



**Republic of the Philippines
Supreme Court
Manila**

**BIDS AND AWARDS COMMITTEE
FOR GOODS AND SERVICES
(SC-BAC-GS)**

BIDDING DOCUMENTS

**Procurement of Air Conditioning Units for
the Supreme Court and the Office of the
Court Administrator Offices**



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Section I. Invitation to Bid

Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices

The Supreme Court intends to apply, through the **Local Bank Account of the Supreme Court**, the sum of **Four Million Two Hundred Forty-Eight Thousand Eight Hundred Ninety-Two Pesos & 93/100 (₱4,248,892.93) inclusive of Value-Added Tax (12%)**, being the Approved Budget for the Contract (ABC), to payments under the contract for the **Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices**.

The Supreme Court Bids and Awards Committee for Goods and Services (SC-BAC-GS) now invites bids for the above-stated procurement. Bidders should have completed, within five (5) years from the date of submission and receipt of bids, contracts similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly in Section II, Instructions to Bidders and Section III, the Bid Data Sheet.

Bidding will be conducted through open competitive bidding procedures using a non-discretionary “pass/fail” criterion as specified in the Implementing Rules and Regulations (IRR) of Republic Act No. 9184, otherwise known as the “Government Procurement Reform Act.” Bidding is restricted to Filipino citizens/sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines.

Interested bidders may obtain further information from the SC- BAC-GS Secretariat, and inspect the Bidding Documents at the address given below.

A complete set of Bidding Documents may be acquired by interested bidders starting **27 March 2018, 9:00 a.m. to 4:00 p.m** from the address below and upon payment of a nonrefundable fee for the Bidding Documents pursuant to the latest Guidelines issued by the GPPB, **in the amount of Four Thousand Pesos (₱4,000.00)**. It may also be downloaded free of charge from the website of the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the Supreme Court, provided that Bidders shall pay the nonrefundable fee for the Bidding Documents not later than the submission of their bids.

The Supreme Court will hold the **Pre-Bid Conference on 03 April 2018, 2:00 p.m. at the OCA Conference Room 1, 3rd Floor, Supreme Court Old Building, Taft Ave., Manila** which shall be open to all interested parties.

Bids must be delivered to the address below **on or before 17 April 2018 at 12:00 noon**. All bids must be accompanied by a bid security in any of the



acceptable forms and in the amount stated in ITB Clause 18. Late bids shall not be accepted. Bid opening shall immediately follow at **2:00 p.m. at the OCA Conference Room 1, 3rd Floor, Supreme Court Old Building, Taft Ave., Manila** in the presence of the bidders' representatives who choose to attend at the given address.

The Supreme Court reserves the right to accept or reject any bid, annul the bidding process, and to reject all bids at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.

For further information, please refer to the:

Bids and Awards Committee for Goods and Services
(SC-BAC-GS) Secretariat
Office of Assistant Court Administrator Lilian C. Barribal-Co
2/F, Supreme Court Old Building, Taft Ave., Manila.
Telefax No. 524-7496

LILIAN C. BARRIBAL-CO
Assistant Court Administrator
and Chairperson, SC-BAC-GS

ITB No. 2018-03



Section II. Instructions to Bidders

A. General

1. Scope of Bid

- 1.1 The **Procuring Entity** named in the Bid Data Sheet (**BDS**), hereinafter referred to as the “**Procuring Entity**” wishes to receive bids for the supply and delivery of the good/s as described in Section VII. Technical Specifications (hereinafter referred to as the “Goods”).
- 1.2 The name, identification, and number of lots specific to this bidding are provided in the **BDS**. The contracting strategy and basis of evaluation of lots is described in the **ITB** Clause 28.

2. Source of Funds

The **Procuring Entity** has a budget or has applied for or received funds from the Funding Source named in the **BDS**, and in the amount indicated in the **BDS**. It intends to apply part of the funds received for the Project, as defined in the **BDS**, to cover eligible payments under the contract.

3. Corrupt, Fraudulent, Collusive, and Coercive Practices

- 3.1. Unless otherwise specified in the **BDS**, the **Procuring Entity** as well as the bidders and suppliers shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the **Procuring Entity**:
 - a) defines, for purposes of this provision, the terms set forth below as follows:
 - i) “corrupt practice” means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the 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 R.A. 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 practices” means—

(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 **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 proceeding 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.

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

3.3. Furthermore, the Funding Source and the **Procuring Entity** 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 as reflected in **GCC** Clause 3.

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) below, 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 **Procuring Entity** regarding this bidding process.



- (e) A Bidder submits more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one bid; or
- (f) 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; or
- (g) A Bidder 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 project, if the personnel would be involved in any capacity on the same project.

4.2. In accordance with Section 47 of the IRR of RA 9184, all Bidding Documents 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 Bids and Awards Committee (BAC), members of the Technical Working Group (TWG), members of the BAC Secretariat, the head of the Project Management Office (PMO) or the end-user unit, and the project consultants, by consanguinity or affinity up to the third civil degree. On the part of the Bidder, 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; and
- (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 provided 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 outstanding capital stock belongs to citizens of the Philippines;
- (d) Cooperatives duly organized under the laws of the Philippines; and



- (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%).
- 5.2. Foreign Bidders may be eligible to participate when any of the following circumstances exists, as specified in the **BDS**:
- (a) When a Treaty or International or Executive Agreement as provided in Section 4 of R.A. 9184 and its IRR allow foreign bidders to participate;
 - (b) Citizens, corporations, or associations of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations, or associations of the Philippines;
 - (c) When the Goods sought to be procured are not available from local suppliers; or
 - (d) When there is a need to prevent situations that defeat competition or restrain trade.
- 5.3. Government owned or –controlled corporations (GOCCs) may be eligible to participate only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not attached agencies of the **Procuring Entity**.
- 5.4. Unless otherwise provided in the **BDS**, the Bidder must have completed Single Largest Completed Contract (SLCC) similar to the Project and the value of which, adjusted, if necessary, by the Bidder to current prices using the Philippine Statistics Authority (PSA) consumer price index, must be at least equivalent to a percentage of the ABC stated in the **BDS**.

For this purpose, contracts similar to the Project shall be those described in the **BDS**, and completed within the relevant period stated in the Invitation to Bid and **ITB** Clause 12.1(a)(iii).

- 5.5. The Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC), which must be at least equal to the ABC to be bid, calculated as follows:

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

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 opts to submit a committed Line of Credit, it must be at least equal to ten percent (10%) of the ABC to be bid. If 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 VIII. Bidding Forms as required in **ITB** Clause 12.1(b)(iii).
- 6.2. The Bidder is responsible for the following:
 - (a) Having taken steps to carefully examine all of the Bidding Documents;
 - (b) Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
 - (c) Having made an estimate of the facilities available and needed for 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 10.4;
 - (e) Ensuring that it is not “blacklisted or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government / foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
 - (f) Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
 - (g) Authorizing the Head of the **Procuring Entity** or its duly authorized representative/s to verify all the documents submitted;
 - (h) Ensuring that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute, and perform any and all acts necessary and/or to represent the Bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture;
 - (i) Complying with the disclosure provision under Section 47 of RA 9184 and its IRR in relation to other provisions of RA 3019; and
 - (j) Complying with existing labor laws and standards, in the case of procurement of services; Moreover, bidder undertakes to:
 - (i) Ensure the entitlement of workers to wages, hours of work, safety and health and other prevailing conditions of work as established by national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable.

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



- (ii) Comply with occupational safety and health standards and to correct any deficiencies, if any. In case of imminent danger, injury or death of the worker, bidder undertakes to suspend contract implementation pending clearance to proceed from the DOLE Regional Office and to comply with Work Stoppage Order; and
- (iii) Inform the workers of their conditions of work, labor clauses under the contract specifying wages, hours of work and other benefits under prevailing national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable, through posting in two (2) conspicuous places in the establishment's premises; and
- (k) Ensuring that it did not give or pay, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

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

- 6.3. The Bidder is expected to examine all instructions, forms, terms, and specification in the Bidding Documents.
- 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 nature of this Project; (b) climatic conditions; (c) transportation facilities; and (d) other factors that may affect the cost, duration, and execution or implementation of this Project.
- 6.5. The **Procuring Entity** shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder out of the data furnished by the **Procuring Entity**. However, the Procuring Entity shall ensure that all information in the Bidding Documents, 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 Supreme Court 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 Project in any way.
- 6.8. The Bidder should note that the **Procuring Entity** 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.

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, subject to **ITB** Clause 27.1.



8. Subcontracts

- 8.1. Unless otherwise specified in the **BDS**, the Bidder may subcontract portions of the Goods to an extent as may be approved by the **Procuring Entity** and stated in the **BDS**. However, subcontracting of any portion shall not relieve the 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 the **Procuring Entity** 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 his bid submission, the Bidder shall include the required documents as part of the technical component of its bid.

B. Contents of Bidding Documents

9. Pre-Bid Conference

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

(b) 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 the **Procuring Entity** 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 **Procuring Entity'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 as recorded and prepared not later than five (5) calendar days after the pre-bid conference. The minutes shall be made available to prospective bidders not later than five (5) days upon written request.
- 9.3 Decisions of the BAC amending any provision of the bidding documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.

10. Clarification and Amendment of Bidding Documents

- 10.1. Prospective bidders may request for clarification on and/or interpretation of any part of the Bidding Documents. Such request must be in writing and submitted to



the **Procuring Entity** at the address indicated in the **BDS** at least ten (10) calendar days before the deadline set for the submission and receipt of bids.

- 10.2. The BAC shall respond to the said request by issuing a Supplemental/Bid Bulletin, to be made available to all those who have properly secured the Bidding Documents, at least seven (7) calendar days before the deadline for the submission and receipt of bids.
- 10.3. Supplemental/Bid Bulletins may also be issued upon the Procuring Entity's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than seven (7) calendar days before the deadline for the submission and receipt of Bids. Any modification to the Bidding Documents shall be identified as an amendment.
- 10.4. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted in the PhilGEPS and the website of the **Procuring Entity** concerned, if available, and at any conspicuous place in the premises of the Procuring Entity concerned. It shall be the responsibility of all Bidders who have properly secured 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 in accordance with **ITB** Clause 23.

