failure to furnish all information or documentation required in the Bidding Documents and Terms of Reference shall result in the rejection of the bid and the disqualification of the Bidder.
- 6.4 It shall be the sole responsibility of the Bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to the contract to be bid, including: (a) the location and the nature of this contract; (b) climatic conditions; (c) transportation facilities; and (d) other factors that may affect the cost, duration, and execution or implementation of this contract.
- 6.5 BWD shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder out of the data furnished by the BWD. However, BWD shall ensure that all information in the Bidding Documents and Terms of Reference, including bid/supplemental bid bulletin/s issued, are correct and consistent.
- 6.6 The Bidder shall bear all costs associated with the preparation and submission of his bid, and the BWD will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 6.7 Before submitting their bids, the Bidder is deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect this contract in any way.
- 6.8 The Bidder should note that the BWD will accept bids only from those that have paid the nonrefundable fee for the Bidding Documents at the office indicated in the Invitation to Bid.
- 6.9 The Bidder should note that the Procuring Entity will accept bids only from those that have paid the applicable fee for the Bidding Documents at the office indicated in the Invitation to Bid.

7.Origin of 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.

8.Subcontracting

- 8.1 Unless otherwise specified in the BDS, the bidder may subcontract portions of the Goods to an extent as may be approved by BWD and stated in the BDS. However, subcontracting of any portion shall not relieve the bidder from any liability or obligation that may arise from the contract for this Project.
- 8.2 Subcontractors must submit the documentary requirements under ITB Clause 12 and comply with the eligibility criteria specified in the BDS. In the event that any subcontractor is found by BWD to be ineligible, the subcontracting of such portion of the Goods shall be disallowed.
- 8.3 The bidder may identify the subcontractor to whom a portion of the Goods will be subcontracted at any stage of the bidding process or during contract implementation. If the bidder opts to disclose the name of the subcontractor during bid submission, the bidder shall include the required documents as part of the technical component of its bid.

9. Pre-Bid Conference

- 9.1 If so, specified in the **BDS**, a pre-bid conference shall be held through videoconferencing and on the date indicated therein, to clarify and address the Bidders' questions on the technical and financial components of this Contract.

The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of bids, but not earlier than seven (7) calendar days from the posting of the invitation to bid/bidding documents in the PhilGEPS website. If BWD determines that, by reason of the method, nature, or complexity of the contract to be bid, or when international participation will be more advantageous to the GOP, a longer period for the preparation of bids is necessary, the pre-bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids, as specified in the **BDS**.

- 9.2 Bidders are encouraged to attend the pre-bid conference to ensure that they fully understand the BWD's requirements. Non-attendance of the Bidder will in no way prejudice its bid; however, the Bidder is expected to know the changes and/or amendments to the Bidding Documents and Terms of Reference discussed during the pre-bid conference. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference, and shall be made available to prospective bidders not later than five (5) days upon written request.
- 9.3 Any statement made at the pre-bid conference shall not modify the terms of the Bidding Documents and Terms of Reference unless such statement is specifically identified in writing as an amendment thereto and issued as a Supplemental/Bid Bulletin.
- 9.4 The Pre-Bid Conference shall discuss, clarify and explain, among other things, the eligibility requirements and technical and financial components of the contract to be

Bid including questions and clarifications raised by the prospective bidders before and during the Pre-Bid Conference. The minutes of the Pre-Bid Conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference and shall not made available to prospective bidders not later than five (5) days upon written request.

9.5 Pre-bid conference may be conducted through video conferencing. Procuring Entities with videoconferencing capabilities that have manufacturers, suppliers, distributors, contractors and/or consultants that also have video conferencing capabilities may conduct their pre-bidding conferences electronically.

9.6 Decisions of the BAC amending any provision of the Bidding Documents and Terms of Reference shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids

10. Clarification and Amendment of Bidding Documents

10.1 Bidders may request for clarification(s) on any part of the Bidding Documents and Terms of Reference or for an interpretation thereof. Such a request must be in writing and may be submitted to the BWD-BAC through electronic mail at bwd.bac2021@gmail.com or in the office at No. 03 Utility Road, Barangay Marcoville, Baguio City, during office hours from 8:00 am to 5:00 pm, Mondays to Fridays (*except holidays*) at least ten (10) calendar days before the deadline set for the submission and receipt of Bids. The BWD shall respond to the said request by issuing a Supplemental/Bid Bulletin, duly signed by the BAC Chairperson, to be made available to all those who have properly secured the Bidding Documents from the BWD, at least seven (7) calendar days before the deadline for the submission and receipt of Bids. It shall be the responsibility of all those who have properly secured the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BWD.

10.2 Supplemental/Bid Bulletins may be issued upon the BWD's initiative for purposes of clarifying or modifying any provision of the Bidding Documents and Terms of Reference not later than seven (7) calendar days before the deadline for the submission and receipt of Bids. It is the responsibility of the BWD to notify in writing and through posting in the website of the BWD and the Government Electronic Procurement System (G-EPS) the said documents to all those who have properly secured the Bidding Documents. Any modification to the Bidding Documents and Terms of Reference shall be identified as an amendment. Bidders who have submitted Bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their Bids.

10.3 Any Supplemental/Bid Bulletin issued by the BAC shall also be posted on the Philippine Government Electronic Procurement System (PhilGEPS) and the website of BWD. It shall be the responsibility of all Bidders who secure the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, Bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids.

11. Language of Bid

The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English.

In case of foreign bidders, if the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, the documents 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.

12. Documents Comprising the Bid: Eligibility and Technical Components

12.1 Unless otherwise indicated in the **BDS**, the **first envelope** shall contain the following **eligibility and technical** documents:

ELIGIBILITY DOCUMENTS (FIRST ENVELOPE)

I. CLASS "A" DOCUMENTS

A. LEGAL DOCUMENTS

- 1) Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or Cooperative Development Authority (CDA) for cooperatives;
- 2) Mayor's/Business Permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas;

In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit: *Provided*, That the renewed permit shall be submitted as a post-qualification requirement in accordance with Section 34.2 of the IRR of RA 9184.

- 3) Tax clearance per Executive Order No. 398, series of 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR);

B. TECHNICAL DOCUMENTS

- 1) PhilGEPS Certificate of Registration and membership in accordance with Section 8.5.2 of the IRR of RA 9184, except for foreign bidders

participating in the procurement by a Philippines Foreign Service Office or Post, which shall submit their eligibility documents under Section 23.1 of this IRR: *Provided*, That the winning bidder shall register with the PHILGEPS in accordance with Section 37.1. 4 of the IRR of RA9184

- 2) Statement of all its ongoing 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; **AND**

Statement of the Bidder's SLCC similar to the contract to be bid within the relevant period as provided in the **BDS**.

The two statements required shall indicate for each contract the following:

- (ii.1) name of the contract;
- (ii.2) date of the contract;
- (ii.3) contract duration;
- (ii.4) owner's name and address;
- (ii.5) kinds of Goods;
- (ii.6) For Statement of Ongoing Contracts - amount of contract and value of outstanding contracts;
- (ii.7) For Statement of SLCC - amount of completed contracts, adjusted by the Bidder to current prices using PSA's consumer price index, if necessary for the purpose of meeting the SLCC requirement;
- (ii.8) date of delivery; and
- (ii.9) end user's acceptance or official receipt(s) or sales invoice issued for the contract, if completed, which shall be attached to the statements.

