

**ANNEX “H”
CONSOLIDATED GUIDELINES FOR THE ALTERNATIVE METHODS OF
PROCUREMENT**

I. POLICY STATEMENT

As a general rule, all procurement shall be through Competitive Bidding. However, whenever justified by the conditions provided in Republic Act No. (R.A.) 9184 and its revised Implementing Rules and Regulations (IRR), the Procuring Entity may, in order to promote economy and efficiency, resort to any of the alternative methods of procurement provided in Rule XVI of the IRR of R.A. 9184.

The Alternative Methods of Procurement shall be resorted to only in the highly exceptional cases provided for in this Guidelines and subject to the prior approval of the Head of the Procuring Entity (HOPE) upon recommendation of the Bids and Awards Committee (BAC). In all instances, the Procuring Entity shall ensure that the most advantageous price for the Government is obtained.

II. PURPOSE

This Guidelines is formulated by the Government Procurement Policy Board (GPPB) to provide a single source of information for Alternative Methods of Procurement commonly resorted to by procuring entities; and to prescribe the terms, conditions, rules and procedures for covered Alternative Methods of Procurement for Goods, Infrastructure Projects, and Consulting Services.

III. SCOPE

This Guidelines shall apply to the national government, its branches, constitutional offices, departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or -controlled corporations, government financial institutions, and local government units.

Excluded from this Guidelines are the following:

- A. Infrastructure projects undertaken through the Armed Forces of the Philippines Corps of Engineers (AFPCOE), for purposes of Sections 53.2 (Emergency Cases) and 53.5 (Agency-to-Agency) of the IRR of R.A. 9184, which shall continue to be governed by the Guidelines on the Implementation of Infrastructure Projects Undertaken by the AFP Corps of Engineers under GPPB Resolution No. 09-2005.
- B. Limited Source Bidding under Section 49, Negotiated Procurement under Sections 53.8 (Defense Cooperation Agreement), 53.11 (NGO Participation), 53.12 (Community Participation), and 53.13 (UN Agencies).

IV. GENERAL GUIDELINES

- A. **Annual Procurement Plan (APP).** The method of procurement, *e.g.*, competitive bidding or any of the alternative methods of procurement, to be utilized by the Procuring Entity shall be indicated in the APP to be approved by the HOPE. If the original mode of procurement in the APP cannot be ultimately pursued, the BAC assisted by its Secretariat, the Technical Working Group, and by the appropriate End-

User or relevant office, as the case may be, shall justify and recommend through a BAC Resolution such change in the mode of procurement to be approved by the HOPE. The changes must be reflected in the APP and submitted to the GPPB in accordance with Section 7.4 of the IRR of R.A. 9184.

- B. Prohibition on Splitting of Government Contracts³³.** Splitting of Government Contracts, which means the division or breaking up of government contracts into smaller quantities and amounts, or dividing contract implementation into artificial phases or sub-contracts for the purpose of evading or circumventing the requirements of R.A. 9184 and its IRR, particularly the necessity of competitive bidding and the requirements for the alternative methods of procurement, is prohibited.

For infrastructure projects to be implemented by phases, the Procuring Entity shall ensure that there is a clear delineation of work for each phase, which must be usable and structurally sound. It shall also ensure the conduct of the detailed engineering activities for each phase as provided for in Annex “A” of the IRR of R.A. 9184.

- C. Unnecessary, Excessive, Extravagant and Unconscionable Expenditures.** The Procuring Entity shall ensure that the objectives and purpose of the contract do not constitute an unnecessary, excessive, extravagant, or unconscionable expenditure.

- D. Confidentiality of Bidding Documents.** The procurement documents are strictly confidential and shall not be divulged or released to any person prior to the advertisement or posting of the procurement opportunity, except to those officially authorized in the handling of these documents.

However, in procurements involving and affecting national security, the disclosure of procurement documents shall be dependent upon the HOPE having due regard to the nature, classification, sensitivity and confidentiality of the relevant documents *vis-à-vis* the purpose and reason for the request.

- E. Advertisement and Posting of Procurement Opportunity³⁴.** For alternative methods of procurement, the Procuring Entity may dispense with the advertisement in the newspaper and posting requirement as prescribed in Section 21.2.1 of the IRR of R.A. 9184.

For the following alternative methods, however, the BAC, through its Secretariat, shall post the procurement opportunity [*e.g.*, Request for Quotation (RFQ) or Request for Proposal (RFP)] in the Philippine Government Electronic Procurement System (PhilGEPS) website, the website of the Procuring Entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity for a period of at least three (3) calendar days:

- 1) Section 52.1(b) – Shopping for ordinary office supplies and equipment not available in the Department of Budget and Management-Procurement Service (DBM-PS), for projects with Approved Budget for the Contract (ABC) above Fifty Thousand Pesos (₱50,000.00);

³³ Section 54.1, IRR of R.A. 9184.

³⁴ Section 54.2, IRR of R.A. 9184.

2) Section 53.1 – Two Failed Biddings; and

3) Section 53.9 – Small Value Procurement, for projects with ABC above Fifty Thousand Pesos (₱50,000.00);

F. **Documentary Requirements.** The mandatory documents to be submitted by suppliers, manufacturers, distributors, contractors and consultants are enumerated in Appendix A of this Guidelines.

G. **PhilGEPS Registration³⁵.** Manufacturers, suppliers, distributors, contractors, and/or consultants are mandated to register with the PhilGEPS and provide a PhilGEPS Registration number in the following alternative methods of procurement *as a condition for award of the contract*:

1) Section 50 – Direct Contracting;

2) Section 52.1(b) – Shopping for ordinary office supplies and equipment not available in DBM-PS;

3) Section 53.3 – Take Over of Contracts (*Only for New Bidders, if any.*);

4) Section 53.6 – Scientific, Scholarly or Artistic Work, Exclusive Technology and Media Services;

5) Section 53.7 – Highly Technical Consultants;

6) Section 53.9 – Small Value Procurement; and

7) Section 53.10 – Lease of Real Property and Venue.