C. Preparation of Bids

11. Language of Bid

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

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:

- (a) Eligibility Documents –

Class "A" Documents:

- (i) PhilGEPS Certificate of Registration and Membership in accordance with Section 8.5.2 of the IRR, except for foreign bidders participating in the procurement by a Philippine Foreign Service Office or Post, which shall submit their eligibility documents under Section 23.1 of the IRR, provided, that the winning bidder shall register with the PhilGEPS in accordance with section 37.1.4 of the IRR.



- (ii) 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, in accordance with ITB Clause 5.4, within the relevant period as provided in the BDS.

The statement 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;
 - (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.
- (iii) NFCC computation accordance with **ITB** Clause 5.5 or a committed Line of Credit from a universal or commercial bank.

Class "B" Document:

- (iv) If applicable, the Joint Venture Agreement (JVA) in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners in accordance with Section 23.1(b) of the IRR.
- (b) Technical Documents –
- (i) Bid security in accordance with **ITB** Clause 18. If the Bidder opts to submit the bid security in the form of:
 - (i.1) a bank draft/guarantee or an irrevocable letter of credit issued by a foreign bank, it shall be accompanied by a confirmation from a Universal or Commercial Bank; or
 - (i.2) a surety bond, it shall be accompanied by a certification by the Insurance Commission that the surety or insurance company is authorized to issue such instruments;
 - (ii) Conformity with technical specifications, as enumerated and specified in Sections VI and VII of the Bidding Documents ; and



- (iii) Sworn statement in accordance with Section 25.3 of the IRR of R.A. 9184 and using the form prescribed in Section VIII. Bidding Forms.
- (iv) 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.

13. Documents Comprising the Bid: Financial Component

13.1. Unless otherwise stated in the **BDS**, the financial component of the bid shall contain the following:

- (a) Financial Bid Form, which includes bid prices and the bill of quantities and the applicable Price Schedules, in accordance with **ITB** Clauses 15.1 and 15.4;
- (b) If the Bidder claims preference as a Domestic Bidder or Domestic Entity, a certification from the DTI, SEC, or CDA issued in accordance with **ITB** Clause 27, unless otherwise provided in the **BDS**; and
- (c) Any other document related to the financial component of the bid as stated in the **BDS**.

13.2. (a) Unless otherwise stated in the **BDS**, all bids that exceed the ABC shall not be accepted.

- (b) Unless otherwise indicated in the **BDS**, for foreign-funded procurement, a ceiling may be applied to bid prices provided the following conditions are met:
 - (i) Bidding Documents are obtainable free of charge on a freely accessible website. If payment of Bidding Documents is required by the procuring entity, payment could be made upon the submission of bids.
 - (ii) The procuring entity has procedures in place to ensure that the ABC is based on recent estimates made by the responsible unit of the procuring entity and that the estimates reflect the quality, supervision and risk and inflationary factors, as well as prevailing market prices, associated with the types of works or goods to be procured.
 - (iii) The procuring entity has trained cost estimators on estimating prices and analyzing bid variances.
 - (iv) The procuring entity has established a system to monitor and report bid prices relative to ABC and engineer's/procuring entity's estimate.
 - (v) The procuring entity has established a system to monitor and report bid prices relative to ABC and procuring entity's estimate. The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of goods and works.



14. Alternative Bids

- 14.1 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.
- 14.2 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 person and entities concerned.

15. Bid Prices

- 15.1. The Bidder shall complete the appropriate Price Schedules 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 Project.
- 15.2. 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 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 "0" (zero) 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.
- 15.3. 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.
- 15.4. Prices indicated on the Price Schedule shall be entered separately in the following manner:
- (a) For Goods offered from within the Procuring Entity's country:
 - (i) The price of the Goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable);
 - (ii) The cost of all custom duties and sales and other taxes already paid or payable;
 - (iii) The cost of transportation, insurance, and other costs incidental to delivery of the Goods to their final destination; and
 - (iv) The price of other (incidental) services, if any listed in the **BDS**.
 - (b) For Goods offered from abroad:



- (i) 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.
- (ii) The price of other (incidental) services, if any, listed in the **BDS**.

15.5. 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 24.

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 the Procuring Entity, 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.

16. Bid Currencies

16.1. 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 BSP reference rate bulletin on the day of the bid opening.

16.2. If so allowed in accordance with **ITB** Clause 16.1, the **Procuring Entity** for purposes of bid evaluation and comparing the bid prices will convert the amounts in various currencies in which the bid price is expressed to Philippine Pesos at the foregoing exchange rates.

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

17. Bid Validity

17.1. Bids shall remain valid for the period specified in the **BDS** which shall not exceed one hundred twenty (120) calendar days from the date of the opening of bids.

17.2. In exceptional circumstances, prior to the expiration of the Bid validity period, the **Procuring Entity** 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 18 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.

18. Bid Security

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

Form of Bid Security	Amount of Bid Security (Not Less than the Percentage of the ABC)
<p>a. Cash or cashier's / manager's check issued by a Universal or Commercial Bank.</p> <p><i>For biddings conducted by the LGUs, the Cashier's/manager's Check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	Two percent (2%)
<p>b. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.</p> <p><i>For biddings conducted by the LGUs, Bank Draft/Guarantee, or Irrevocable Letter of Credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	
<p>c. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.</p>	Five percent (5%)

The Bid Securing Declaration mentioned above is an undertaking which states, among others, that the bidder shall enter into contract with the **Procuring Entity** and furnish the performance security required under **ITB Clause 33.2**, within ten (10) calendar days from receipt of the Notice of Award, and commits to pay the corresponding amount as fine, and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as provided in the guidelines issued by the GPPB.



- 18.2. The bid security should be valid for the period specified in the **BDS**. Any bid not accompanied by an acceptable bid security shall be rejected by the **Procuring Entity** as non-responsive.
- 18.3. No bid securities shall be returned to Bidders after the opening of bids and before contract signing, except to those that failed or declared as post-disqualified, upon submission of a written waiver of their right to file a motion for reconsideration and/or protest. Without prejudice on its forfeiture, bid securities shall be returned only after the bidder with the Lowest Calculated Responsive Bid (LCRB) has signed the contract and furnished the performance security, but in no case later than the expiration of the bid security validity period indicated in **ITB** Clause 18.2.
- 18.4. Upon signing and execution of the contract pursuant to **ITB** Clause 32, and the posting of the performance security pursuant to **ITB** Clause 33, the successful Bidder's bid security will be discharged, but in no case later than the bid security validity period as indicated in the **ITB** Clause 18.2.
- 18.5. The bid security may be forfeited:
- (a) if a Bidder:
 - (i) withdraws its bid during the period of bid validity specified in **ITB** Clause 17;
 - (ii) does not accept the correction of errors pursuant to **ITB** Clause 28.3(b);
 - (iii) has a finding against the veracity of the documents submitted as stated in **ITB** Clause 29.2;
 - (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 Lowest Calculated and Responsive Bid;
 - (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 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 in accordance with **ITB** Clause 32; or
- (ii) fails to furnish performance security in accordance with **ITB** Clause 33.

19. Format and Signing of Bids

- 19.1. Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in Section VIII. Bidding Forms on or before the deadline specified in the **ITB** Clauses 21 in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under **ITB** Clause 12.1, and the second shall contain the financial component of the bid. This shall also be observed for each lot in the case of lot procurement.
- 19.2. Forms as mentioned in **ITB** Clause 19.1 must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.
- 19.3. The Bidder shall prepare and submit an original of the first and second envelopes as described in **ITB** Clauses 12 and 13. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 19.4. Each and every page of the Bid Form, including the Schedule of Prices, under Section VIII hereof, 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.
- 19.5. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

20. Sealing and Marking of Bids

- 20.1. Bidders shall enclose their original eligibility and technical documents described in **ITB** Clause 12 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.”
- 20.2. Each copy of the first and second envelopes shall be similarly sealed duly marking the inner envelopes as “COPY NO. ___ - TECHNICAL COMPONENT” and “COPY NO. ___ - FINANCIAL COMPONENT”, and the outer envelope as “COPY NO. ___”, respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 20.3. The original and the number of copies of the Bid as indicated in the **BDS** shall be typed or written in indelible ink and shall be signed by the bidder or its duly authorized representative/s.
- 20.4. All envelopes shall:
 - (a) contain the name of the contract to be bid in capital letters;
 - (b) bear the name and address of the Bidder in capital letters;
 - (c) be addressed to the **Procuring Entity**’s BAC in accordance with **ITB** Clause 1.1;
 - (d) bear the specific identification of this bidding process indicated in the **ITB** Clause 1.2; and
 - (e) bear a warning “DO NOT OPEN BEFORE...” the date and time for the opening of bids, in accordance with **ITB** Clause 21.



20.5. 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 Procuring Entity shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked bid, or for its premature opening.

D. Submission and Opening of Bids

21. Deadline for Submission of Bids

Bids must be received by the **Procuring Entity**'s BAC at the address and on or before the date and time indicated in the **BDS**.

22. Late Bids

Any bid submitted after the deadline for submission and receipt of bids prescribed by the **Procuring Entity**, pursuant to **ITB** Clause 21, shall be declared "Late" and shall not be accepted by the **Procuring Entity**. The BAC shall record the minutes of the bid submission and opening, the Bidder's name, its representative and the time the late bid was submitted.

23. Modification and Withdrawal of Bids

23.1. The Bidder may modify its bid after it has been submitted; provided that the modification is received by the **Procuring Entity** prior to the deadline prescribed for submission and receipt of bids. The Bidder shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed and properly identified in accordance with **ITB** Clause 20, 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.

23.2. A Bidder may, through a Letter of Withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason; provided that the Letter of Withdrawal is received by the **Procuring Entity** prior to the deadline prescribed for submission and receipt of bids. 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.

23.3. Bids requested to be withdrawn in accordance with **ITB** Clause 23.1 shall be returned unopened to the Bidders. A Bidder, who has acquired the bidding documents, 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.

23.4. 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 Financial Bid Form. Withdrawal of a bid during this interval shall result in the forfeiture of the Bidder's bid security, pursuant to **ITB** Clause 18.5, and the imposition of



administrative, civil, and criminal sanctions as prescribed by RA 9184 and its IRR.