- 3) Bid security in the form of:

Form of Bid Security	Amount of Bid Security (Not less than the Percentage of the ABC)
	<i>(The basis of the computation for the Bid Security is one (1) year [Php45.00 x 2,000 cubic meters x 365 days) or a total of Thirty-Two Million Eight Hundred Fifty Thousand Pesos (Php32,850,000.00).</i>

Cash or cashier's/manager's check issued by a Universal or Commercial Bank;	2%
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.	2%
Surety bond callable upon demand issued by a surety or insurance company duly certified by the insurance company duly certified by the Insurance Commission as authorized to issue such security.	5%
OR Bid Securing Declaration which states, among others, that the bidder, shall enter into a Contract with the BWD and furnish the required performance security within ten (10) calendar days, or less, as indicated in the bidding documents, from the receipt of the Notice of Award, and commits to pay the corresponding amount as fine and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as required in the guidelines issued by the Government Procurement Policy Board (GPPB).	

- 4) Omnibus sworn statement in accordance with Section 25.3 of the IRR of RA 9184 which shall contain the following;

- a) The signatory is the duly authorized representative of the prospective bidder, and granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary's Certificate, whichever is applicable;
 - b) It is not "blacklisted" or barred from bidding by the GoP or any of its agencies, offices, corporations, or LGUs, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
 - c) 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;
 - d) It is authorizing the HoPE or his duly authorized representative/s to verify all the documents submitted;
 - e) It complies with the disclosure provision under Section 47 of RA 9184 and its IRR, in relation to other provisions of R.A. 3019;
 - f) It complies with existing labor laws and standards;
 - g) It complies with the responsibilities of a prospective or eligible bidder provided in the PBDs;
 - h) It did not give or pay, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.
 - i) For foreign bidders claiming eligibility by reason of their country's extension of reciprocal rights to Filipinos, a certification from the relevant government office of their country stating that Filipinos are allowed to participate in their government procurement activities for the same item or product.
- 5) A sworn statement that the bidder has the capacity to provide the minimum water requirement of 600 cubic meters per day to the specified point of delivery and can comply with the other mandated standards as specified in the Terms of Reference.
- 6) Technical plans of the bidder's infrastructure to collect, treat and transmit water from source to delivery point such as but not limited to:
- Design and dimensions of collecting tank/s

- Design and plans for the pumping station including sub-stations, if any
 - Design and plans for the proposed treatment facility
 - Pipeline route and profile including pipe material specifications
- 7) Construction methodology and proposed implementing schedule/work program
 - 8) Bidder's proposed operation and maintenance arrangement incorporating the organization and management, operation activities and preventive maintenance
 - 9) List of bidder's key personnel for the administration and execution of the contract, with their complete qualifications and experience data.

C. FINANCIAL DOCUMENTS

1. Audited financial statements, showing, among others, the prospective bidder's total and current assets and liabilities stamped "received" by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions, for the preceding calendar year, which should not be earlier than two (2) years from bid submission
2. NFCC computation or CLC

II. CLASS "B" DOCUMENT

Valid joint venture agreement (JVA), in case the joint venture is already in existence. In the absence of a JVA, duly notarized statements from all the potential joint venture partners should be included in the bid, stating that they will enter into and abide by the provisions of the JVA in the event that the bid is successful. 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 his or her respective PHILGEPS Certificates of Registration in accordance with Section 8.5.2 of the IRR of RA 9184. The submission of technical and financial documents by any of the joint venture partners constitutes compliance: Provided, that the partner responsible to submit the NFCC shall likewise submit the Statement of all its ongoing contracts and Audited Financial Statements.

12.2 The **second envelope** shall contain the **financial component**, to wit:

- a. Financial Bid Form, which includes bid prices and the applicable Price Schedules
- b. Any other document related to the financial component of the bid as stated in the **BDS**.

All Financial Proposals that exceed the ABC as indicated in the **BDS**, shall be rejected.

13. Alternative Bids

- 13.1. Alternative Bids shall be rejected. For this purpose, alternative bid is an offer made by a bidder in addition or as a substitute to its original bid which may be included as part of its original bid or submitted separately therewith for purposes of bidding. A bid with options is considered an alternative bid regardless of whether said bid proposal is contained in a single envelope or submitted in two (2) or more separate bid envelopes.
- 13.2. Each bidder shall submit only one bid, either individually or as a partner in a JV. A bidder who submits or participates in more than one bid (other than as a subcontractor if a subcontractor is permitted to participate in more than one bid) will cause all the proposals with the bidder's participation to be disqualified. This shall be without prejudice to any applicable criminal, civil and administrative penalties that may be imposed upon the persons and entities concerned.

14. Bid Prices

- 14.1 The Bidder shall complete the appropriate Schedule of Prices included herein, stating the unit prices, total price per item, the total amount and the expected countries of origin of the Goods to be supplied under this Contract.
- 14.2 The Bidder shall fill in rates and prices for all items of the Goods described in the Schedule of Prices. Bids not addressing or providing all of the required items in the Bidding Documents and Terms of Reference including, where applicable, Schedule of Prices, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a zero (0) or a dash (-) for the said item would mean that it is being offered for free to the Government, except those required by law or regulations to be accomplished.
- 14.3 The terms Ex Works (EXW), Cost, Insurance and Freight (CIF), Cost and Insurance Paid to (CIP), Delivered Duty Paid (DDP), and other trade terms used to describe the obligations of the parties, shall be governed by the rules prescribed in the current edition of the International Commercial Terms (INCOTERMS) published by the International Chamber of Commerce, Paris.
- 14.4 Prices indicated on the Price Schedule shall be entered separately in the following manner:
 - 14.4.1 For Goods offered from within the Procuring Entity's country:
 - a) The price of the Goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable);
 - b) The cost of all customs duties and sales and other taxes already paid or payable;

- c) The cost of transportation, insurance, and other costs incidental to delivery of the Goods to their final destination; and
- d) The price of other (incidental) services, if any, listed in the **BDS**.

14.4.2 For Goods offered from abroad:

- a) Unless otherwise stated in the **BDS**, the price of the Goods shall be quoted DDP with the place of destination in the Philippines as specified in the **BDS**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.
- b) The price of other (incidental) services, if any, listed in the **BDS**.

14.4.3 For Services, based on the form which may be prescribed by BWD, in accordance with existing laws, rules and regulations

- 14.5 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation or price escalation on any account. A bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 20

All bid prices for the given scope of work in the contract as awarded shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances. Upon the recommendation of BWD, price escalation may be allowed in extraordinary circumstances as may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon approval by the GPPB. Nevertheless, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the GOP, promulgated after the date of bid opening, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

15. Currencies of Bid and Payment

15.1 Prices shall be quoted in the following currencies:

- (a) For Goods that the Bidder will supply from within the Philippines, the prices shall be quoted in Philippine Pesos.
- (b) For Goods that the Bidder will supply from outside the Philippines, the prices may be quoted in the currency(ies) stated 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 as published in the *Bangko Sentral ng Pilipinas*(BSP) reference rate bulletin on the day of the bid opening.

- 15.2 If so allowed in accordance with **ITB** Clause 0, the BWD 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 foregoing exchange rates.

