

PHILIPPINE DEPOSIT INSURANCE CORPORATION

SSS Building, Ayala Ave. cor. Rufino St., Makati City

Telephone Numbers | 841-4925; 841-4917

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Website | www.pdic.gov.ph

INSTRUCTIONS TO BIDDERS

PROCUREMENT OF SOFTWARE MAINTENANCE OF SAP SOFTWARE FOR THE INTEGRATED FINANCIAL SYSTEM (IFS) (RE-BIDDING)

Project

April 5, 2016

Date

1. AGENCY BACKGROUND

The Philippine Deposit Insurance Corporation (PDIC) is a government instrumentality created by virtue of Republic Act No. 3591, as amended, to provide protection to the depositors of banks in the Philippines through deposit insurance and the promotion of sound banking practices. It also acts as the statutory receiver/liquidator of banks ordered closed by the Monetary Board of the *Bangko Sentral ng Pilipinas*.

2. BIDS AND AWARDS COMMITTEE (BAC)

The Bids and Awards Committee is the sole and final authority in the entire bidding process. It is responsible for the determination of the eligibility of prospective bidders, the conduct of bidding, the evaluation of bids, post-qualification of the lowest calculated bid, and for recommending the award of the contract to the bidder with the lowest calculated responsive bid. The decision of the BAC is final and binding.

3. TECHNICAL SPECIFICATIONS/TERMS OF REFERENCE

(see: Attachment A)

4. INVITATION TO BID

PDIC, thru the BAC, invites interested bidders to participate in the procurement project described hereunder:

Project	Software Maintenance of SAP Software for the Integrated Financial System (IFS) – Re-Bidding
Approved Budget for the Contract (ABC)	P 3,000,000.00
Source of Funding	2016 Corporate Budget
Contract Period	One Year
Minimum Qualifications of the Bidder	The prospective bidder must: a. have at least five (5) years experience in the business, reckoned from the date of the opening of bids;

NOTE: Failure to comply with any provision of the Instructions to Bidders may result in outright disqualification from the bidding process.

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	b. be authorized by SAP to provide the software maintenance
Availability of the Instructions to Bidders and the Technical Specifications/Terms of Reference	Starting <u>April 18, 2016 (Monday)</u> BAC Secretariat Philippine Deposit Insurance Corporation 6 th Floor, SSS Makati Building Ayala Avenue cor. V. A. Rufino Street Makati City
Pre-bid Conference	<u>April 28, 2016 (Thurs.), 2:00 P.M.</u> 6 th Floor, ASG Conference Room, SSS Building Ayala Avenue cor. V. A. Rufino Street Makati City
Deadline for the Submission and Opening of Bids	<u>Until 2:00 P.M., May 12, 2016 (Thursday)</u> Ground Floor, SSS Makati Building Ayala Avenue cor. V. A. Rufino Street Makati City. The opening of bids shall immediately follow at the ASG Conference Room, 6 th Floor, SSS Building, Ayala Avenue cor. V. A. Rufino Street, Makati City
Cost of Bidding Documents	P 3,000.00

The eligibility screening of bidders, the evaluation of bids, and the awarding of contract shall be governed by Republic Act No. 9184 (RA 9184), its Implementing Rules and Regulations (IRR), and all other relevant issuances by the Government Procurement Policy Board (GPPB).

The criteria for eligibility check, examination and evaluation of bids, and post-qualification shall be on a non-discretionary "pass/fail" basis. Notwithstanding the eligibility of a prospective bidder, PDIC reserves the right to review its qualifications at any stage of the procurement process if PDIC has reasonable grounds to believe that a misrepresentation has been made by said prospective bidder, or that there has been a change in the prospective bidder's situation from the time it submitted its eligibility requirements.

Only bidding documents actually issued by and purchased from PDIC shall be the bases for the acceptance of bids (see: Sec. 17.4, of the IRR of RA 9184). For this purpose, payment for the cost of bidding documents shall be made to the Treasury Department at 8th Floor, SSS Building, Ayala Avenue, Makati City, prior to, or simultaneous with the submission of bids. Bidding documents not paid for as of the deadline for submission of bids are deemed not received and shall not be considered for evaluation. (see: Sec. 17.4 and 17.5 of the IRR of RA 9184)

NOTE: Failure to comply with any provision of the Instructions to Bidders may result in outright disqualification from the bidding process.