24. Opening and Preliminary Examination of Bids

- 24.1. The BAC shall open the bids in public, immediately after the deadline for the submission and receipt of bids, as specified in the **BDS**. 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 the Procuring Entity concerned.
- 24.2. Unless otherwise specified in the **BDS**, the BAC shall open the first bid envelopes and determine each Bidder's compliance with the documents prescribed in **ITB** Clause 12, 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".
- 24.3. Unless otherwise specified in the **BDS**, immediately after determining compliance with the requirements in the first envelope, the BAC-GS 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 in **ITB** Clause 13.2, 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.
- 24.4. 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.
- 24.5. 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.
- 24.6. In the case of an eligible foreign Bidder as described in **ITB** Clause 5, the following Class "A" Documents may be substituted with the appropriate equivalent documents, if any, issued by the country of the foreign Bidder concerned, which shall likewise be uploaded and maintained in the PhilGEPS in accordance with Section 8.5.2 of the IRR:
- (a) Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives;
 - (b) Mayor's/Business permit issued by the local government where the principal place of business of the bidder is located; and
 - (c) Audited Financial Statements showing, among others, the prospective bidder's total and current assets and liabilities stamped "received" by the Bureau of Internal Revenue or its duly accredited and authorized



institutions, for the preceding calendar year which should not be earlier than two years from the date of bid submission.

- 24.7. Each partner of a joint venture agreement shall likewise submit the requirements in **ITB** Clause 12.1(a)(i). Submission of documents required under **ITB** Clauses 12.1(a)(ii) to 12.1(a)(iii) by any of the joint venture partners constitutes compliance.
- 24.8. The **Procuring Entity** shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price (per lot, if applicable, and/or including discount, if any), bid security, findings of preliminary examination, and whether there is a withdrawal or modification; and (b) attendance sheet. The BAC-GS members shall sign the abstract of bids as read.
- 24.9. 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.
- 24.10. 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.

E. Evaluation and Comparison of Bids

25. Process to be Confidential

- 25.1. 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 in the case of **ITB** Clause 26.
- 25.2. Any effort by a bidder to influence the **Procuring Entity** in its decision in respect of bid evaluation, bid comparison, or contract award will result in the rejection of the Bidder's bid.

26. Clarification of Bids

To assist in the evaluation, comparison, and post-qualification of the bids, the **Procuring Entity** 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 the **Procuring Entity** shall not be considered.

27. Domestic Preference



27.1. Unless otherwise stated in the **BDS**, the **Procuring Entity** 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 the lowest Foreign Bid is lower than the lowest bid offered by a Domestic Bidder.
- (b) For evaluation purposes, the lowest Foreign Bid shall be increased by fifteen percent (15%).
- (c) In the event that the lowest bid offered by a Domestic Entity does not exceed the lowest Foreign Bid as increased, then the **Procuring Entity** shall award the contract to the Domestic Bidder/Entity 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.

27.2. A Bidder may be granted preference as a Domestic Entity 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.

28. Detailed Evaluation and Comparison of Bids

28.1. The **Procuring Entity** will undertake the detailed evaluation and comparison of bids which have passed the opening and preliminary examination of bids, pursuant to **ITB** Clause 24, in order to determine the Lowest Calculated Bid.

28.2. The Lowest Calculated Bid shall be determined in two steps:

- (a) The detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and
- (b) 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.

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

- (a) Completeness of the bid. Unless the **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 the **Procuring Entity**, except those required by law or regulations to be provided for; and



- (b) 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.

28.4. 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**.

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

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

28.7. If so indicated pursuant to **ITB** Clause 1.2, Bids are being invited for individual lots or for any combination thereof, provided that all Bids and combination of Bids shall be received by the same deadline and opened and evaluated simultaneously so as to determine the Bid or combination of Bids offering the lowest calculated cost to the Procuring Entity. Bid prices quoted shall correspond to all items specified for each lot and to all quantities specified for each item of a lot. Bid Security as required by **ITB** Clause 18 shall be submitted for each contract (lot) separately. The basis for evaluation of lost is specified in **BDS** Clause 28.3.

29. Post-Qualification

29.1. The BAC shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid (LCB) complies with and is responsive to all the requirements and conditions specified in **ITB** Clauses 5, 12, and 13.

29.2. Within a non-extendible period of five (5) calendar days from receipt by the bidder of the notice from the BAC that it submitted the Lowest Calculated Bid, the Bidder shall submit its latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS) and other appropriate licenses and permits required by law and stated in the **BDS**.

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

29.3. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted pursuant to **ITB** Clauses 12 and 13, as well as other information as the **Procuring Entity** deems necessary and



appropriate, using a non-discretionary “pass/fail” criterion, which shall be completed within a period of twelve (12) calendar days.

- 29.4. If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the Lowest Calculated Responsive Bid, and recommend to the Head of the **Procuring Entity** the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower.
- 29.5. A negative determination shall result in rejection of the Bidder’s Bid, in which event the **Procuring Entity** shall proceed to the next Lowest Calculated Bid to make a similar determination of that Bidder’s capabilities to perform satisfactorily. If the second Bidder, however, fails the post-qualification, the procedure for post-qualification shall be repeated for the Bidder with the next Lowest Calculated Bid, and so on until the Lowest Calculated Responsive Bid is determined for contract award.
- 29.6. Within a period not exceeding 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.
- 29.7. In the event of disapproval, which shall be based on valid reasonable, and justifiable grounds as provided 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 ground 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.

30. Reservation Clause

- 30.1. Notwithstanding the eligibility or post-qualification of a Bidder, the **Procuring Entity** reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said bidder, or that there has been a change in the Bidder’s capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid evaluation criteria, the **Procuring Entity** shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.
- 30.2. Based on the following grounds, the **Procuring Entity** reserves the right to reject any and all bids, declare a Failure of Bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:
 - (a) If there is *prima facie* evidence of collusion between appropriate public officers or employees of the **Procuring Entity**, or between the BAC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses, or nullifies or tends to restrict, suppress, or nullify competition;



- (b) If the **Procuring Entity**'s BAC is found to have failed in following the prescribed bidding procedures; or
- (c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP as follows:
 - (i) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially, or technically feasible as determined by the Head of the **Procuring Entity**;
 - (ii) If the project is no longer necessary as determined by the Head of the **Procuring Entity**; and
 - (iii) If the source of funds for the project has been withheld or reduced through no fault of the **Procuring Entity**.

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

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

F. Award of Contract

31. Contract Award

31.1. Subject to **ITB** Clause 29, the **Procuring Entity** shall award the contract to the Bidder whose bid has been determined to be the LCRB.

31.2. Prior to the expiration of the period of bid validity, the **Procuring Entity** shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to the **Procuring Entity**.

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

- (a) Submission of the following documents within ten (10) calendar days from receipt of the Notice of Award:
 - (i) Valid JVA, if applicable; or,
 - (ii) 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 in accordance with **ITB** Clause 33;



- (c) Signing of the contract as provided in **ITB** Clause 32; and
- (d) Approval by higher authority, if required, as provided in Section 37.3 of the IRR of RA 9184..

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

32. Signing of the Contract

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

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

32.3. The Supreme Court shall enter into contract with the successful Bidder within the same ten-calendar day period provided that all the documentary requirements are complied with.

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

- (a) Contract Agreement;
- (b) Bidding Documents;
- (c) Winning bidder’s bid, including the Technical and Financial Proposals, and all other documents/statements submitted (*e.g.*, bidder’s response to request for clarification on the bid), including corrections to the bid, if any, resulting from the Procuring Entity’s bid evaluation;
- (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**.

33. Performance Security

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

33.2. The Performance Security shall be denominated in Philippine Pesos and posted in favor of the **Procuring Entity** in an amount not less than the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security
------------------------------	--------------------------------



	(Not less than the Percentage of the Total Contract Price)
<p>a) Cash or cashier’s/manager’s check issued by a Universal or Commercial Bank.</p> <p><i>For biddings conducted by the LGUs, the Cashier’s/manager’s Check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	<p>Five percent (5%)</p>
<p>b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.</p> <p><i>For biddings conducted by the LGUs, the Bank Draft/Guarantee or Irrevocable Letter of Credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	
<p>c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; and/or</p>	<p>Thirty percent (30%)</p>

33.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the **Procuring Entity** shall have a fresh period to 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 recommendation of 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, if necessary.

34. Notice to Proceed

Within seven (7) calendar days from the date of approval of the contract by the appropriate government approving authority, the **Procuring Entity** shall issue its Notice to Proceed (NTP) together with a copy or copies of the approved contract to the successful Bidder. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the successful Bidder.

35. Protest Mechanism

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



Section III. Bid Data Sheet

ITB Clause	
1.1	The Procuring Entity is the Supreme Court of the Philippines . The scope of the bid should comply with the technical specifications as provided in Section VII.
1.2	The lot is: Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices
<u>2</u>	The Funding Source is: The Government of the Philippines, through the Local Bank Account of the Supreme Court , in the total amount of Four Million Two Hundred Forty-Eight Thousand Eight Hundred Ninety-Two Pesos & 93/100 (₱4,248,892.93) inclusive of Value-Added Tax (12%) . The name of the Project is Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices
3.1	No further instructions.
5.1	No further instructions.
5.2	None of the circumstances mentioned in the ITB Clause exists in this Project. Foreign bidders, except those falling under ITB Clause 5.2(b), may not participate in this Project.
5.4	The Bidder must have completed within five (5) years prior to the date of bid submission a single contract that is similar to this Project, equivalent to at least fifty percent (50%) of the ABC or ₱2,124,446.47 .
7	No further instructions.
8.1	Subcontracting is not allowed.
8.2	Not applicable.
9.1	The Procuring Entity will hold a pre-bid conference for this Project on 03 April 2018, 2:00 p.m. at the OCA Conference Room 1, 3rd Floor, Supreme Court Old Building, Taft Avenue, City of Manila .