- 15.3 Unless otherwise specified in the **BDS**, payment of the contract price shall be made in Philippine Pesos.

16. Bid Validity

- 16.1 Bids shall remain valid for the period specified in the **BDS** which shall not exceed one hundred twenty (120) days from the date of the opening of Bids.
- 16.2 In exceptional circumstances, prior to the expiration of the bid validity period, BWD may request Bidders 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 the extension of the bid validity period at the least. A Bidder may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

17. Bid Security

- 17.1 The Bidder shall furnish, as part of the Bid, a Bid Security in local currency in the form and amount specified in the **BDS**.
- 17.2 As indicated in the **BDS**, the BWD shall prescribe the acceptable forms of Bid Security from among the following, the Bidder may choose:

Form of Bid Security	Amount of Bid Security (Not less than the Percentage of the ABC) <i>(The basis of the computation for the Bid Security is one (1) year [Php45.00 x 2,000 cubic meters x 365 days) or a total of Thirty-Two Million Eight Hundred Fifty Thousand Pesos (Php32,850,000.00).</i>
Cash or cashier's/manager's check issued by a Universal or Commercial Bank	2%
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.	2%
Surety bond callable upon demand issued by a surety or insurance company duly certified by the insurance company duly certified by the Insurance	5%

Commission as authorized to issue such security.	
OR Bid Securing Declaration which states, among others, that the bidder, shall enter into a Contract with the BWD and furnish the required performance security within ten (10) calendar days, or less, as indicated in the bidding documents, from the receipt of the Notice of Award, and commits to pay the corresponding amount as fine and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as required in the guidelines issued by the Government Procurement Policy Board (GPPB).	

The Bid Security may be in any of the forms above. Failure to submit any of the bid security or bid securing declaration shall render the contractor's bid disqualified.

- 17.3 In case of a bank guarantee, the Bid Security shall be submitted using the form attached, or another form acceptable to the BWD. The form must include the complete name of the Bidder. The Bid Security should be valid for a period of 120 calendar days from date of opening of bids.
- 17.4 Any Bid not accompanied by an acceptable Bid Security shall be rejected by the BWD. The Bid Security of a JV, if in the form of a Bank Guarantee must define as "Bidder" all JV partners and list them in the following manner: a JV consisting of "_____", "_____", and "_____".
- 17.5 No Bid Securities shall be returned to Bidders after the opening of Bids and before the contract signing, except to those that failed to comply with any of the requirements to be submitted in the first bid envelope of the Bid, as provided in R.A. 9184 and its IRR-A. Without prejudice to the provisions of RA 9184 and its IRR on the forfeiture of bid securities, bid securities shall be returned only after the bidder with the Lowest Calculated Responsive Bid (LCRB), has signed the contract and furnished the performance security, except to those declared by the BAC as failed or post-disqualified in accordance with this IRR, upon submission of a written waiver of their right to file a motion for reconsideration and/or protest.
- 17.6 The bid security may be forfeited:
- a) if a Bidder:
 - i. withdraws its bid during the period of bid validity;
 - ii. does not accept the correction of errors pursuant to **ITB** Clause 26.2.b

- iii. has a finding against the veracity of any of the documents submitted as stated in **ITB** Clause 27.3;
 - iv. submission of eligibility requirements containing false information or falsified documents;
 - v. 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;
 - vi. allowing the use of one's name, or using the name of another for purposes of public bidding;
 - vii. 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 LCRB;
 - viii. refusal or failure to post the required performance security within the prescribed time;
 - ix. 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;
 - x. any documented attempt by a Bidder to unduly influence the outcome of the bidding in his favor;
 - xi. failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
 - xii. 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.
- b) if the successful Bidder:
- i. fails to sign the contract; or
 - ii. fails to furnish performance security.

18. Format and Signing of Bid

Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in Section V (Bidding Forms) on or before the deadline specified in the **BDS** in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the eligibility and technical component of the bid, and the second shall contain the financial component of the bid.

- 18.1 Forms provided by BWD 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.
- 18.2 The Bidder shall prepare and submit an original of the first and second envelopes. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 18.3 Each and every page of the bid, with the exception of unamended printed literature, shall be signed, and each and every page thereof shall be initialed, by the duly authorized representative/s of the Bidder. Likewise, each and every page of the Bid Form, including the Bid Prices and the like, shall be signed by the duly authorized representative/s of the Bidder. Failure to do so shall be a ground for the rejection of the bid.
- 18.4 Any alterations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

19 Sealing and Marking of Bids

- 19.1 Unless otherwise indicated in the **BDS**, Bidders shall enclose their original eligibility and technical documents in one sealed envelope marked “ORIGINAL - TECHNICAL COMPONENT”, and the original of their financial component in another sealed envelope marked “ORIGINAL - FINANCIAL COMPONENT”, sealing them all in an outer envelope marked “ORIGINAL BID”.
- 19.2 The original and the number of copies of the Bid as indicated in the **BDS** shall be typed or written in ink and shall be signed by the Bidder or its duly authorized representative/s.

All envelopes shall:

- a) contain the name of the contract to be bid in capital letters;
 - b) bear the name and address of the Bidder in capital letters;
 - c) be addressed to BWD-BAC
 - d) bear the specific identification of this bidding process, and
 - e) bear a warning “DO NOT OPEN BEFORE...” the date and time for the opening of bids.
- 19.3 Bid envelopes that are not properly sealed and marked, as required in the bidding documents, shall not be rejected, but the Bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. The BAC or the BWD shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked bid, or for its premature opening.

20. Submission and Opening of Bids

Bids must be received by the BWD-BAC at No. 003 Utility Road, Marcoville, Barangay, Baguio City on or before **03 February 2025 (not later than 10:00 AM)**.

21. Late Bids

Any Bid submitted after the deadline for submission and receipt of Bids prescribed by the BWD, shall be declared “Late” and shall not be accepted by the BWD. The BAC shall record in the minutes of bid submission and opening, the Bidder’s name, its representative and the time the late bid was submitted.

22. Modification and Withdrawal of Bids

22.1 The Bidder may modify its Bid after it has been submitted the same; provided that the modification is received by the BWD prior to the deadline prescribed for submission and receipt of Bids. The Bidder 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 Bidder unopened.

22.2 A Bidder may, through a Letter of Withdrawal, withdraw its Bid after it has been submitted, for valid and justifiable reason/s; provided that the Letter of Withdrawal is received by the BWD-BAC contracts prior to the deadline prescribed for submission and receipt of Bids. The Letter of Withdrawal must be executed by the duly authorized representative of the Bidder identified in the Omnibus Sworn Statement, a copy of which should be attached to the letter.

22.3 Bids requested to be withdrawn in accordance with ITB Clause 21 shall be returned unopened to the Bidders. A 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 Bids. A Bidder that withdraws its Bid shall not be permitted to submit another Bid, directly or indirectly, for the same contract.

22.4 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 Bidder on the Bid Form. Withdrawal of a Bid during this interval may result in the forfeiture of the Bidder’s Bid Security, and the imposition of administrative, civil and criminal sanctions as prescribed by R.A. 9184 and its IRR.