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PDIC reserves the right to accept or reject any or all bid proposals, or declare the bidding a failure, or not award the contract, or suspend or cancel this procurement project at any time. PDIC makes no assurance that a contract shall be entered into as a result of this invitation. Furthermore, PDIC assumes no responsibility whatsoever to compensate or indemnify bidders for any expenses incurred in the preparation of their respective bids.

PDIC shall in no case be held responsible or liable for any and all costs associated with the bidders' participation in the bidding process regardless of its results.

5. WHO MAY BE ELIGIBLE TO BID

The following service providers shall be eligible to participate in the bidding:

- Filipino citizens or sole proprietorships owned by Filipino citizens;
- 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;
- Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
- Cooperatives duly organized under the laws of the Philippines, and of which at least sixty percent (60%) belongs to citizens of the Philippines; or
- Bidders forming themselves into a joint venture, i.e., a group of two (2) or more bidders 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%). Please note additional eligibility requirements for a joint venture specified in Section 6.1.A.4; and

Foreign bidders may be eligible to participate only if the laws and regulations of their respective countries grant reciprocal rights and privileges to citizens, corporations or associations of the Philippines.

6. ELIGIBILITY REQUIREMENTS

- 6.1 The capabilities or resources of a prospective bidder shall be initially assessed (subject to post-qualification) in order to determine if it meets all eligibility requirements. Its eligibility shall be based on the submission of clear hard copies of the following documents:

NOTE: Failure to comply with any provision of the Instructions to Bidders may result in outright disqualification from the bidding process.

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A. *Legal Documents*

1. Registration Certificate issued by the Securities and Exchange Commission (SEC) for corporations, Department of Trade and Industry (DTI) for sole proprietorships, or the Cooperative Development Authority (CDA) for cooperatives.

If a foreign bidder:

- a. equivalent and duly-authenticated documents issued by its country; and
 - b. if necessary, an English translation certified by the appropriate embassy or consulate in the Philippines.
2. in the case of a corporation or cooperative, a NOTARIZED Secretary's Certificate (**Bid Form No. 1.1**), or, in the case of a partnership or joint-venture, a NOTARIZED Partnership-Joint Venture Certificate (**Bid Form No. 1.2**)
 3. **2016 Mayor's permit** issued by the city or municipality where the principal place of business of the prospective bidder is located.
 4. Current and valid Tax Clearance as reviewed and approved by the BIR.

If a foreign bidder/foreign joint venture partner:

Delinquency Verification Certificate issued by the BIR may be submitted in lieu of a Tax Clearance.

5. In case of a joint venture, a valid **joint venture agreement** (JVA), if the joint venture is already in existence. In the absence of a JVA, **duly NOTARIZED statements** from all potential joint venture partners stating that they will enter into a JVA and abide by the provisions thereof in the instance that the bid is successful. Failure to enter into a joint venture in the event of a contract award shall be a ground for the forfeiture of the bid security. Each partner of the joint venture shall submit the required legal documents stated herein including the post-qualification documents as required under Sec. 34.2 of the IRR, and within the period prescribed therein. As regards the technical and financial eligibility documents, the submission of at least one (1) joint venture partner shall constitute compliance.

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B. Technical Documents

1. Statement of all ongoing government and private contracts, including contracts awarded but not yet started, if any, whether or not similar in nature and complexity to the contract to be bid, excluding contract(s) with PDIC, if any; and,
2. Statement of single largest completed contract similar to the contract to be bid within the period 2011 – 2015 equivalent to at least 50% of the ABC, excluding contracts with PDIC, if any. A contract shall be considered "similar" to the contract to be bid if it involves goods or related services of the same nature and complexity as that which is the subject of this procurement project. **(Bid Form No. 2)**

C. Financial Documents

1. Audited financial statements which consist of **(i) Auditor's Opinion/Certificate, (ii) Balance Sheet, and (iii) Income Statement, all must be stamped "received"** by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions for Tax Year **2015**, showing among others, the prospective bidder's total and current assets and liabilities.
2. The prospective bidder's **computation of its Net Financial Contracting Capacity (NFCC)**, which must at least be equal to the ABC.