10.1	<p>The Procuring Entity’s address is: c/o ACA Lilian C. Barribal-Co Chairperson Bids and Awards Committee for Goods and Services (SC-BAC-GS) 2nd Floor, Supreme Court Old Building Taft Avenue, City of Manila Tel. no. (632) 524 7496; e-mail address: <u>bacgs@sc.judiciary.gov.ph</u></p>										
12.1 (a)	<p>Instructions regarding indexing of eligibility documents:</p> <p>The bidding shall make use of the two-envelope system; i.e., the first envelope for the Technical Component and the second envelope for the Financial Component of the bid.</p> <p>The first envelope (Technical Component) shall contain the eligibility and technical documents. The bidder shall submit the eligibility documents provided in ITB Clause 12.1(a) that must be indexed as follows:</p> <table border="1" data-bbox="418 1091 1356 2277"> <thead> <tr> <th colspan="2" data-bbox="418 1091 1356 1211" style="text-align: center;">ENVELOPE NO. 1 TECHNICAL COMPONENT</th> </tr> <tr> <th data-bbox="418 1211 581 1330" style="text-align: center;">INDEX TABS</th> <th data-bbox="581 1211 1356 1330" style="text-align: center;">I. ELIGIBILITY DOCUMENTS</th> </tr> </thead> <tbody> <tr> <td data-bbox="418 1330 581 1721" style="text-align: center; vertical-align: top;">I-1</td> <td data-bbox="581 1330 1356 1721"> <p>PhilGEPS Certificate of Registration and Membership</p> <p>Or</p> <p>Class “A” Documents (<i>per GPPB Resolution No. 26-2017 and GPPB Circular No. 07-2017</i>), labeled as follows:</p> <table border="1" data-bbox="586 1721 1349 2277"> <tbody> <tr> <td data-bbox="586 1721 695 2065" style="text-align: center; vertical-align: top;">A-1</td> <td data-bbox="695 1721 1349 2065"> Registration certificate issued by the (a) Securities and Exchange Commission (SEC) including Articles of Incorporation, for a corporation; (b) Department of Trade and Industry (DTI), for a sole proprietorship; or (c) Cooperative Development Authority (CDA), for a cooperative. </td> </tr> <tr> <td data-bbox="586 2065 695 2277" style="text-align: center; vertical-align: top;">A-2</td> <td data-bbox="695 2065 1349 2277"> Valid and subsisting Mayor's permit or license issued by the city or municipality where the principal place of business of the prospective bidder is located. </td> </tr> </tbody> </table> </td> </tr> </tbody> </table>	ENVELOPE NO. 1 TECHNICAL COMPONENT		INDEX TABS	I. ELIGIBILITY DOCUMENTS	I-1	<p>PhilGEPS Certificate of Registration and Membership</p> <p>Or</p> <p>Class “A” Documents (<i>per GPPB Resolution No. 26-2017 and GPPB Circular No. 07-2017</i>), labeled as follows:</p> <table border="1" data-bbox="586 1721 1349 2277"> <tbody> <tr> <td data-bbox="586 1721 695 2065" style="text-align: center; vertical-align: top;">A-1</td> <td data-bbox="695 1721 1349 2065"> Registration certificate issued by the (a) Securities and Exchange Commission (SEC) including Articles of Incorporation, for a corporation; (b) Department of Trade and Industry (DTI), for a sole proprietorship; or (c) Cooperative Development Authority (CDA), for a cooperative. </td> </tr> <tr> <td data-bbox="586 2065 695 2277" style="text-align: center; vertical-align: top;">A-2</td> <td data-bbox="695 2065 1349 2277"> Valid and subsisting Mayor's permit or license issued by the city or municipality where the principal place of business of the prospective bidder is located. </td> </tr> </tbody> </table>	A-1	Registration certificate issued by the (a) Securities and Exchange Commission (SEC) including Articles of Incorporation, for a corporation; (b) Department of Trade and Industry (DTI), for a sole proprietorship; or (c) Cooperative Development Authority (CDA), for a cooperative.	A-2	Valid and subsisting Mayor's permit or license issued by the city or municipality where the principal place of business of the prospective bidder is located.
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A-2	Valid and subsisting Mayor's permit or license issued by the city or municipality where the principal place of business of the prospective bidder is located.										



		<p>A-3 Tax clearance per Executive Order No. 398, Series of 2005, as finally reviewed and approved by the BIR. (A Provisionary Tax Clearance is not acceptable pursuant to GPPB Resolution No. 01-2014, dated 4 February 2014.)</p> <p>A-4 Audited financial statements (AFS) for calendar year 2017, showing, among others, the bidder's total and current assets and liabilities, stamped "received" by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions.</p>	
	I-2	<p>Statement of the prospective bidder 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, within five (5) years prior to the date of bid submission.</p> <p>The statement shall be supported by the following documents:</p> <ol style="list-style-type: none">1. Copies of the Contracts; and <p>(If there is no contract, the purchase order (P.O.) may be submitted as long as the terms and conditions are included therein.)</p> <ol style="list-style-type: none">2. Copies of the Notice of Award (NOA) or Notice to Proceed (NTP) <p>(For private contracts, NOA or NTP shall not be required.)</p> <p>(See sample Form VIII-1 in Section VIII. Bidding Forms.)</p>	
	I-3	<p>Statement identifying the bidder's single largest completed contract similar to the contract to be bid, executed within five (5) years prior to the date of bid submission, the value of which, adjusted to current prices using the National Statistics Office consumer price indices, must be at least fifty percent (50%) of the approved budget for the contract (ABC) or ₱2,124,446.47.</p>	



		<p><u>Supporting Document/s:</u></p> <p>The statement shall be supported by a copy/(ies) of the End-User’s Acceptance or Official Receipt/(s) Issued for the Contract/(s)therein.)</p> <p>(Bidder’s statement shall follow sample Form VIII-2 in Section VIII. Bidding Forms)</p>
	<p>I-4</p>	<p>The prospective bidder’s computation of its Net Financial Contracting Capacity (NFCC) must be at least equal to the ABC of the lot to be bid, calculated as follows:</p> <p>NFCC = [(Current Assets minus Current Liabilities) x 15] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract to be bid.</p> <p>The values of the bidder’s current assets and current liabilities shall be based on the data submitted to the Bureau of Internal Revenue (BIR), through its Electronic Filing and Payment System (EFPS).</p> <p>Or—</p> <p>A committed Line of Credit from a Universal or Commercial Bank (10% of the ABC).</p>
		<p>Class “B” Document</p>
	<p>I-5</p>	<p>If applicable, the JVA in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA in the instance that the bid is successful.</p>
<p>12.1(a)(ii)</p>	<p>The Bidder must have completed within five (5) years prior to the date of bid submission a single contract that is similar to this Project, equivalent to at least fifty percent (50%) of the ABC or ₱2,124,446.47.</p>	



12.1 (b)

Instructions regarding indexing of technical documents:

The first envelope (Technical Component) shall contain the eligibility and technical documents. The bidder shall submit the **technical documents** provided in ITB Clause 12.1(b) that must be **indexed** as follows:

INDEX TABS	II. TECHNICAL DOCUMENTS
II-1	The Bid Securing Declaration, or any form of bid security, issued in favor of the Supreme Court, in an amount not less than the required percentage of the ABC.
II-2	Completely filled out Technical Bid Form, showing the Bidder’s conformity with the technical specifications as enumerated and specified in Sections VI and VII. (See Form VIII-3 in Section VIII. Bidding Forms.)
II-2-1, II-2-2, II-2-3, etc.	Corresponding to each set of supporting documents in relation to the Bidder’s conformity with the technical specifications as enumerated and specified in Sections VI and VII, if any.
II-3	Omnibus Sworn Statement in accordance with Section 25.3 of the IRR of R.A. 9184 (See Form VIII-8 provided in Section VIII. Bidding Forms.) Note: The Omnibus Sworn Statement needs to be submitted under oath. The Community Tax Certificate is no longer considered competent evidence of identity. In accordance with a Resolution of the Supreme Court, the phrase “competent evidence of identity” refers to the identification of an individual based on any of the following:



	<p>“at least one current identification document issued by an official agency bearing the photograph and signature of the individual, such as but not limited to, passport, driver’s license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter’s ID, Barangay Certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman’s book, alien certificate of registration/immigrant certificate of registration, government office ID, National Council for the Welfare of the Disabled Persons (NCWDP) certification; xxx”</p> <table border="1" data-bbox="451 1024 1411 1689"> <tr> <td data-bbox="451 1024 581 1081">II-4</td> <td data-bbox="581 1024 1411 1081">Schedule of Requirements</td> </tr> <tr> <td data-bbox="451 1081 581 1485">II-5</td> <td data-bbox="581 1081 1411 1485"> <p>Company profile which shall include information on the number of years in the business (at least 5 years) and the list of its officers.</p> <p>Names, addresses and location sketches of main office and branch office/s if any, and warehouse and service facilities with their respective telephone numbers including photo showing the company's business name;</p> </td> </tr> <tr> <td data-bbox="451 1485 581 1547">II-6</td> <td data-bbox="581 1485 1411 1547">Authority of the representative/signatory.</td> </tr> <tr> <td data-bbox="451 1547 581 1689">II-7</td> <td data-bbox="581 1547 1411 1689">Certification that prospective bidder is an authorized licensee/ distributor/ supplier/ reseller of the brand/s or item/s of goods offered in its proposal.</td> </tr> </table> <p>The Technical Bid Form shall immediately be subjected to a Compliance Pass. The technical proposal determined at the bid opening date to have incomplete or non-complying submissions vis-a-vis the technical requirements shall be automatically rejected and their financial bids returned unopened.</p>	II-4	Schedule of Requirements	II-5	<p>Company profile which shall include information on the number of years in the business (at least 5 years) and the list of its officers.</p> <p>Names, addresses and location sketches of main office and branch office/s if any, and warehouse and service facilities with their respective telephone numbers including photo showing the company's business name;</p>	II-6	Authority of the representative/signatory.	II-7	Certification that prospective bidder is an authorized licensee/ distributor/ supplier/ reseller of the brand/s or item/s of goods offered in its proposal.
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II-6	Authority of the representative/signatory.								
II-7	Certification that prospective bidder is an authorized licensee/ distributor/ supplier/ reseller of the brand/s or item/s of goods offered in its proposal.								
13.1(a)	<p>Instructions regarding indexing of financial documents:</p> <p>The second envelope shall contain documents comprising the financial component of the bid indexed as follows:</p>								