23. Opening and Preliminary Examination of Bids

23.1 The BWD BAC shall open the first bid envelopes of Bidders in public as specified in the BDS to determine each Bidder’s compliance with the documents. In case the Bids cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the Bids submitted and reschedule the opening of Bids on the next working day or at the soonest possible time through the issuance of a Notice of Postponement to be posted in the PhilGEPS website and the website of BWD.

For this purpose, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a non-discretionary “pass/fail” criterion. If a bidder submits the required document, it shall be rated “passed” for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as “failed”. Otherwise, the BAC shall rate the said first bid envelope as “passed”.

- 23.2 Unless otherwise specified in the BDS, immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible bidder whose first bid envelope was rated “passed”. The second envelope of each complying bidder shall be opened within the same day. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC unless otherwise provided, the BAC shall rate the bid concerned as “failed”. Only bids that are determined to contain all the bid requirements for both components shall be rated “passed” and shall immediately be considered for evaluation and comparison.
- 23.3 Letters of withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Bidder unopened.
- 23.4 All members of the BAC who are present during bid opening shall initial every page of the original copies of all bids received and opened.
- 23.5 Each partner of a joint venture agreement shall likewise submit the requirements in **ITB** Clause 12.1(I)(B)(1). Submission of documents required under **ITB** Clauses 12.1(I)(B)(1) and 12.1(I)(C)(2) by any of the joint venture partners constitutes compliance.
- 23.6 BWD shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price, bid security, findings of preliminary examination, and whether there is a withdrawal or modification; and (b) attendance sheet. The BAC members shall sign the abstract of bids as read.
- 23.7 The bidders or their duly authorized representatives may attend the opening of bids. The BAC shall ensure the integrity, security, and confidentiality of all submitted bids. The Abstract of Bids as read and the minutes of the bid opening shall be made available to the public upon written request and payment of a specified fee to recover cost of materials.
- 23.8 To ensure transparency and accurate representation of the bid submission, the BAC Secretariat shall notify in writing all bidders whose bids it has received through its PhilGEPS-registered physical address or official e-mail address. The notice shall be issued within seven (7) calendar days from the date of the bid opening.

24. Process to be Confidential

24.1 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 bidder regarding the evaluation of their bids until the issuance of the Notice of Award, unless otherwise allowed.

24.2 Any effort by a bidder to influence the BWD in its decision in respect of bid evaluation, bid comparison or contract award will result in the rejection of the Bidder's bid.

25. Clarification of Bids

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

26. Domestic Preference

26.1 Unless otherwise stated in the BDS, BWD will grant a margin of preference for the purpose of comparison of bids in accordance with the following:

- a) The preference shall be applied when (i) the lowest Foreign Bid is lower than the lowest bid offered by a Domestic Bidder, or (ii) the lowest bid offered by a non-Philippine national is lower than the lowest bid offered by a Domestic Entity.
- b) For evaluation purposes, the lowest Foreign Bid or the bid offered by a non-Philippine national shall be increased by fifteen percent (15%).
- c) In the event that the lowest bid offered by a Domestic Bidder does not exceed the lowest Foreign Bid as increased, then BWD shall award the contract to the Domestic Bidder at the amount of the lowest Foreign Bid.
- d) If the Domestic Bidder refuses to accept the award of contract at the amount of the Foreign Bid within two (2) calendar days from receipt of written advice from the BAC, the Procuring Entity shall award to the bidder offering the Foreign Bid, subject to post-qualification and submission of all the documentary requirements under these Bidding Documents.

26.2 Bidder may be granted preference as a Domestic Bidder subject to the certification from the DTI that the Bidder is offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.

27. Detailed Evaluation and Comparison of Bids

27.1 BWD will undertake the detailed evaluation and comparison of bids which have passed the opening and preliminary examination of bids, in order to determine the Lowest Calculated Bid.

- 27.2 The Lowest Calculated Bid shall be determined in two steps:
- 27.2.1 The detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and
 - 27.2.2 The ranking of the total bid prices as so calculated from the lowest to the highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.
- 27.3 BWD shall immediately conduct a detailed evaluation of all bids rated “passed,” using non-discretionary pass/fail criteria. The BAC shall consider the following in the evaluation of bids:
- 27.3. Completeness of the bid. Unless the **BDS** allows partial bids, bids not addressing or providing all of the required items in the Schedule of Requirements including, where applicable, Schedule of Prices, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a zero (0) or a dash (-) for the said item would mean that it is being offered for free to BWD, except those required by law or regulations to be provided for; and
- 27.3. Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications. Any adjustment shall be calculated in monetary terms to determine the calculated prices.
- 27.4 Based on the detailed evaluation of bids, those that comply with the above-mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, to identify the Lowest Calculated Bid. Total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, which exceed the ABC shall not be considered, unless otherwise indicated in the **BDS**.
- 27.5 BWD’s evaluation of bids shall be based on the bid price quoted in the Bid Form, which includes the Schedule of Prices.
- 27.6 Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all bidders shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.

28. Post Qualification

- 28.1 BWD shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid complies with and is responsive to all the requirements and conditions.

- 28.2 Within five (5) calendar days from receipt by the bidder of the notice from the BAC that the bidder has the Lowest Calculated Bid or Highest Rated Bid, the bidder shall submit to the BAC its latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS), and other appropriate licenses and permits required by law and stated in the Bidding Documents and Terms of Reference.
- 28.3 Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the bidder for award: Provided, that in the event that a finding against the veracity of any of the documents submitted is made, it shall cause the forfeiture of the Bid Security in accordance with Section 69 of the IRR of RA 9184
- 28.4 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted, as well as other information as the BWD deems necessary and appropriate, using a non-discretionary "pass/fail" criterion, which shall be completed within a period of twelve (12) calendar days.
- 28.5 If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the Lowest Calculated Responsive Bid and recommend to the Head of the BWD the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower or in the case of quality-based evaluation procedure, submitted bid price or its negotiated price, whichever is lower.
- 28.6 A negative determination shall result in rejection of the Bidder's Bid, in which event the BAC shall proceed to the next Lowest Calculated Bid with a fresh period to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next Lowest Calculated Bid, and so on until the LCRB is determined for recommendation for contract award.
- 28.7 Within a period not exceeding fifteen (15) calendar days from the determination by the BAC of the LCRB and the recommendation to award the contract, the HoPE or his duly authorized representative shall approve or disapprove the said recommendation.
- 28.8 In the event of disapproval, which shall be based on valid, reasonable, and justifiable grounds as provided for under Section 41 of the IRR of RA 9184, the HoPE shall notify the BAC and the Bidder in writing of such decision and the grounds for it. When applicable, the BAC shall conduct a post-qualification of the Bidder with the next Lowest Calculated Bid. A request for reconsideration may be filed by the bidder with the HoPE in accordance with Section 37.1.3 of the IRR of RA 9184.

29. Reservation Clause

- 29.1 Notwithstanding the eligibility or post-qualification of a Bidder, BWD reserves the right to review its qualifications at any stage of the procurement process if it

has reasonable grounds to believe that a misrepresentation has been made by the said Bidder, or that there has been a change in the Bidder's capability to undertake the contract from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the contract so that it fails the preset eligibility or bid evaluation criteria, BWD shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.