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) (K)] minus the value of all outstanding works or uncompleted portions of the projects under on-going contracts, including awarded contracts yet to be started coinciding with the contract to be bid.

Where: K = 10 for a contract duration of one (1) year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.

- 6.2 If only one bidder responds to the Invitation to Bid, PDIC may recognize the same provided it is found to be eligible.

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7. RESPONSIBILITY OF A PROSPECTIVE AND/OR ELIGIBLE BIDDER

- 7.1 A prospective and/or eligible bidder, and its representative, shall be responsible for:
- carefully examining all bidding documents;
 - understanding and acknowledging all conditions affecting the implementation of the contract;
 - having made an estimate of the resources and/or facilities available and necessary for the contract to be bid; and
 - requesting for any clarification regarding the bidding documents, or any part thereof.
- 7.2 It shall be the sole responsibility of the prospective bidder to determine and inquire, through any means necessary, as regards any matter pertaining to the contract to be bid out, including the location and the nature of contract, and other factors that may affect the cost, duration, and execution or implementation thereof.
- 7.3 The prospective bidder is deemed to be familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect the contract in any way.
- 7.4 The prospective bidder and/or any of its authorized representatives are encouraged to visit the PDIC Head Office to obtain any information necessary for the preparation of its Bid, provided PDIC is given prior notice.

8. SUBMISSION OF BID ENVELOPES

- 8.1 A bidder shall submit its bid through its duly authorized representative in two (2) separately-sealed bid envelopes. The first shall contain the technical component of the bid, including the eligibility requirements under Section 6.1 (A to C) of this ITB, while the second shall contain the financial component of the bid. The wall clock located at the Ground Floor lobby, SSS Building, Ayala Avenue corner V. A. Rufino St., Makati City shall be used as the official timer for the submission of bids. Submissions made after the deadline will be rejected.
- 8.2 The first envelope shall indicate the name of the bidder and shall be properly marked as "TECHNICAL DOCUMENTS FOR THE (name of project) _____." It shall contain the following eligibility and technical information/documents:

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1. **ELIGIBILITY REQUIREMENTS** under Section 6.1(A to C) of this ITB;
2. **BID SECURITY** as to form, amount, and validity period. The bid validity period is 120 days. (See Section 10 hereof for details).
3. **TECHNICAL SPECIFICATIONS/STATEMENT**, which should indicate compliance with the minimum mandatory requirements for the goods being procured and may include production/delivery schedule, manpower requirements, and/or after-sales service/parts, if applicable. **(BID FORM NO. 3)**
4. Sworn statement **(BID FORM NO. 4)** by the prospective bidder or its duly authorized representative in the form prescribed by the GPPB as to the following:
 - a. It is not "blacklisted" or barred from bidding by the Philippine government or any of its agencies, offices, corporations, or LGUs, including foreign governments/foreign or international financing institutions whose blacklisting rules are recognized by the GPPB.
 - b. Each documentary submission, in satisfaction of the bidding requirements, is an authentic copy of the original, is complete, and contains statements and information that are true and correct.
 - c. It is authorizing the Head of the Procuring Entity (PDIC) or its duly authorized representative/s to verify all its documentary submissions.
 - d. The signatory is the duly authorized representative of the bidder, and has been granted full power and authority to do, execute, and perform any and all acts necessary to represent the bidder in the procurement project (as evidenced by the duly notarized BID FORM Nos. 1.1 or 1.2).
 - e. It complies with the disclosure provisions under Section 11 hereof, specifically stating that it is not related to the Head of the Procuring Entity, the members of the BAC, the TWG, the BAC Secretariat, the head of the project management office (PMO), the end-user unit, and project consultants (if any), by consanguinity or affinity, up to the third civil degree.
 - f. It complies with the responsibilities of a prospective or eligible bidder, as provided for in Section 7 hereof.

- g. (in the case of procurement of services) It complies with all existing labor laws and standards.
 - 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.
5. Certification from SAP that the bidder is authorized to provide software maintenance.
6. (For foreign bidders only) If the country of a foreign bidder is not in the list of countries maintained by the Department of Foreign Affairs (DFA) as shown in the GPPB website, the foreign bidder shall submit a sworn statement that the country of which he is a citizen or in which the corporation or partnership is organized and registered grants reciprocal rights or privileges to Filipino citizens, corporations, or associations. The bidder shall cite all relevant laws of its country supporting such claim.
- 8.3 The second envelope shall indicate the name of the bidder and shall be marked "**FINANCIAL PROPOSAL FOR THE** (name of project) ." It shall contain the bid amount/price, inclusive of all applicable taxes, if any (**BID FORM No. 6**).