INDEX TABS	FINANCIAL DOCUMENTS
III-1	Financial Bid Form (sample Form VIII-4 in Section VIII).
III-2	Completely filled up Bid Price Schedule (original Form VIII-5 found in Section VIII must be submitted, no recopying or retyping shall be allowed)
<p>The financial bid proposal must be in the prescribed Financial Bid Forms found in Section VIII and must clearly state the total bid price for the whole package as indicated in Section VI and Section VII of the Bidding Documents. The requirements or specifications for each item are mandatory. Hence failure to comply will result to the rejection of the bidder's proposal. All proposals determined to be complying with the mandatory technical requirements shall be ranked based on their corresponding financial proposal.</p> <p>The Financial Bid Form should comply with ITB Clauses 15 and 16.</p>	
13.1(b)	No further instructions.
13.1(c)	No additional requirements
13.2	<p>The ABC is Four Million Two Hundred Forty-Eight Thousand Eight Hundred Ninety-Two Pesos & 93/100 (₱4,248,892.93) inclusive of Value-Added Tax (12%). Any bid with a financial component exceeding this amount shall not be accepted.</p>
15.4(a)(iv)	No incidental services are required.
15.4(b)(i)	No incidental services are required
16.1(b)	<p>The Bid prices for Goods supplied from outside of the Philippines shall be quoted in Philippine Pesos.</p>
16.3	Not applicable.
17.1	<p>Bids will be valid for one hundred twenty (120) calendar days from the date of opening of bids.</p>
18.1	<p>The bid security shall be in the form of a Bid Securing Declaration or in any form of bid security in an amount not less than the required percentage of the ABC and subject to conditions as stated below:</p>



	<ol style="list-style-type: none">1. the amount of ₱84,977.86 (or 2% of the ABC), if the bid security is in cash, cashier's / manager's check, bank draft / guarantee, or irrevocable letter of credit issued by a universal or commercial bank;2. the amount of ₱212,444.65 (or 5% of the ABC), if the bid security is in surety bond, callable on demand and issued by the GSIS or by bonding companies accredited by the Supreme Court.
18.2	The bid security shall be valid until one hundred twenty days (120) from the date of the opening of bids.
20	<p>Instructions re sealing and marking of bids:</p> <p>Each bidder shall submit three (3) copies of the technical and financial components of its bid: one (1) certified true copy of the original documents and two (2) photocopies thereof.</p> <p>The bidders shall enclose the technical components (eligibility and technical documents) in one sealed envelope and the financial component in another sealed envelope with the following markings on each of the two envelopes:</p> <div data-bbox="456 1355 1386 2003" style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 80%;"><p style="text-align: center;">TECHNICAL COMPONENT</p><p style="text-align: center;">BID FOR THE Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices</p><p style="text-align: center;">[COMPANY NAME] [COMPANY ADDRESS]</p><p style="text-align: center;">HON. LILIAN C. BARRIBAL-CO Chairperson SUPREME COURT BIDS AND AWARDS COMMITTEE FOR GOODS AND SERVICES (SC-BAC-GS)</p><p style="text-align: center;">DO NOT OPEN BEFORE 02:00 p.m., 17 April 2018</p><p>Check one:</p><ul style="list-style-type: none"><input type="checkbox"/> Original - Technical Component<input type="checkbox"/> Copy No. 1 - Technical Component<input type="checkbox"/> Copy No. 2 - Technical Component</div>



	<div style="border: 1px solid black; padding: 10px; text-align: center;"> <p>FINANCIAL COMPONENT</p> <p>BID FOR THE Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices</p> <p>[COMPANY NAME] [COMPANY ADDRESS]</p> <p>HON. LILIAN C. BARRIBAL-CO Chairperson SUPREME COURT BIDS AND AWARDS COMMITTEE FOR GOODS AND SERVICES (SC-BAC-GS)</p> <p>DO NOT OPEN BEFORE 02:00 p.m., 17 April 2018</p> <p>Check one:</p> <p><input type="checkbox"/> Original - Financial Component <input type="checkbox"/> Copy No. 1 - Financial Component <input type="checkbox"/> Copy No. 2 - Financial Component</p> </div> <p>The two envelopes shall be enclosed and sealed in one single envelope containing the following marking:</p> <div style="border: 1px solid black; padding: 10px; text-align: center; margin-top: 20px;"> <p>BID FOR THE Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices</p> <p>[COMPANY NAME] [COMPANY ADDRESS]</p> <p>HON. LILIAN C. BARRIBAL-CO Chairperson SUPREME COURT BIDS AND AWARDS COMMITTEE FOR GOODS AND SERVICES (SC-BAC-GS)</p> <p>DO NOT OPEN BEFORE 02:00 p.m., 17 April 2018</p> <p>Check one:</p> <p><input type="checkbox"/> Original Bid <input type="checkbox"/> Copy No. 1 <input type="checkbox"/> Copy No. 2</p> </div>
<p>21</p>	<p>The address for submission of bids is Office of ACA Lilian Barribal-Co, 2nd Floor, Supreme Court Old Building, Taft Avenue, City of Manila.</p> <p>The deadline for submission of bids is 12:00 noon, 17 April 2018, at the Office of ACA Lilian Barribal-Co, 2nd Floor, Supreme Court Old Building, Taft Avenue, City of Manila.</p>
<p>24.1</p>	<p>Bid opening shall be conducted at 2:00 p.m. on 17 April 2018, or on the same date as that of the deadline for the submission of bids, at the OCA Conference Room 1, 3rd Floor, Supreme Court Old Building, Taft Avenue, City of Manila.</p>



24.2	No further instructions.
24.3	No further instructions.
27.1	No further instructions.
28.3(a)	Partial bid is not allowed. The goods are grouped in a single lot and the lot shall not be divided into sub-lots for the purpose of bidding, evaluation, and contract award.
28.3(b)	Bid modification is allowed in case of arithmetical corrections only.
28.4	No further instructions.
29.2	<p>For purposes of post-qualification, the Procuring Entity requires the Bidder with the Lowest Calculated Bid (LCB) to submit the following documentary requirements within a non-extendible period of five (5) calendar days from receipt by the bidder of the notice the SC-BAC-GS that it submitted the LCB:</p> <ol style="list-style-type: none">1. The latest income tax returns and business tax returns filed and paid through the BIR Electronic Filing and Payment System (EFPS): Note: The latest income and business tax returns are those within the last six (6) months preceding the date of bid submission.2. Valid and subsisting Certificate of PhilGEPS Registration or PhilGEPS Registration Number if the procuring entity is a Philippine foreign office or post, provided that participating bidders should register with the PhilGEPS prior to bid opening.3. Other appropriate licenses and permits required by law.
32.4(f)	No additional requirement.
33	The performance security shall be in an amount not less than the required percentage of the total contract price in accordance with the following schedule:



	Form of Performance Security	Amount of Performance Security (Not less than the Percentage of the Total Contract Price)
	a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank. <i>For biddings conducted by the LGUs, the Cashier's/manager's Check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i>	Five percent (5%)
	b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank. <i>For biddings conducted by the LGUs, the Bank Draft/Guarantee or Irrevocable Letter of Credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i>	
	c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; and/or	Thirty percent (30%)
34.2	The date of the Bidder's receipt of the Notice to Proceed will be regarded as the effective date of the contract, unless otherwise specified.	



Section IV. General Conditions of 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 receipt by the Supplier of the Notice to Proceed or the date provided in the Notice to Proceed. Performance of all obligations shall be reckoned from the Effective Date of the Contract.
- (n) “Verified Report” refers to the report submitted by the Implementing Unit to the Head of the **Procuring Entity** 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 in Section VI. Schedule of Requirements.

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. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract, subject to compliance with the required qualifications and the approval of the **Procuring Entity**.

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 0**.

10. Payment

- 10.1. Payments shall be made only upon a certification by the Head of the **Procuring Entity** 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.



10.4. Unless otherwise specified in the **SCC**, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.

11. Advance 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. For Goods supplied from abroad, the terms and 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.

11.3. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.

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 33.2.

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 mentioned in Section VII. Technical Specifications; 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 and Section VII. Technical Specifications 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 ten percent (10%) of every progress payment, or a special bank guarantee equivalent to at least ten percent (10%) of the 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** in Section VI, Schedule of Requirements.



- 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** shall rescind 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. Subject to additional provisions, if any, set forth in the **SCC**, the Supplier's liability under this Contract shall be as provided by the laws of the Republic of the Philippines.
- 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 its delay in performance or other failure to perform its obligations under the Contract is the result of *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 Contractor 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 Contractor. 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 2323 to 26, 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 Head of the **Procuring Entity** 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 3.1(a);
- (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 Head of the **Procuring Entity** 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) aforementioned, and a statement of the acts that constitute the ground(s) constituting the same;
 - (ii) the extent of termination, whether in whole or in part;
 - (iii) an instruction to the 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 Head of the **Procuring Entity** 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 Head of the Procuring Entity shall issue an order terminating this Contract;
- (e) The **Procuring Entity** may, at anytime 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 Head of the **Procuring Entity** 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 Head of the **Procuring Entity** may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the Head of the **Procuring Entity**; 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 V. Special Conditions of Contract

GCC Clause	
1.1(g)	The Procuring Entity is the Supreme Court of the Philippines .
1.1(i)	The Supplier is <i>[to be inserted at the time of contract award]</i> .
1.1(j)	The Funding Source is: The Government of the Philippines (GOP) through the the Local Bank Account of the Supreme Court , in the total amount of Four Million Two Hundred Forty-Eight Thousand Eight Hundred Ninety-Two Pesos & 93/100 (₱4,248,892.93) inclusive of Value-Added Tax (12%) .
1.1(k)	The Project Site is at the Supreme Court of the Philippines, Padre Faura St., Ermita, Manila.
5.1	The Procuring Entity 's address for Notices is: Office of ACA Lilian Barribal-Co 2/F, Supreme Court Old Building Taft Avenue, City of Manila Tel. No. 5247496 The Supplier's address for Notices is: <i>[Insert address including, name of contact, fax and telephone number.]</i>
6.2	Delivery and Documents – For purposes of the Contract, “EXW,” “FOB,” “FCA,” “CIF,” “CIP,” “DDP” and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of INCOTERMS published by the International Chamber of Commerce, Paris. The Delivery terms of this Contract shall be as follows: <i>For Goods Supplied from Abroad:</i> The delivery terms applicable to the Contract are DDP delivered to the Project Sites per lot as indicated in the SCC in relation to GCC Clause No. 1.1(k). In accordance with INCOTERMS.



For Goods Supplied from Within the Philippines: The delivery terms applicable to this Contract are delivered to the Project Sites per lot as indicated in the SCC in relation to GCC Clause No. 1.1(k). Risk and title will pass from the Supplier to the Procuring Entity upon receipt and final acceptance of the Goods at their final destination.

Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in Section VI. Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are as follows:

For Goods supplied from within the Philippines:

Upon delivery of the Goods to the Project Sites, the Supplier shall notify the Procuring Entity and present the following documents to the Procuring Entity:

- (i) Original and four (4) copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;
- (ii) Original and four (4) copies delivery receipt/note, railway receipt, or truck receipt;
- (iii) Original Supplier's factory inspection report;
- (iv) Original and four (4) copies of the Manufacturer's and/or Supplier's warranty certificate;
- (v) Original and four (4) copies of the certificate of origin (for imported Goods);
- (vi) Delivery receipt detailing number and description of items received signed by the authorized receiving personnel;
- (vii) Certificate of Acceptance/Inspection Report signed by the Procuring Entity's representative at the Project Site; and
- (viii) Four (4) copies of the Invoice Receipt for Property signed by the Procuring Entity's representative at the Project Site.

For Goods supplied from abroad:

Upon shipment, the Supplier shall notify the Procuring Entity



and the insurance company by cable the full details of the shipment, including Contract Number, description of the Goods, quantity, vessel, bill of lading number and date, port of loading, date of shipment, port of discharge etc. Upon delivery to the Project Sites, the Supplier shall notify the Procuring Entity and present the following documents as applicable with the documentary requirements of any letter of credit issued taking precedence:

- (i) Original and four copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;
- (ii) Original and four (4) copies of the negotiable, clean shipped on board bill of lading marked "freight pre-paid" and five copies of the non-negotiable bill of lading ;
- (iii) Original Supplier's factory inspection report;
- (iv) Original and four (4) copies of the Manufacturer's and/or Supplier's warranty certificate;
- (v) Original and four (4) copies of the certificate of origin (for imported Goods);
- (vi) Delivery receipt detailing number and description of items received signed by the Procuring Entity's representative at the Project Site;
- (vii) Certificate of Acceptance/Inspection Report signed by the Procuring Entity's representative at the Project Site; and

Incidental Services –

The Supplier is required to provide all of the following services, including additional services, if any, specified in the purchase order:

- (a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;



- (d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
- (e) training of the Procuring Entity’s personnel, at the Supplier’s plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

The Contract price for the Goods shall include the prices charged by the Supplier for incidental services and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

Packaging –

The Supplier shall provide such packaging of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in this Contract. The packaging shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packaging case size and weights shall take into consideration, where appropriate, the remoteness of the GOODS’ final destination and the absence of heavy handling facilities at all points in transit.

The packaging, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified below, and in any subsequent instructions ordered by the Procuring Entity.

The outer packaging must be clearly marked on at least four (4) sides as follows:

Name of the Procuring Entity

Name of the Supplier

Contract Description

Final Destination

Gross weight

Any special lifting instructions



Any special handling instructions

Any relevant HAZCHEM classifications

A packaging list identifying the contents and quantities of the package is to be placed on an accessible point of the outer packaging if practical. If not practical the packaging list is to be placed inside the outer packaging but outside the secondary packaging.

Insurance –

The Goods supplied under this Contract shall be fully insured by the Supplier in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery. The Goods remain at the risk and title of the Supplier until their final acceptance by the Procuring Entity.

Transportation –

Where the Supplier is required under Contract to deliver the Goods CIF, CIP or DDP, transport of the Goods to the port of destination or such other named place of destination in the Philippines, as shall be specified in this Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

Where the Supplier is required under this Contract to transport the Goods to a specified place of destination within the Philippines, defined as the Project Site, transport to such place of destination in the Philippines, including insurance and storage, as shall be specified in this Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.

Where the Supplier is required under Contract to deliver the Goods CIF, CIP, or DDP, Goods are to be transported on carriers of Philippine registry. In the event that no carrier of Philippine registry is available, Goods may be shipped by a carrier which is not of Philippine registry provided that the Supplier obtains and presents to the Procuring Entity certification to this effect from the nearest Philippine consulate to the port of dispatch. In the event that carriers of Philippine registry are available but their schedule delays the Supplier in its performance of this Contract the period from when the Goods were first ready for shipment and the actual date of shipment the period of delay will be considered *force majeure* in accordance with **GCC Clause 22**.



	<p>The Procuring Entity accepts no liability for the damage of Goods during transit other than those prescribed by INCOTERMS for DDP Deliveries. In the case of Goods supplied from within the Philippines or supplied by domestic Suppliers risk and title will not be deemed to have passed to the Procuring Entity until their receipt and final acceptance at the final destination.</p> <p>Patent Rights –</p> <p>The Supplier shall indemnify the Procuring Entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof.</p>
10.4	Not applicable.
13.4(c)	No further instructions.
16.1	The inspections and tests that will be conducted are to be determined by the Maintenance Division, Office of Administrative Services (OAS).
17.3	Minimum of one (1) year warranty on parts and labor; five (5) years for the compressor after acceptance by the Procuring Entity of the delivered and installed air conditioning units.
17.4	The period for correction of defects in the warranty period is fifteen (15) days from notice to the supplier.
21.1	No additional provision.



Section VI. Schedule of Requirements

The delivery schedule expressed as weeks/months stipulates the project delivery date.

*(The following form **must** be signed and submitted; **recopying/retyping this page is not allowed and may be a ground for disqualification**)*

Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices				
	ITEM AND SPECIFICATION	Unit of Measure	Quantity	Delivered, Weeks/Months
A.	Ceiling Cassette			
1.	Office of the Chief Justice (CJ's Chamber and CJ's Staff Area)	3TR including installation cost for liquid line	unit	2
2.	FMBO – Accounting Division	5TR including installation cost for liquid line	unit	1
3.	Canteen	5TR including installation cost for: liquid line = 102 ft. feeder line = 60 ft.	unit	4
B.	Floor Mounted			
1.	Office of the Bar Confidant	3TR (remote control) including installation cost for liquid line	unit	2
		5TR (remote control) including installation cost for liquid line	unit	2
2.	Philippine Judicial Academy (Office of the Chancellor and Academic Affairs)	5TR including installation cost (ducted type)	unit	2
		3TR including installation cost	unit	1
3.	FMBO - FMID	3TR with installation cost for liquid line	unit	2
4.	OAS, SC – Security Division	3TR (remote control) including installation cost for liquid line	unit	1
		5TR (remote control) including installation cost for liquid line	unit	1

Complete supply, delivery and installation of the items within thirty (30) calendar days from receipt of the Purchase Order.



5.	Judicial Records Office	3TR (remote control) including installation cost for liquid line	unit	1
		5TR (remote control) including installation cost for liquid line	unit	1
C. Wall Mounted				
1.	Office of the Bar Confidant	2HP (remote control) including installation cost for liquid line	unit	4
2.	Property Division, OAS, OCA	2HP including installation cost for liquid line	unit	1
D. Ceiling Mounted				
1.	Office of the Bar Confidant	5TR (remote control) including installation cost for liquid line	unit	1
2.	Judicial Records Office	5TR (remote control) including installation cost for liquid line	unit	1
E. Window Type				
1.	Philja Training Center (Tagaytay City)	2HP Inverter	unit	10
2.	MISO Old Main Building SPPED	2HP Non-Inverter	unit	1
3.	OAS, SC – Security Division	1.5 HP (remote control)	unit	1
4.	Judicial Records Office	1.5 HP (remote control)	unit	2

I hereby certify to comply and deliver all the above requirements:

Name of Company/Bidder

Signature over Printed Name of Representative

Date



Section VII. Technical Specifications

TECHNICAL SPECIFICATIONS

ITEM AND SPECIFICATION			Unit of Measure	Quantity
A.	Ceiling Cassette			
1.	Office of the Chief Justice (CJ's Chamber and CJ's Staff Area)	3TR including installation cost for liquid line	unit	2
2.	FMBO – Accounting Division	5TR including installation cost for liquid line	unit	1
3.	Canteen	5TR including installation cost for: liquid line = 102 ft. feeder line = 60 ft.	unit	4
B.	Floor Mounted			
1.		3TR (remote control) including installation cost for liquid line	unit	2
		5TR (remote control) including installation cost for liquid line	unit	2
2.	Philippine Judicial Academy (Office of the Chancellor and Academic Affairs)	5TR including installation cost (ducted type)	unit	2
		3TR including installation cost	unit	1
3.	FMBO - FMID	3TR with installation cost for liquid line	unit	2
4.	OAS, SC – Security Division	3TR (remote control) including installation cost for liquid line	unit	1
		5TR (remote control) including installation cost for liquid line	unit	1
5.	Judicial Records Office	3TR (remote control) including installation cost for liquid line	unit	1
		5TR (remote control) including installation cost for liquid line	unit	1



C. Wall Mounted				
1.	Office of the Bar Confidant	2HP (remote control) including installation cost for liquid line	unit	4
2.	Property Division, OAS, OCA	2HP including installation cost for liquid line	unit	1
D. Ceiling Mounted				
1.	Office of the Bar Confidant	5TR (remote control) including installation cost for liquid line	unit	1
2.	Judicial Records Office	5TR (remote control) including installation cost for liquid line	unit	1
E. Window Type				
1.	Philja Training Center (Tagaytay City)	2HP Inverter	unit	10
2.	MISO Old Main Building SPPED	2HP Non-Inverter	unit	1
3.	OAS, SC – Security Division	1.5 HP (remote control)	unit	1
4.	Judicial Records Office	1.5 HP (remote control)	unit	2



Section VIII. Bidding Forms

Notes on the Bidding Forms

The Bidder shall complete and submit with its Bid the **Bid Form** and **Price Schedules** in accordance with **ITB** Clause 15 with the requirements of the Bidding Documents and the format set out in this Section.

When requested in the BDS, the Bidder should provide the **Bid Security**, either in the form included hereafter or in another form acceptable to the Entity, pursuant to **ITB** Clause 18.1.

The **Contract Agreement Form**, when it is finalized at the time of contract award, should incorporate any corrections or modifications to the accepted Bid resulting from price corrections. The Price Schedule and Schedule of Requirements deemed to form part of the contract should be modified accordingly.

The **Performance Security Form** and **Bank Guarantee Form for Advance Payment** should not be completed by the Bidders at the time of their Bid preparation. Only the successful Bidder will be required to provide performance security and bank guarantee for advance payment in accordance with one of the forms indicated herein or in another form acceptable to the Procuring Entity and pursuant to **GCC** Clause 13 and its corresponding SCC provision.