29.2 Based on the following grounds, BWD 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 BWD, 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 BWD 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:
 1. If the physical and economic conditions have significantly changed so as to render the contract no longer economically, financially or technically feasible as determined by the HoPE;
 2. If the contract is no longer necessary as determined by the HoPE; and
 3. If the source of funds for the contract has been withheld or reduced through no fault of BWD.

29.3 In addition, BWD 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 LCRB refuses, without justifiable cause to accept the award of contract, and no award is made in accordance with Section 40 of the IRR of RA 9184.

30. Contract Award

- 30.1 The HoPE or its duly authorized representative shall award the contract to the Bidder whose bid has been determined to be the LCRB.
- 30.2 Prior to the expiration of the period of bid validity, BWD shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award duly received by the Bidder or its representative personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to BWD.
- 30.3 Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:
- a. Submission of the following documents within ten (10) calendar days from receipt of the Notice of Award:
 - 1. Valid JVA, if applicable; or
 - 2. In the case of procurement by a Philippine Foreign Service Office or Post, the PhilGEPS Registration Number of the winning foreign Bidder;
 - b. Posting of the performance security;
 - c. Signing of the contract; and
 - d. Approval by higher authority, if required.

31. Signing of the Contract

- 31.1 At the same time as BWD notifies the successful Bidder that its bid has been accepted, BWD shall send the Contract Form to the Bidder, which contract has been provided in the Bidding Documents and Terms of Reference, 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 BWD.
- 31.3 BWD 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 and its Terms of Reference;
 - 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. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the BWD and in no case later than the signing of the contract.
- 32.2. The performance security shall be denominated in Philippine Pesos and posted in favor of BWD 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 (Not less than the Percentage of the ABC)
Cash or cashier's/manager's check, issued by a Universal or Commercial Bank	5%
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.	5%
Surety bond callable upon demand issued by a surety or insurance company duly certified by the insurance company duly certified by the Insurance Commission as authorized to issue such security.	30%

- 32.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the BWD shall initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until the LCRB is identified and selected for contract award. However if no Bidder passed 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 (7) calendar days from the date of approval of the contract by the appropriate government approving authority, BWD shall issue its Notice to Proceed to the Bidder.

33.2. The contract effectivity date shall be provided in the Notice to Proceed by the BWD, which date shall not be later than seven (7) calendar days from the issuance of the Notice to Proceed.

34. Protest Mechanism

Decisions of the BAC at any stage of the procurement process may be questioned in accordance with Section 55 of the IRR of RA 9184.

Section II. Bid Data Sheet

ITB Clause	
1.1	<p>The BWD is a Government Owned and Controlled Corporation created under PD 198 mandated to provide adequate and potable water at affordable rates to its concessionaires within Baguio City.</p> <p>The name of the Contract is:</p> <p style="text-align: center;">Procurement of Bulk Water Supply</p>
1.2	The Funding Source is BWD, through its Operating Budget for 2025.
9	<p>The Date and Venue of the Pre-Bid Conference is:</p> <p><u>22 January 2025 at 9:00 A.M.</u> through videoconference using the Zoom application with Meeting ID: 452 718 8447 and Password: 9Buvqr.</p> <p>All prospective bidders shall be allowed to attend the pre-bid conference.</p>
10	<p>Any request for clarification shall be addressed to:</p> <p>Baguio Water District</p> <p>No. 003 Utility Road, Marcoville Barangay, Baguio City</p> <p>Thru:</p> <p><u>ATTY. MA. LUISA C. TENEDERO</u> Chairperson, BAC In House</p> <p>Email: bwd.bac2021@gmail.com</p>
1.2	<p>The ABC is Php45.00/cubic meter.</p> <p>Any Bid with a Financial Proposal exceeding this amount will be rejected.</p>
14	The bid price shall be inclusive of all taxes, such as but not limited to VAT, income tax, local taxes and other fiscal levies and duties, which shall be itemized in the bid form.
14	Bid Prices shall be fixed; adjustable Financial Proposals will be rejected.
16	Bids shall be valid for a period of 120 calendar days from the date of opening of bids.
17	Bid Security form and amount
17.6	Forfeiture of the Bid Security

20	<p>The address for submission of bids is:</p> <p>BWD In House Baguio Water District No. 003 utility Road, Marcoville Barangay, Baguio City</p> <p>The deadline for Submission of Bids is on or before 03 February 2025 (not later than at 10:00 AM)</p>
20	<p>The date and time of Bid opening is on 03 February 2025, 10:00 AM through videoconference using the Zoom application. A link will be sent to bidder's respective email address.</p>
25	<p>To assist in the examination, evaluation and comparison of Bids, the BWD may ask at its discretion, the Bidder/s for a clarification of its bid. All responses to requests for clarification shall be in writing and no change in the price or substance of the Bid shall be sought, offered or permitted.</p>
32	<p>Performance Security</p>

Section III: General Conditions of the Contract

1. Definitions

1.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) “The Contract” means the agreement entered into between the Procuring Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) “The Contract Price” means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) “The Goods” means all of the supplies, equipment, machinery, spare parts, other materials and/or general support services which the Supplier is required to provide to the Procuring Entity under the Contract.
- (d) “The Services” means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) “GCC” means the General Conditions of Contract contained in this Section.
- (f) “SCC” means the Special Conditions of Contract.
- (g) “The Procuring Entity” means the organization purchasing the Goods, as named in the **SCC**.
- (h) “The Procuring Entity’s country” is the Philippines.
- (i) “The Supplier” means the individual contractor, manufacturer distributor, or firm supplying/manufacturing the Goods and Services under this Contract and named in the **SCC**.
- (j) The “Funding Source” means the organization named in the **SCC**.
- (k) “The Project Site,” where applicable, means the place or places named in the **SCC**.
- (l) “Day” means calendar day.

- (m) The “Effective Date” of the contract will be the date of signing the contract, however the Supplier shall commence performance of its obligations only upon receipt of the Notice to Proceed and copy of the approved contract.
- (n) “Verified Report” refers to the report submitted by the Implementing Unit to the HoPE setting forth its findings as to the existence of grounds or causes for termination and explicitly stating its recommendation for the issuance of a Notice to Terminate.

2. Corrupt, Fraudulent, Collusive, and Coercive Practices

2.1. Unless otherwise provided in the **SCC**, the Procuring Entity as well as the bidders, contractors, or suppliers shall observe the highest standard of ethics during the procurement and execution of this Contract. In pursuance of this policy, the Procuring Entity:

- (a) defines, for the 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 it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, 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;

(v) “obstructive practice” is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

(bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.

(b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

2.2. Further the Funding Source, Borrower or Procuring Entity, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with any of the practices mentioned in GCC Clause 2.1(a).

3. Inspection and Audit by the Funding Source

The Supplier shall permit the Funding Source to inspect the Supplier’s accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.

4. Governing Law and Language

4.1. This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.

4.2. 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. All correspondence and other documents pertaining to this Contract exchanged by the parties shall be written in English.

5. Notices

- 5.1. 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**, which shall be effective when delivered and duly received or on the notice's effective date, whichever is later.
- 5.2. 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** for **GCC** Clause 5.1.

6. Scope of Contract

- 6.1. The Goods and Related Services to be provided shall be as specified.
- 6.2. This Contract shall include all such items, although not specifically mentioned, that can be reasonably inferred as being required for its completion as if such items were expressly mentioned herein. Any additional requirements for the completion of this Contract shall be provided in the **SCC**.