The approved budget shall be the upper limit or ceiling for acceptance of bids. Any bid higher than the approved budget shall be automatically disqualified.

9. **OPENING AND PRELIMINARY EXAMINATION OF BIDS**

- 9.1 The BAC shall open the bids in the presence of the bidders and observers, if any. In addition to the representative of the Commission on Audit (COA), at least two other observers - one from a duly recognized private group in a sector or discipline relevant to the procurement at hand, and another from a non-government organization - shall be invited to observe the proceedings.
- 9.2 The eligibility of each bidder is determined by examining the completeness of its documentary submissions *vis-a-vis* the eligibility and technical requirements of the project, using a simple "pass/fail" criteria. A bidder whose documentary submissions are rated "passed" is considered eligible. A bidder whose documentary submissions are rated "failed" is considered ineligible.

- 9.3 To check the completeness of each bidder's documentary submissions, the first envelope shall be opened in public to determine whether the bidder has submitted all technical requirements of the procurement project, including eligibility documents. The BAC Secretariat shall prepare a checklist of the project's technical requirements against which the documents submitted by each bidder shall be compared. If a submission is incomplete or is missing at least one documentary requirement, the BAC shall rate the same as "failed" and shall declare the concerned bidder as "ineligible." The bidder shall then be disqualified from the remainder of the bidding process. If a submission is complete, it shall be rated as "passed," while its bidder is declared as "eligible." Only eligible bidders shall have their respective 2nd envelopes opened.
- 9.4 Only bids whose envelopes are both rated as "passed" shall be considered for evaluation and comparison.
- 9.5 All members of the BAC, or their duly authorized representatives, who are present during bid opening, shall sign their initials on every page of the original copies of all bids received and opened.
- 9.6 If only one (1) bid is received in response to an Invitation to Bid, an award may still be made to the lone bidder provided that (a) its bid complies with the bidding requirements, (b) the bid price is not higher than the ABC, (c) its bid passes post-qualification, (d) there is no evidence of collusion between and among non-participating suppliers and/or other parties, and (e) other prospective bidders were given equal opportunity to respond and participate in the bidding process.
- 9.7 A bidder whose bid has been determined as "failed" has three (3) calendar days upon receipt of a written notice of such fact (or, if present at the time of bid opening, upon verbal notification) within which to file a request or motion for reconsideration with the BAC: *Provided*, however, that the motion for reconsideration shall not be granted if it is established that the finding of failure is due to the fault of the bidder concerned: *Provided, further*, that the BAC shall decide on the request for reconsideration within seven (7) calendar days from receipt thereof. If a failed bidder signifies his intent to file a motion for reconsideration, the BAC shall keep his bid envelopes unopened and/or duly sealed until such time that the motion for reconsideration has been resolved.

10. BID SECURITY

- 10.1 All bids shall be accompanied by a bid security (payable to PDIC) as a guarantee that the successful bidder shall, within ten (10) calendar

NOTE: Failure to comply with any provision of the Instructions to Bidders may result in outright disqualification from the bidding process.

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days from receipt of the *Notice of Award*, enter into a contract with PDIC and furnish the required performance security for the faithful performance of all works called for. Failure to enclose the required bid security as to form and amount prescribed herein shall automatically disqualify the bid concerned.

- 10.2 The bid security shall be in an amount equal to a percentage of the ABC in accordance with the following schedule:

FORM OF SECURITY	AMOUNT (EQUAL TO A PERCENTAGE OF THE ABC)
a. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	
b. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a local Universal or Commercial Bank, if issued by a foreign bank	2%
c. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security	5%
d. Any combination of items (a) to (c) above	Proportionate to share of form with respect to total amount of security
e. Bid Securing Declaration (BID FORM NO. 5)	-

In case the bidder opts to submit a surety bond, a certification from the Insurance Commission that the insurance company concerned is authorized to issue such security shall be attached. Only surety bonds issued by the Government Service and Insurance System (GSIS) will be accepted even without such certification.