The sworn affidavit must be completed by all Bidders in accordance with **ITB** Clause 4.2 failure to do so and submit it with the bid shall result in the rejection of the bid and the Bidder's disqualification.



1. Form VIII-1

Sample form only.

**STATEMENT OF ON-GOING CONTRACTS AND
AWARDED BUT NOT YET STARTED CONTRACTS**

STATEMENT OF (I) ONGOING CONTRACTS AND (II) AWARDED BUT NOT YET STARTED CONTRACTS							
This is to certify that _____ (company) has the following ongoing and awarded contracts for the period CY _____.							
Date of Contract	Contracting Party	Name of Contract	Kind of Goods Sold	Amount of Contract	Value of Outstanding Contracts	Date of Delivery	Date of Notice of Award or Notice to Proceed
I. Ongoing Contracts							
II. Awarded But Not Yet Started Contracts							
TOTAL							
_____				_____			
Name and Signature of Authorized Representative				Date			

***Instructions:**

- (a) State **ALL** ongoing contracts including those awarded but not yet started (contracts which may be similar or not similar to the project called for bidding) **as of the day before the deadline of submission and opening of bids.**
- (b) If there is no ongoing contract including awarded but not yet started as of the aforementioned period, state none or equivalent term.
- (c) The total amount of the ongoing and awarded but not yet started contracts should be consisted with those used in the Net Financial Contracting Capacity (NFCC).
- (d) "Name of Contract". Indicate here the Nature/Scope of the Contract for easier tracking of the entries/representations.
Example: "Supply and Delivery of Generator Set"



3. Form VIII-3

***This form itself must be submitted.
Recopying is not allowed and may be a ground for disqualification.***

TECHNICAL BID FORM

Bidders must state here either “Comply” or “Not Comply” against each of the individual parameters of each Specification stating the corresponding performance parameter of the equipment offered. Statements of “Comply” or “Not Comply” must be supported by evidence, where applicable, in a Bidders Bid and cross-referenced to that evidence. Evidence shall be in the form of manufacturer’s un-amended sales literature, unconditional statements of specification and compliance issued by the manufacturer, samples, independent test data etc., as appropriate. A statement that is not supported by evidence or is subsequently found to be contradicted by the evidence presented will render the Bid under evaluation liable for rejection. A statement either in the Bidders statement of compliance or the supporting evidence that is found to be false either during Bid evaluation, post-qualification or the execution of the Contract may be regarded as fraudulent and render the Bidder or supplier liable for prosecution subject to the provisions of **ITB** Clause 3.1(a)(ii) and/or **GCC** Clause 2.1(a)(ii).

ITEM AND SPECIFICATION		Unit of Measure	Quantity	Statement of Compliance
A. Ceiling Cassette				
1.	Office of the Chief Justice (CJ’s Chamber and CJ’s Staff Area)	3TR including installation cost for liquid line	unit	2
2.	FMBO – Accounting Division	5TR including installation cost for liquid line	unit	1
3.	Canteen	5TR including installation cost for: liquid line = 102 ft. feeder line = 60 ft.	unit	4
B. Floor Mounted				
1.	Office of the Bar Confidant	3TR (remote control) including installation cost for liquid line	unit	2
		5TR (remote control) including installation cost for liquid line	unit	2
2.	Philippine Judicial Academy (Office of the Chancellor and Academic Affairs)	5TR including installation cost (ducted type)	unit	2
		3TR including installation cost	unit	1
3.	FMBO - FMID	3TR with installation cost for liquid line	unit	2



4.	OAS, SC – Security Division	3TR (remote control) including installation cost for liquid line	unit	1	
		5TR (remote control) including installation cost for liquid line	unit	1	
5.	Judicial Records Office	3TR (remote control) including installation cost for liquid line	unit	1	
		5TR (remote control) including installation cost for liquid line	unit	1	
C. Wall Mounted					
1.	Office of the Bar Confidant	2HP (remote control) including installation cost for liquid line	unit	4	
2.	Property Division, OAS, OCA	2HP including installation cost for liquid line	unit	1	
D. Ceiling Mounted					
1.	Office of the Bar Confidant	5TR (remote control) including installation cost for liquid line	unit	1	
2.	Judicial Records Office	5TR (remote control) including installation cost for liquid line	unit	1	
E. Window Type					
1.	Philja Training Center (Tagaytay City)	2HP Inverter	unit	10	
2.	MISO Old Main Building SPPED	2HP Non-Inverter	unit	1	
3.	OAS, SC – Security Division	1.5 HP (remote control)	unit	1	
4.	Judicial Records Office	1.5 HP (remote control)	unit	2	

Printed Name and Signature of Authorized Representative

Name of Company

Address and Telephone Number

Date



4. Form VIII-4

Sample form only.

FINANCIAL BID FORM

Date: _____

Invitation to Bid¹ N^o: _____

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

Gentlemen and/or Ladies:

Having examined the Bidding Documents including 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 Bidding Documents for the sum of *[total Bid amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

We undertake, if our Bid is accepted, to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements.

If our Bid is accepted, we undertake to provide a performance security in the form, amounts, and within the times specified in the Bidding Documents.

We agree to abide by this Bid for the Bid Validity Period specified in **BDS** provision for **ITB** Clause 18.2 and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

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:²

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

¹ If ADB, JICA and WB funded projects, use IFB.

² Applicable only if the Funding Source is the ADB, JICA or WB.



(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 or any Bid you may receive.

We certify/confirm that we comply with the eligibility requirements per **ITB** Clause 5 of the Bidding Documents.

Dated this _____ day of _____ 2018.

[signature and printed name]

[in the capacity of]

Duly authorized to sign Bid for and on behalf of:

Name of Company

Address and Telephone Number



5. Form VIII-5

(The following form must be filled out and submitted; recopying/retyping this form is not allowed and may be a ground for disqualification)

Bid Price Schedule

<p align="center">Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices ABC: ₱4,248,892.93</p>						
ITEM AND SPECIFICATION			Unit of Measure	Quantity	Unit Price	Total Amount
A. Ceiling Cassette						
1.	Office of the Chief Justice (CJ's Chamber and CJ's Staff Area)	3TR including installation cost for liquid line	unit	2		
2.	FMBO – Accounting Division	5TR including installation cost for liquid line	unit	1		
3.	Canteen	5TR including installation cost for: liquid line = 102 ft. feeder line = 60 ft.	unit	4		
B. Floor Mounted						
1.	Office of the Bar Confidant	3TR (remote control) including installation cost for liquid line	unit	2		
		5TR (remote control) including installation cost for liquid line	unit	2		
2.	Philippine Judicial Academy (Office of the Chancellor and Academic Affairs)	5TR including installation cost (ducted type)	unit	2		
		3TR including installation cost	unit	1		
3.	FMBO - FMID	3TR with installation cost for liquid line	unit	2		
4.	OAS, SC – Security Division	3TR (remote control) including installation cost for liquid line	unit	1		
		5TR (remote control) including installation cost for liquid line	unit	1		



5.	Judicial Records Office	3TR (remote control) including installation cost for liquid line	unit	1		
		5TR (remote control) including installation cost for liquid line	unit	1		
C. Wall Mounted						
1.	Office of the Bar Confidant	2HP (remote control) including installation cost for liquid line	unit	4		
2.	Property Division, OAS, OCA	2HP including installation cost for liquid line	unit	1		
D. Ceiling Mounted						
1.	Office of the Bar Confidant	5TR (remote control) including installation cost for liquid line	unit	1		
2.	Judicial Records Office	5TR (remote control) including installation cost for liquid line	unit	1		
E. Window Type						
1.	Philja Training Center (Tagaytay City)	2HP Inverter	unit	10		
2.	MISO Old Main Building SPPED	2HP Non-Inverter	unit	1		
3.	OAS, SC – Security Division	1.5 HP (remote control)	unit	1		
4.	Judicial Records Office	1.5 HP (remote control)	unit	2		
GRAND TOTAL						
Inclusive of VAT (12%)						
Amount in Words:						

Printed Name and Signature of Authorized Representative

Name of Company

Address and Telephone Number

Date



6. Form VIII-6

Sample form only.

Contract Agreement Form



**Republic of the Philippines
Supreme Court
Manila**

**CONTRACT FOR THE
SUPPLY, DELIVERY AND INSTALLATION OF
AIR CONDITIONING UNITS FOR THE SUPREME COURT AND
THE OFFICE OF THE COURT ADMINISTRATOR OFFICES**

KNOW ALL MEN BY THESE PRESENTS:

This agreement entered into and executed this ____ day of _____ 20__ in the City of Manila by and between:

The **SUPREME COURT OF THE PHILIPPINES**, a government agency of the Republic of the Philippines, with principal office at Padre Faura Street, Ermita, Manila represented herein by **ATTY. EDGAR O. ARICHETA**, in his capacity as the Clerk of Court of the Supreme Court of the Philippines, hereinafter referred to as the **“COURT;”**

-and-

_____, a business firm organized and existing in accordance with Philippine laws, with principal business address at _____ and represented by _____ in his capacity as the _____ of _____, hereinafter referred to as the **“SUPPLIER.”**

WHEREAS, the Supreme Court Bids and Awards Committee for Goods and Services (SC-BAC-GS) published on _____ an Invitation to Bid in The Philippine Star for the **Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices**. The Invitation to Bid was also posted on the PhilGEPS, on the Supreme Court Website,



and on the Supreme Court Bulletin Boards located in conspicuous places within the **COURT'S** premises;

WHEREAS, the **SUPPLIER** won in the public bidding conducted by the **COURT** on _____ and was recommended by the SC-BAC-GS, in its Memorandum dated _____, to be awarded the contract for the supply, delivery, and installation of **Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices** which recommendation was approved by the Court *en banc* through its Resolution dated _____;

NOW THEREFORE, for and in consideration of the foregoing premises and the stipulations set forth, the **COURT** and the **SUPPLIER** hereby agree on the following:

ARTICLE I CONTRACT DOCUMENTS

1.1 OFFICIAL BID DOCUMENTS. The **SUPPLIER** shall perform its contractual obligation in accordance with the following Official Bid Documents which are made integral parts of this Contract:

- 1.1.1 Proposal and Price Schedule submitted by the **SUPPLIER**;
- 1.1.2 Schedule of Requirements;
- 1.1.3 Technical Specifications;
- 1.1.4 General and Special Conditions of the Contract;
- 1.1.5 Supplemental Bid Bulletins, if any;
- 1.1.6 Notification of Award.