7. Subcontracting

- 7.1. Subcontracting of any portion of the Goods, if allowed in the **BDS**, does not relieve the Supplier of any liability or obligation under this Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Supplier's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 7.2. If subcontracting is allowed, the Supplier may identify its subcontractor during contract implementation. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract. In either case, subcontractors must submit the documentary requirements under **ITB** Clause 12 and comply with the eligibility criteria 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 Goods shall be disallowed.

8. Procuring Entity's Responsibilities

- 8.1. Whenever the performance of the obligations in this Contract requires that the Supplier obtain permits, approvals, import, and other licenses from local public authorities, the Procuring Entity shall, if so needed by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.

- 8.2. The Procuring Entity shall pay all costs involved in the performance of its responsibilities in accordance with **GCC** Clause 6.

9. Prices

- 9.1. For the given scope of work in this Contract as awarded, all bid prices are considered fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB in accordance with Section 61 of R.A. 9184 and its IRR or except as provided in this Clause.
- 9.2. Prices charged by the Supplier for Goods delivered and/or services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any change in price resulting from a Change Order issued in accordance with **GCC** Clause 29.

10. Payment

- 10.1. Payments shall be made only upon a certification by the HoPE to the effect that the Goods have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. Ten percent (10%) of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract as described in **GCC** Clause 17.
- 10.2. The Supplier's request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and/or Services performed, and by documents submitted pursuant to the **SCC** provision for **GCC** Clause 6.2, and upon fulfillment of other obligations stipulated in this Contract.
- 10.3. Pursuant to **GCC** Clause 10.2, payments shall be made promptly by the Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier. Payments shall be in accordance with the schedule stated in the **SCC**.
- 10.4. Unless otherwise provided in the **SCC**, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.
- 10.5. Unless otherwise provided in the **SCC**, payments using Letter of Credit (LC), in accordance with the Guidelines issued by the GPPB, is allowed. For this purpose, the amount of provisional sum is indicated in the **SCC**. All charges for the opening of the LC and/or incidental expenses thereto shall be for the account of the Supplier.

11. Advance Payment and Terms of Payment

- 11.1. Advance payment shall be made only after prior approval of the President, and shall not exceed fifteen percent (15%) of the Contract amount, unless otherwise directed by the President or in cases allowed under Annex “D” of RA 9184.
- 11.2. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.
- 11.3. For Goods supplied from abroad, unless otherwise indicated in the SCC, the terms of payment shall be as follows:
 - (a) On Contract Signature: Fifteen Percent (15%) of the Contract Price shall be paid within sixty (60) days from signing of the Contract and upon submission of a claim and a bank guarantee for the equivalent amount valid until the Goods are delivered and, in the form, provided in Section VIII. Bidding Forms.
 - (b) On Delivery: Sixty-five percent (65%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of receipt of the Goods and upon submission of the documents (i) through (vi) specified in the SCC provision on Delivery and Documents.
 - (c) On Acceptance: The remaining twenty percent (20%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of submission of the acceptance and inspection certificate for the respective delivery issued by the Procuring Entity’s authorized representative. In the event that no inspection or acceptance certificate is issued by the Procuring Entity’s authorized representative within forty five (45) days of the date shown on the delivery receipt, the Supplier shall have the right to claim payment of the remaining twenty percent (20%) subject to the Procuring Entity’s own verification of the reason(s) for the failure to issue documents (vii) and (viii) as described in the SCC provision on Delivery and Documents.

12. Taxes and Duties

The Supplier, whether local or foreign, shall be entirely responsible for all the necessary taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

13. Performance Security

- 13.1. 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 successful Bidder shall furnish the performance security in any the forms prescribed in the **ITB** Clause 32.

- 13.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.
- 13.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 13.4. The performance security may be released by the Procuring Entity and returned to the Supplier after the issuance of the Certificate of Final Acceptance subject to the following conditions:
- (a) There are no pending claims against the Supplier or the surety company filed by the Procuring Entity;
 - (b) The Supplier has no pending claims for labor and materials filed against it; and
 - (c) Other terms specified in the SCC.
- 13.5. 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.

14. Use of Contract Documents and Information

- 14.1. The Supplier shall not, except for purposes of performing the obligations in this Contract, without the Procuring Entity's prior written consent, disclose this Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring Entity. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.
- 14.2. Any document, other than this Contract itself, enumerated in **GCC** Clause 14.1 shall remain the property of the Procuring Entity and shall be returned (all copies) to the Procuring Entity on completion of the Supplier's performance under this Contract if so required by the Procuring Entity.

15. Standards

The Goods provided under this Contract shall conform to the standards of the procuring entity and when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the institution concerned.

16. Inspection and Tests

- 16.1. The Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Entity. The **SCC** shall specify what inspections and/or tests the Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 16.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity. The Supplier shall provide the Procuring Entity with results of such inspections and tests.
- 16.3. The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the Procuring Entity shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 16.4. The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to **GCC** Clause 5.
- 16.5. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

17. Warranty

- 17.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials, except when the technical specifications required by the Procuring Entity provides otherwise.
- 17.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 17.3. In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier for a minimum period specified in

the **SCC**. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least one percent (1%) of every progress payment, or a special bank guarantee equivalent to at least one percent (1%) of the total Contract Price or other such amount if so specified in the **SCC**. The said amounts shall only be released after the lapse of the warranty period specified in the **SCC**; provided, however, that the Supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.

- 17.4. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC** and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the Procuring Entity.
- 17.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in **GCC** Clause 17.4, the Procuring Entity may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract and under the applicable law.

18. Delays in the Supplier's Performance

- 18.1. Delivery of the Goods and/or performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Entity.
- 18.2. If at any time during the performance of this Contract, the Supplier or its Subcontractor(s) should encounter conditions impeding timely delivery of the Goods and/or performance of Services, the Supplier shall promptly notify the Procuring Entity in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, and upon causes provided for under **GCC** Clause 22, the Procuring Entity shall evaluate the situation and may extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of Contract.
- 18.3. Except as provided under **GCC** Clause 22, a delay by the Supplier in the performance of its obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to **GCC** Clause 19, unless an extension of time is agreed upon pursuant to **GCC** Clause 29 without the application of liquidated damages.

19. Liquidated Damages

Subject to **GCC** Clauses 18 and 22, if the Supplier fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions if any, 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, the applicable rate of one tenth (1/10) of

one (1) percent of the cost of the unperformed portion for every day of delay until actual delivery or performance. The maximum deduction shall be ten percent (10%) of the amount of contract. Once the maximum is reached, the Procuring Entity may rescind or terminate the Contract pursuant to GCC Clause 23, without prejudice to other courses of action and remedies open to it.

20. Settlement of Disputes

- 20.1. If any dispute or difference of any kind whatsoever shall arise between the Procuring Entity and the Supplier in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 20.2. If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 20.3. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract.
- 20.4. In the case of a dispute between the Procuring Entity and the Supplier, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."
- 20.5. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the Procuring Entity shall pay the Supplier any monies due the Supplier.