For Irrevocable Letters of Credit issued by a foreign bank, the bidder shall submit a confirmation or authentication from a local universal or commercial bank.

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- 10.3 Bids and bid securities shall be valid for 120 calendar days. Bidders who submit bid securities with a validity period of less than 120 calendar days shall be automatically disqualified.
- 10.4 No bid security in the form of surety shall be returned after the opening of bids. Bid securities submitted in other forms (i.e., cash, cashier's check, manager's check) may be returned upon request of a bidder, provided that it is not among the three lowest evaluated complying bidders. In case of withdrawal, it shall be construed as a waiver by the bidder for the award of contract.
- 10.5 A Bid Securing Declaration is an undertaking which states, among others, that the bidder shall enter into contract with the procuring entity and furnish the required performance security within ten (10) calendar days, or less, as indicated in the Bidding Documents, from receipt of the Notice of Award, and committing to pay the corresponding fine and be suspended for a period of time from being qualified to participate in any government activity in the event it violates any of the conditions stated therein as required in the guidelines issued by the GPPB.
- 10.6 Bid securities of unsuccessful bidders in the form of cash, cashier's check or manager's check shall be returned upon the issuance of the *Notice of Award*, but not later than thirty (30) days after the expiration of the bid validity. The bid security of the successful bidder shall be returned only after the contract has been signed and the required performance security has been furnished: *Provided*, however that is no later than the expiration of the validity period of the bid security.

11. DISCLOSURE OF RELATIONS

All bids shall be accompanied by a sworn affidavit of the bidder that it is not related to the Head of the Procuring Entity, members of the BAC, the TWG, the BAC Secretariat, the head of the PMO or the end-user unit, and the project consultants, by consanguinity or affinity up to the third civil degree. Failure to comply with this provision shall be a ground for the automatic disqualification of the bidder in line with Section 30 of the IRR of RA 9184. On the part of the bidder, this provision 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; and
- d. if the bidder is a joint venture, the provisions of items (a), (b), or (c) of this Section shall correspondingly apply to each of the members of the said joint venture, as may be appropriate.

NOTE: Failure to comply with any provision of the Instructions to Bidders may result in outright disqualification from the bidding process.

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12. ACCEPTANCE/REJECTION OF BIDS

- 12.1 Neither the lowest bid price nor any proposal will necessarily be accepted. Moreover, no proposal shall be deemed to have been accepted unless and until a *Notice of Award* has been issued to the bidder for and on behalf of PDIC.
- 12.2 The BAC reserves the right to accept or reject any or all bids, to annul the bidding process at any time prior to awarding of Contract, and to accept the bid most advantageous to PDIC without thereby incurring any liability vis-à-vis the affected bidder(s). The BAC has no obligation to inform the affected bidder(s) of the grounds for its action.

13. DETAILED EVALUATION AND COMPARISON OF BIDS

- 13.1. The Procuring Entity will undertake a detailed evaluation and comparison of all bids that pass the opening and preliminary examination of bids, pursuant to ITB Section 9 in order to determine the Lowest Calculated Bid.
- 13.2. The Lowest Calculated Bid shall be determined in two steps:
- The detailed evaluation of the financial component of each bid in order to establish the correct calculated price for each bid; and
 - The ranking of the total bid prices from the lowest to the highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.
- 13.3. The BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary "pass/fail" criteria. It shall consider the following in the evaluation process:
- COMPLETENESS OF THE BID.** Bids not addressing or providing all the required items in the ITB (including, where applicable, bill of quantities) shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying "0" (zero) for the said item would mean that it is being offered for free to the Procuring Entity; and
 - ARITHMETICAL CORRECTIONS.** Computational errors and omissions shall be considered to enable proper comparison of all eligible bids. Any adjustment shall be calculated in monetary terms to determine the calculated prices.

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- 13.4 After the detailed evaluation of bids, those that comply with the above mentioned requirements shall be ranked in the ascending order based on their total calculated bid prices, as verified and corrected for computational errors, discounts, and other modifications, to identify the Lowest Calculated Bid. Total calculated bid prices that exceed the ABC shall not be considered.
- 13.5 The Procuring Entity's evaluation of bids shall be based only on the bid price quoted in each bidder's Financial Bid Form (BID FORM No. 6).
- 13.6 Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all bidders are 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. They shall be itemized in the bid form and reflected in the detailed estimates. The bids, inclusive of all such taxes, shall be the basis for bid evaluation and comparison.