1.2 COMPLEMENTARY NATURE. This Contract and the Official Bid Documents shall be complementary with each other, and what one prescribes shall be prescribed by all. In case of discrepancy between this Contract and the Official Bid Documents, the Official Bid Documents shall prevail.

1.3 INCIDENTAL ITEMS. 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.

ARTICLE II EFFECTIVITY AND TERM OF SERVICE

2.1 EFFECTIVITY DATE. This Contract shall take effect upon receipt by the **SUPPLIER** of the Notice to Proceed or the effectivity date stated therein, whichever comes later. Performance of all obligations shall be reckoned from the effectivity date of the Contract.

2.2 DELIVERY DATE. The goods (air conditioning units) must be delivered within fifteen (15) days from receipt of the Purchase Order.



2.3 CONTRACT PRICE. For and in consideration of the full and satisfactory delivery of the goods by the **SUPPLIER** and the acceptance thereof by the **COURT**, the **COURT** shall pay the agreed contract price of _____ (₱ _____).

ARTICLE III REPRESENTATIONS/WARRANTIES

3.1 PERFORMANCE WARRANTY. The **SUPPLIER** represents and warrants that it has the capacity to perform its obligations and undertakings according to the terms and conditions of this Contract and the Official Bid Documents and hereby agrees and warrants that it shall faithfully observe and comply therewith.

3.2 PRODUCT AND SERVICE WARRANTY. The **SUPPLIER** agrees to guarantee the goods against manufacturing defects for a period of one (1) year on parts and labor and five (5) years on the compressor from the date of issuance of the Certificate of Final Acceptance. In case of any defect discovered or found within this period, the **SUPPLIER** shall make the necessary replacement or repairs at no expense to the **COURT**.

3.3 WARRANTY SECURITY. After acceptance by the **COURT** of the goods, a warranty security shall be required from the **SUPPLIER** in the form of (1) retention money in the amount equivalent to one percent (1%) of every progress payment; or (2) a special bank guarantee equivalent to one percent (1%) of the total contract price which shall be valid for the entire period of the warranty from the date of acceptance. The warranty security shall answer for any loss, damage, injury or expense which may be incurred as a result of any defect in the goods. The said amount shall only be released after the lapse of the warranty period.

ARTICLE IV PERFORMANCE SECURITY

4.1 AMOUNT AND FORM. The **SUPPLIER** shall, within ten (10) calendar days from receipt of Notice of Award, post a performance security as a condition precedent to the signing of this Contract to guarantee and secure the timely and complete performance of its commitment under this Contract and the Official Bid Documents. The performance security shall either be (1) in cash or cashier's/manager's check issued by a Universal or Commercial Bank equivalent to five percent (5%) of the total contract price; or (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, equivalent to five percent (5%) of the total contract price; or (3) a surety bond equivalent to thirty percent (30%) of the total contract price, callable on demand and issued by the GSIS or any of the bonding companies duly accredited by the Supreme Court.



- 4.2 **DISCHARGE OF THE SECURITY.** The performance security shall be released to the **SUPPLIER** upon the issuance of the Certificate of Final Acceptance by the **COURT**; Provided, however, that the performance security was not forfeited as a result of the delay or default in the performance of the obligations of the **SUPPLIER**.
- 4.3 **FORFEITURE.** The failure of the **SUPPLIER** to comply with any of the requirements or undertakings hereof shall constitute sufficient ground for the forfeiture of its performance security.

ARTICLE V TERMINATION OF CONTRACT

- 5.1 **TERMINATION FOR DEFAULT.** The **COURT** shall have the right to pre-terminate this Contract in whole or in part for default of the **SUPPLIER** or breach or violation of the terms and conditions of this Contract for just cause to determined by the **COURT**, which determination shall be final and binding to the **SUPPLIER**.
- 5.2 **TERMINATION FOR UNLAWFUL ACTS.** The **COURT** shall have the right to terminate this Contract, which termination shall take effect immediately upon receipt of the Notice of Termination, in case it is determined *prima facie* that the **SUPPLIER** has engaged, before or during the implementation of this Contract, in unlawful deeds and behavior relative to the acquisition and implementation thereof.
- 5.3 **COMPLETED DELIVERY.** In the event of pre-termination or termination of this Contract by the **COURT**, the **COURT** shall pay the **SUPPLIER** for the Project delivered up to the date of pre-termination or termination unless such pre-termination was due to the acts or omissions of the **SUPPLIER** or breach of this Contract and the Official Bid Documents by the **SUPPLIER**.
- 5.4 **REMEDIAL RIGHTS.** Any pre-termination or termination of this Contract shall be without prejudice to any other rights or remedies a party may be entitled to under this Contract and the Official Bid Documents, or under any law, and shall neither affect any accrual of rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after pre-termination or termination.

ARTICLE VI VENUE OF ACTIONS

- 6.1 Any dispute arising from this Contract which cannot be resolved amicably by the contracting parties *shall be tried* in the proper court of the **City of Manila only**, to the exclusion of all other venues.



IN WITNESS WHEREOF, the parties have signed this agreement on the date and place first above-stated.

**SUPREME COURT OF THE
PHILIPPINES
(COURT)**

(SUPPLIER)

Represented by:

Represented by:

EDGAR O. ARICHETA

(Authorized Representative)

SIGNED IN THE PRESENCE OF:

LILIANNE E. ULGADO

(Witness of Supplier)

ACKNOWLEDGMENT

Republic of the Philippines)
City of Manila) S.S.

BEFORE ME personally appeared:

- 1) **ATTY. EDGAR O. ARICHETA** with Supreme Court Identification Card No. _____; and
- 2) _____ with Identification Card No. _____

known to me to be the same persons who executed the foregoing Contract for the **SUPPLY, DELIVERY, AND INSTALLATION OF AIR CONDITIONING UNITS FOR THE SUPREME COURT AND THE OFFICE OF THE COURT ADMINISTRATOR OFFICES** and they acknowledged to me that the same is their free and voluntary act and deed.

I certify that the foregoing instrument, consisting of six (6) pages, including this page where the acknowledgment is written, was duly signed by the parties and their instrumental witnesses on each and every page thereof.

WITNESS MY HAND AND SEAL this ____ day of _____, 20__ at the City of Manila, Philippines.

EDEN T. CANDELARIA
Deputy Clerk of Court and
Chief Administrative Officer



7. Form VIII-7

***This form itself must be submitted.
Recopying is not allowed and may be a ground for disqualification.***

OMNIBUS SWORN STATEMENT

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

A F F I D A V I T

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:

I am the [1. sole proprietor; 2. duly authorized and designated
representative] of _____ [Name of Bidder]
with office address at _____ [Address of Bidder].

As the [1. owner and sole proprietor, I have full power and authority to do,
execute and perform any and all acts necessary;][2. duly authorized and designated
representative, I am granted full power and authority to do, execute, and perform
any and all acts necessary as shown in the attached document showing proof of
authorization (e.g., duly notarized Secretary's Certificate issued by the corporation
or the members of the joint venture)] to represent _____
[Name of Bidder] in the bidding for the **Procurement of Air Conditioning Units
for the Supreme Court and the Office of the Court Administrator Offices**

_____ [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;

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;

_____ [Name of Bidder] is authorizing the Head of the
Procuring Entity (**Hon. Maria Lourdes P. A. Sereno, Chief Justice**) or her duly
authorized representative(s) to verify all the documents submitted;



(In the following three paragraphs, please choose and answer only one that is applicable to the bidder)

(1) *If a sole proprietorship or sole proprietorship that is a member of a joint venture:* I am not related to the Head of the Procuring Entity (**Hon. Maria Lourdes P. A. Sereno, Chief Justice**), members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, or 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;

(2) *If a partnership or a partnership that is a member of a joint venture:* None of the officers and members of _____ *[Name of Bidder]* is related to the Head of the Procuring Entity (**Hon. Maria Lourdes P. A. Sereno, Chief Justice**), 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;

(3) *If a corporation or a corporation that is a member of a joint venture:* None of the officers, directors, and controlling stockholders of _____ *[Name of Bidder]* is related to the Head of the Procuring Entity (**Hon. Maria Lourdes P. A. Sereno, Chief Justice**), 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;

(4) *If a cooperative or a cooperative that is a member of a joint venture:* None of the officers, directors, and controlling shareholders or members of _____ *[Name of Bidder]* is related to the Head of the Procuring Entity (**Hon. Maria Lourdes P. A. Sereno, Chief Justice**), 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; _____ *[Name of Bidder]* complies with existing labor laws and standards;

_____ *[Name of Bidder]* is aware of and has undertaken the following responsibilities as a Bidder:

- a) Carefully examine all of the Bidding Documents;
- b) Acknowledge all conditions, local or otherwise, affecting the implementation of the Contract;
- c) Made an estimate of the facilities available and needed for the contract to be bid, if any; and

Inquire or secure Supplemental/Bid Bulletin(s) issued for the **Procurement of Air Conditioning Units for the Supreme Court and the Office of the Court Administrator Offices;** and



_____ [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.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2018 at _____, Philippines.

AFFIANT/S
Bidder’s Representative/Authorized Signatory

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2018, affiant/s exhibiting to me his/her/their Competent Evidence of Identity.

Name	ID No.	Issued At	Issued On
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTARY PUBLIC

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2018.



8. Form VIII-8

***This form itself must be submitted.
Recopying is not allowed and may be a ground for disqualification.***

REPUBLIC OF THE PHILIPPINES)
CITY OF MANILA) S.S.
X-----X

BID SECURING DECLARATION

**Invitation to Bid: Procurement of Air Conditioning Units for the
Supreme Court and the Office of the Court
Administrator Offices**

To : Supreme Court of the Philippines
Padre Faura Street, Ermita, City of Manila

I/We, 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 27.5, 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;



(c) I am/we are declared as the bidder with the Lowest Calculated and 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 _____, 2018 at _____.

Affiant/s

[Name/s and Signature/s of the Bidder’s Authorized Representative and his/her/their legal capacity/ies]

Name of Bidder Represented

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2018 at _____, Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity/ies as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her/their Competent Evidence of Identity.

Name	ID No.	Issued At	Issued On
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTARY PUBLIC

Doc. No. _____;
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