21. Liability of the Supplier

- 21.1. The Supplier's liability under this Contract shall be as provided by the laws of the Republic of the Philippines, subject to additional provisions, if any, set forth in the SCC.
- 21.2. Except in cases of criminal negligence or willful misconduct, and in the case of infringement of patent rights, if applicable, the aggregate liability of the Supplier to the Procuring Entity shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

22. Force Majeure

- 22.1. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that the Supplier's delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.
- 22.2. 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 Supplier 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 Supplier. Such events may include, but not limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 22.3. If a *force majeure* situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the *force majeure*.

23. Termination for Default

- 23.1. The Procuring Entity shall terminate this Contract for default when any of the following conditions attends its implementation:
- (a) Outside of *force majeure*, the Supplier fails to deliver or perform any or all of the Goods 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 Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price;
 - (b) As a result of *force majeure*, the Supplier is unable to deliver or perform any or all of the Goods, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased; or
 - (c) The Supplier fails to perform any other obligation under the Contract.
- 23.2. In the event the Procuring Entity terminates this Contract in whole or in part, for any of the reasons provided under GCC Clauses 23 to 25.3, the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Procuring Entity for any excess costs for such similar Goods or Services.

However, the Supplier shall continue performance of this Contract to the extent not terminated.

- 23.3. In case the delay in the delivery of the Goods and/or performance of the Services exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the Supplier, the Procuring Entity may terminate this Contract, forfeit the Supplier's performance security and award the same to a qualified Supplier.

24. Termination for Insolvency

The Procuring Entity shall terminate this Contract if the Supplier is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Supplier, 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 Supplier.

25. Termination for Convenience

- 25.1. The Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. The HoPE may terminate a contract for the convenience of the Government 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.
- 25.2. The Goods that have been delivered and/or performed or are ready for delivery or performance within thirty (30) calendar days after the Supplier's receipt of Notice to Terminate shall be accepted by the Procuring Entity at the contract terms and prices. For Goods not yet performed and/or ready for delivery, the Procuring Entity may elect:
- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
 - (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed goods and for materials and parts previously procured by the Supplier.
- 25.3. If the Supplier suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for goods specially manufactured for the Procuring Entity which cannot be sold in open market, it shall be allowed to recover partially from this Contract, on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the Supplier to the satisfaction of the Procuring Entity before recovery may be made.

26. Termination for Unlawful Acts

26.1. The Procuring Entity may terminate this Contract in case it is determined *prima facie* that the Supplier has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation. Unlawful acts include, but are not limited to, the following:

- (a) Corrupt, fraudulent, and coercive practices as defined in **ITB** Clause 3.
- (b) Drawing up or using forged documents;
- (c) Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
- (d) Any other act analogous to the foregoing.

27. Procedures for Termination of Contracts

27.1. The following provisions shall govern the procedures for 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 Implementing Unit 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 Implementing Unit, the HoPE shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
 - (i) that this Contract is being terminated for any of the ground(s) afore-mentioned, 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 Supplier to show cause as to why this Contract should not be terminated; and
 - (iv) special instructions of the Procuring Entity, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the HoPE a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by

inaction or by default, the HoPE shall issue an order terminating this Contract;

- (e) The Procuring Entity may, at any time before receipt of the Supplier's verified position paper described in item (d) above withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the HoPE shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
- (g) The HoPE may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the HoPE; and
- (h) The Supplier must serve a written notice to the Procuring Entity of its intention to terminate the contract at least thirty (30) calendar days before its intended termination. The Contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the Procuring Entity.

28. Assignment of Rights

The Supplier shall not assign his rights or obligations under this Contract, in whole or in part, except with the Procuring Entity's prior written consent.

29. Contract Amendment

Subject to applicable laws, no variation in or modification of the terms of this Contract shall be made except by written amendment signed by the parties.

30. Application

These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of this Contract.

Section IV: Special Conditions of the Contract

Contract duration shall be one (1) year from the actual start of the contract.	
The Procuring Entity is Baguio Water District .	
The BWD's Representative is ENGR.SALVADOR M. ROYECA, General Manager of Baguio Water District .	
The Contract consists of Procurement of Bulk Water Supply for Baguio Water District.	
The performance security is to be in any of the following form:	
Form of Performance Security	Amount of Performance Security (Not less than the required Percentage of the ABC)
Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	5%
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.	5%
Surety bond callable upon demand issued by a surety or insurance company duly certified by the insurance company duly certified by the Insurance Commission as authorized to issue such security.	30%
<p>Where the Contractor refuses or fails to satisfactorily complete the work within the specified contract time, plus any time extension duly granted and is in default under the contract, the Contractor shall pay the District liquidated damages, and not by way of penalty, an amount to be determined in accordance with the following formula (Section 68, RA 9184) until the work is completed and accepted or taken over by BWD:</p> <p style="text-align: center;"> $LD = 1/10 \times 1\% \times TDD \times CWI$ WHERE: LD = Liquidated Damages, in Pesos TDD = Total number of days delay CWI = Cost of the work item as per contract, in Pesos </p>	
The Arbitrator for purposes of complementing GCC Clause 1.1, as appointed by BWD and the Bidder is CIAP.	
The Funding Source is BWD .	

The amount of the advance payment is **15% of the Contract Price** to be released to the Contractor upon submittal of all required documents.

Section V: Bidding Forms

Bid Form for the Procurement of Goods

[shall be submitted with the Bid]

BID FORM

Date: _____

Project Identification No. : _____

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

Having examined the Philippine Bidding Documents (PBDs) including the Supplemental or Bid Bulletin Numbers *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to *[supply/deliver/perform]* *[description of the Goods]* in conformity with the said PBDs for the sum of *[total Bid amount in words and figures]* or the total calculated bid price, as evaluated and corrected for computational errors, and other bid modifications in accordance with the Price Schedules attached herewith and made part of this Bid. The total bid price includes the cost of all taxes, such as, but not limited to: *[specify the applicable taxes, e.g. (i) value added tax (VAT), (ii) income tax, (iii) local taxes, and (iv) other fiscal levies and duties]*, which are itemized herein or in the Price Schedules,

If our Bid is accepted, we undertake:

- a. to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements of the Philippine Bidding Documents (PBDs);
- b. to provide a performance security in the form, amounts, and within the times prescribed in the PBDs;
- c. to abide by the Bid Validity Period specified in the PBDs and it shall remain binding upon us at any time before the expiration of that period.

[Insert this paragraph if Foreign-Assisted Project with the Development Partner:

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

Name and address Amount and Purpose of
of agent Currency Commission or gratuity

(if none, state “None”)]

Until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof and your Notice of Award, shall be binding upon us.

We understand that you are not bound to accept the Lowest Calculated Bid or any Bid you may receive.

We certify/confirm that we comply with the eligibility requirements pursuant to the PBDs.

The undersigned is authorized to submit the bid on behalf of *[name of the bidder]* as evidenced by the attached *[state the written authority]*.

We acknowledge that failure to sign each and every page of this Bid Form, including the attached Schedule of Prices, shall be a ground for the rejection of our bid.