14. **FAILURE OF BIDDING**

The BAC shall declare the bidding a failure and may conduct a re-bidding as provided for in the IRR of RA 9184, subject to re-advertisement and/or posting when: a) no bids are received, b) all prospective bidders are declared ineligible or c) all bids fail to comply with all the eligibility and bid requirements or fail post-qualification.

15. **POST-QUALIFICATION OF THE LOWEST CALCULATED BID**

- 15.1. The Lowest Calculated Bid shall be made to further undergo post-qualification to determine whether it complies with and is responsive to all the requirements and conditions specified in the bidding documents.
- 15.2. Within three (3) calendar days from receipt of the notice from the BAC that it has the Lowest Calculated Bid, a bidder shall submit the following additional documentary requirements to the BAC:
- a. BIR Electronic Filing and Payment System (EFPS) filed 2015 Income Tax Return and Business Tax Returns filed within the last six (6) months preceding the date of bid submission; and
 - b. Certificate of PhilGEPS Registration

Only tax returns filed and taxes paid through the BIR EFPS shall be accepted.

Failure to submit the above requirements on time or a finding against the veracity thereof shall be ground for the forfeiture of the bid security and the disqualification of the bidder for award.

16. CONTRACT AWARD AND IMPLEMENTATION

- 16.1. If the BAC finds that the bidder with the lowest calculated bid passes the post-qualification criteria, its bid shall be considered as the "LOWEST CALCULATED RESPONSIVE BID." PDIC shall award the contract to it, at its submitted bid price, subject to the other provisions of this Section.

If, however, the BAC finds that the bidder with the lowest calculated bid fails the above-mentioned post-qualification criteria, PDIC shall immediately notify it in writing of its post-disqualification and the grounds therefor. It shall then have three (3) calendar days from receipt of such notification to request from the BAC a reconsideration of its decision. The BAC shall evaluate the request for reconsideration using the same non-discretionary "pass/fail" post-qualification criteria.

After PDIC has notified the bidder concerned of its post-disqualification, the BAC shall, within seven (7) calendar days, initiate and perform the same post-qualification process on the bidder with the second lowest calculated price. If the request for reconsideration of the bidder with the lowest calculated price is denied while the bidder with the next lowest calculated price passes the post-qualification criteria, the latter's bid shall be considered as the lowest calculated responsive bid. Accordingly, PDIC shall award the contract to it at its submitted bid price, pursuant to the pertinent provisions of this Section.

However, if the second bidder also fails post-qualification, the procedure shall be repeated for the bidder(s) with the next lowest calculated bid(s), until the lowest calculated responsive bid is obtained for award.

- 16.2 Contract award shall be made within the bid validity period. Should it become necessary to extend the validity of bids, PDIC shall request in writing all those who submitted bids for such extension before the bid expiration date. Bidders, however, shall have the right to refuse such extension without forfeiting their bid security.

The successful bidder shall sign the contract with PDIC within ten (10) calendar days upon receipt thereof. Failure to enter into a contract within the prescribed 10-day period after receipt of the Notice of Award without justification shall be a ground for cancellation of the Notice of Award or disqualification.

All unsuccessful bidders will be notified of the award through official notices/communications. The *Notice of Award* shall immediately be posted in a conspicuous place within the premises of PDIC and in the website of PDIC and the Philippine Government Electronic Procurement System (PhilGEPS). A copy thereof may be requested in writing.

It is understood that participating bidders accept the terms and conditions stated in the draft contract.

16.3 Payment to the successful bidder shall be subject to government rules and regulations.

17. TIE-BREAKING METHOD

In case two or more bidders have been post qualified and declared as Lowest Calculated Responsive Bidders (LCRB), the winning bidder shall be determined by drawing lots as per GPPB Circular No. 06-2005 dated 5 August 2005.