Name: _____

Legal capacity: _____

Signature: _____

Duly authorized to sign the Bid for and behalf of: _____

Date: _____

Price Schedule for Goods Offered from Abroad
[shall be submitted with the Bid if bidder is offering goods from Abroad]

For Goods Offered from Abroad

Name of Bidder _____ Project ID No. _____ Page ____ of ____

1	2	3	4	5	6	7	8	9
Item	Description	Country of origin	Quantity	Unit price CIF port of entry (specify port) or CIP named place (specify border point or place of destination)	Total CIF or CIP price per item (col. 4 x 5)	Unit Price Delivered Duty Unpaid (DDU)	Unit price Delivered Duty Paid (DDP)	Total Price delivered DDP (col 4 x 8)

Name: _____

Legal Capacity: _____

Signature: _____

Duly authorized to sign the Bid for and behalf of: _____

[shall be submitted with the Bid if bidder is offering goods from within the Philippines]

Name of Bidder _____ Project ID No. _____ Page ____ of ____

Name: _____

Signature: _____

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Contract Agreement Form for the Procurement of Goods (Revised)

[Not required to be submitted with the Bid, but it shall be submitted within ten (10) days after receiving the Notice of Award]

CONTRACT AGREEMENT

THIS AGREEMENT made the ____ day of _____ 20____ between [name of PROCURING ENTITY] of the Philippines (hereinafter called “the Entity”) of the one part and [name of Supplier] of [city and country of Supplier] (hereinafter called “the Supplier”) of the other part;

WHEREAS, the Entity invited Bids for certain goods and ancillary services, particularly [brief description of goods and services] and has accepted a Bid by the Supplier for the supply of those goods and services in the sum of *[contract price in words and figures in specified currency]* (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents as required by the 2016 revised Implementing Rules and Regulations of Republic Act No. 9184 shall be deemed to form and be read and construed as integral part of this Agreement, *viz.*:
 - i. Philippine Bidding Documents (PBDs);
 - i. Schedule of Requirements;
 - ii. Technical Specifications;
 - iii. General and Special Conditions of Contract; and
 - iv. Supplemental or Bid Bulletins, if any
 - ii. Winning bidder’s bid, including the Eligibility requirements, Technical and Financial Proposals, and all other documents or statements submitted;

Bid form, including all the documents/statements contained in the Bidder’s bidding envelopes, as annexes, and all other documents submitted (*e.g.*, Bidder’s response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity’s bid evaluation;

- iii. Performance Security;
 - iv. Notice of Award of Contract; and the Bidder's conforme thereto; and
 - v. Other contract documents that may be required by existing laws and/or the Procuring Entity concerned in the PBDs. **Winning bidder agrees that additional contract documents or information prescribed by the GPPB that are subsequently required for submission after the contract execution, such as the Notice to Proceed, Variation Orders, and Warranty Security, shall likewise form part of the Contract.**
3. In consideration for the sum of *[total contract price in words and figures]* or such other sums as may be ascertained, *[Named of the bidder]* agrees to *[state the object of the contract]* in accordance with his/her/its Bid.
 4. The *[Name of the procuring entity]* agrees to pay the above-mentioned sum in accordance with the terms of the Bidding.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of the Republic of the Philippines on the day and year first above written.

[Insert Name and Signature]

[Insert Name and Signature]

[Insert Signatory's Legal Capacity]

[Insert Signatory's Legal Capacity]

for:

for:

[Insert Name of Supplier]

[Insert Procuring Entity]

Acknowledgment

[Format shall be based on the latest Rules on Notarial Practice]

Omnibus Sworn Statement (Revised)

[shall be submitted with the Bid]

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

AFFIDAVIT

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

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

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

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

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

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

[If a partnership, corporation, cooperative, or joint venture:] I am granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for [Name of the Project] of the [Name of the Procuring Entity], as shown in the attached [state title of attached document showing proof of authorization (e.g., duly notarized Secretary's Certificate, Board/Partnership Resolution, or Special Power of Attorney, whichever is applicable)];

3. [Name of Bidder] is not "blacklisted" or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board, **by itself or by relation, membership, association, affiliation, or controlling interest with another blacklisted person or entity as defined and provided for in the Uniform Guidelines on Blacklisting;**

4. 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;

5. [Name of Bidder] is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;
6. *[Select one, delete the rest:]*
[If a sole proprietorship:] The owner or sole proprietor is not related to the Head of the Procuring Entity, Procurement Agent if engaged, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;
[If a partnership or cooperative:] None of the officers and members of [Name of Bidder] is related to the Head of the Procuring Entity, Procurement Agent if engaged, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;
[If a corporation or joint venture:] None of the officers, directors, and controlling stockholders of [Name of Bidder] is related to the Head of the Procuring Entity, Procurement Agent if engaged, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;
7. [Name of Bidder] complies with existing labor laws and standards; and
8. [Name of Bidder] is aware of and has undertaken the responsibilities as a Bidder in compliance with the Philippine Bidding Documents, which includes:
 - a. Carefully examining all of the Bidding Documents;
 - b. Acknowledging all conditions, local or otherwise, affecting the implementation of the Contract;
 - c. Making an estimate of the facilities available and needed for the contract to be bid, if any; and
 - d. Inquiring or securing Supplemental/Bid Bulletin(s) issued for the [Name of the Project].
9. [Name of Bidder] did not give or pay directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.
10. **In case advance payment was made or given, failure to perform or deliver any of the obligations and undertakings in the contract shall be sufficient grounds to constitute criminal liability for Swindling (Estafa) or the commission of fraud with unfaithfulness or abuse of confidence through misappropriating or converting any payment received by a person or entity under an obligation involving the duty to deliver certain goods or services, to the prejudice of the public and the government of the Philippines pursuant to Article 315 of Act No. 3815 s. 1930, as amended, or the Revised Penal Code.**

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

[Insert NAME OF BIDDER OR ITS AUTHORIZED REPRESENTATIVE]

[Insert signatory's legal capacity]

Affiant

[Jurat]

[Format shall be based on the latest Rules on Notarial Practice]

Bank Guarantee Form for Advance Payment

To: *[name and address of PROCURING ENTITY]*
[name of Contract]

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends Clause 10 of the General Conditions of Contract to provide for advance payment, *[name and address of Supplier]* (hereinafter called the "Supplier") shall deposit with the PROCURING ENTITY a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of *[amount of guarantee in figures and words]*.

We, the *[bank or financial institution]*, as instructed by the Supplier, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the PROCURING ENTITY on its first demand without whatsoever right of objection on our part and without its first claim to the Supplier, in the amount not exceeding *[amount of guarantee in figures and words]*.

We further agree that no change or addition to or other modification of the terms of the Contract to be performed thereunder or of any of the Contract documents which may be made between the PROCURING ENTITY and the Supplier, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until *[date]*.

Yours truly,

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

BID SECURING DECLARATION FORM

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

X-----X

BID SECURING DECLARATION **Invitation to Bid:***[Insert Reference number]*

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

I/We¹, the undersigned, declare that:

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

¹ Select one and delete the other. Adopt the same instruction for similar terms throughout the document.

- (c) I am/we are declared the bidder with the Lowest Calculated Responsive Bid, and I/we have furnished the performance security and signed the Contract.

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

*[Insert NAME OF BIDDER'S AUTHORIZED
REPRESENTATIVE]*

[Insert Signatory's Legal Capacity]
Affiant

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

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

NAME OF NOTARY PUBLIC

Serial No. of Commission _____

Notary Public for _____ until _____

Roll of Attorneys No. _____

PTR No. _____ [date issued], [place issued]

IBP No. _____ [date issued], [place issued]

Doc. No. _____

Page No. _____

Book No. _____

Series of _____