18. PERFORMANCE SECURITY

To guarantee the faithful performance by the winning bidder of its obligations under the contract, in accordance with the bidding documents, it shall post a performance security prior to the signing of the contract. The performance security shall be in an amount equal to a percentage of the total contract price in accordance with the following schedule:

Form of Security	Minimum Amount in % of Total Contract Price
1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Five percent (5%)
2. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank; <i>Provided</i> , however, that it shall be confirmed or authenticated by a local Universal or Commercial Bank, if issued by a foreign Bank.	

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3. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty percent (30%)
4. Any combination of the foregoing	Proportionate to share of form with respect to total amount of security

19. **REFUSAL TO ENTER INTO CONTRACT AND POST PERFORMANCE SECURITY**

If the bidder with the Lowest Calculated Responsive Bid fails, refuses, or is unable to enter into a contract with PDIC and/or post the required performance security within the time provided therefor, the appropriate sanctions provided in Section 21 hereof shall be imposed, except where such failure, refusal, or inability is through no fault of the bidder.

The BAC shall disqualify the bidder concerned and shall proceed to consider for award the second Lowest Calculated Responsive Bidder at its submitted bid price provided it does not exceed the ABC. In case of another refusal or failure, the appropriate sanctions shall likewise be imposed and PDIC may consider the next ranked bidder and so on until an award is made.

In the event that no other bidder passes post-qualification, the BAC shall declare the bidding a failure and conduct a rebidding with the requisite re-advertisement and/or posting, pursuant to the IRR of RA 9184.

Should a second failed bidding occur, PDIC may enter into negotiated procurement.

20. **LIQUIDATED DAMAGES**

20.1 If the winning bidder fails to satisfactorily deliver goods/services under the contract within the specified delivery schedule, inclusive of any duly granted time extensions as approved by the BAC, it shall be liable for damages resulting from the delay and shall pay PDIC liquidated damages, not by way of penalty, in an amount equal to one-tenth (1/10) of one percent (1%) of the contract price for every day of delay until such goods/services are finally fully delivered and accepted by PDIC.

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- 20.2 PDIC need not prove that it has incurred actual damages to be entitled to liquidated damages. PDIC shall deduct such amount from any money due or which may become due to the winning bidder, or collect the same from any securities or warranties posted by the winning bidder whichever is convenient to PDIC. In no case shall the total sum of liquidated damages exceed ten percent (10%) of the total contract price. In the event it does, PDIC shall automatically terminate the contract and impose appropriate sanctions against the winning bidder which shall be over and above the liquidated damages it shall be required to pay.

21. ADMINISTRATIVE SANCTIONS

In addition to the provisions of Rules XXI and XXII of the revised IRR of RA 9184, the Head of the Procuring Entity, subject to the authority delegated to the BAC, if any, shall impose on bidders or prospective bidders, the administrative penalty of suspension for one (1) year for the first offense, and suspension of two (2) years for the second offense from participating in the public bidding process, as well as disqualification from further participating in the public bidding being undertaken by the procuring entity concerned, where applicable, for the following violations:

- a. Submission of eligibility requirements containing false information or falsified documents;
- b. Submission of bids that contain false information or falsified documents or the concealment of such information in the bids;
- c. Allowing the use of one's name or using the name of another for purposes of public bidding;
- d. Withdrawal of a bid, or refusal to accept an award, or to enter into contract with the Government without justifiable cause, after having been adjudged to have submitted the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid;
- e. Refusal or failure to post the required performance security within the prescribed time;
- f. Termination of the contract due to the default of the bidder;
- g. Refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification;
- h. Any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor; and
- i. All other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late or patently insufficient bids, for at least three times within a year, except for valid reasons.

22. DISCLAIMER

The BAC reserves the right to suspend, cancel, or reject any or all bids, to waive any defect or informality therein, and to award the contract to the winning bidder whose bid is considered the lowest calculated and responsive bid and the most advantageous to the Corporation. PDIC assumes no obligation to compensate or indemnify a bidder for any expense or loss it may incur in the preparation of bids. Neither does it guarantee that an award will be made.

PDIC shall not assume any responsibility over any erroneous interpretations or conclusions arrived at by the bidder from any material or data furnished by PDIC.

All particulars relative to eligibility, bid security, bid evaluation, post-qualification and award of contract shall be governed by the provisions of RA 9184, and other applicable rules and regulations.

BIDS AND AWARDS COMMITTEE

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