For purposes of Negotiated Procurement under Section 53.1 (Two Failed Biddings), the BAC shall require the submission of a Certificate of PhilGEPS Registration in accordance with Section 8.5.2 of the IRR of R.A. 9184.

H. **Observers.** For Negotiated Procurement under Section 53.1 (Two-Failed Biddings), observers shall be invited in accordance with Section 13 of the IRR of R.A. 9184. For other alternative methods of procurement, observers may be invited by the Procuring Entity as it may deem necessary.

I. **Reference to Brand Names³⁶.** Specifications for the procurement of Goods shall be based on relevant characteristics, functionality and/or performance requirements. Reference to brand names shall not be allowed except for items or parts that are compatible with the existing fleet or equipment of the same make and brand and will maintain the performance, functionality and useful life of the equipment. This rule shall also apply to the goods component of infrastructure projects and consulting services.

J. **Delegation of Authority.** The conduct of Shopping and Negotiated Procurement under Emergency Cases, Small Value Procurement and Lease of Real Property and

³⁵ Section 54.6, IRR of R.A. 9184.

³⁶ Section 18, R.A. 9184 and its IRR.

Venue may be delegated to the End-user unit or any other appropriate bureau, committee, or support unit duly authorized by the BAC through a Resolution approved by the HOPE.

For Shopping under Section 52.1(a) and Negotiated Procurement under Emergency Cases, due to the urgent nature of the attendant circumstances, the BAC and the HOPE through a Resolution and Office Order, respectively, may delegate to specific officials, personnel, committee or office in the Procuring Entity the conduct of Shopping and award of contract to efficiently and expeditiously deal with the emergency sought to be addressed.

For record and monitoring purposes, all awards shall be immediately reported with all supporting documents to the HOPE, through the BAC, to ensure compliance with all the conditions and requirements provided for under R.A. 9184, its IRR and related guidelines.

- K. **Mandatory Review.** The BAC shall conduct a mandatory review and evaluation of the terms, conditions, specifications, cost estimates in the RFQ or RFP, if none or less than the required number of quotations or proposals are received, despite the extension of deadline for the third time.

Based on its findings, the BAC may revise the terms and conditions and specifications, and if necessary, adjust the ABC, subject to the required approvals, and repeat the procurement process.

L. **Notice of Award; Contract Approval; Notice to Proceed.**

- 1) Except in *Shopping*, and *Negotiated Procurement through Emergency Cases, Agency-to-Agency* and *Small Value Procurement*, the following procedures shall apply in the issuance of the Notice of Award (NOA), Contract/Purchase Order (PO) and Notice to Proceed (NTP) for the Alternative Methods of Procurement identified in this Guidelines, thus:
 - a. The BAC shall recommend to the HOPE the award of contract. Within a period not exceeding fifteen (15) calendar days from receipt, the HOPE shall approve or disapprove the BAC's recommendation. In case of approval, the HOPE shall immediately issue the NOA to the Supplier, Contractor or Consultant. In the event the HOPE shall disapprove the recommendation, such disapproval shall be based only on valid, reasonable, and justifiable grounds to be expressed in writing, addressed to the BAC.
 - b. The Supplier, Contractor or Consultant shall immediately enter into contract with the Procuring Entity upon receipt of the NOA. Upon transmission of the signed contract/PO, the HOPE or his duly authorized representative shall immediately sign the contract/PO provided that all the relevant documentary requirements are submitted.
 - c. The HOPE or his duly authorized representative shall issue the NTP, if necessary, and a copy of the approved contract to the Supplier, Contractor or Consultant within three (3) calendar days from the date of

approval of the contract by the appropriate government approving authority.

- 2) **Posting of Notice of Award, Contract and Notice to Proceed³⁷.** Unless the contract involves and affects national security as determined by the HOPE in accordance with Section IV(D) of this Guidelines, the BAC, through its Secretariat, shall post the NOA, Contract/PO, including the NTP if necessary, for information purposes, in the PhilGEPS website, the website of the Procuring Entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity within ten (10) days from their issuance, except for contracts with ABC of Fifty Thousand Pesos (P50,000.00) and below.

M. Bid, Performance and Warranty Securities³⁸.

Bid security may be dispensed with. However, performance and/or warranty securities are required for the following alternative methods of procurement, in accordance with Sections 39 and 62 of the IRR as summarized below:

Alternative Method of Procurement	Performance Security (PS)	Warranty Security (WS)
Direct Contracting	x	✓
Repeat Order	x	✓
Two-Failed Biddings	✓	✓ In no case shall WS be required in the procurement of Consulting Services.
Emergency Cases	Procuring Entity may require PS depending on the nature of the procurement project. However, for Infrastructure Projects, PS is required.	Procuring Entity may require WS depending on the nature of the procurement project. In no case shall WS be required in the procurement of Consulting Services.
Take-over of Contracts	✓	✓
Adjacent/Contiguous	✓	For Infrastructure Projects, WS is required.
Small Value Procurement	Procuring Entity may require PS depending on the nature of the procurement project. However, for Infrastructure Projects, PS is required.	Procuring Entity may require WS depending on the nature of the procurement project. In no case shall WS be required in the procurement of Consulting Services.

³⁷ Section 54.3, IRR of R.A. 9184.

³⁸ Sections 54.4 and 54.5, IRR of R.A. 9184.

- N. **Blacklisting.** Suspension or blacklisting of suppliers, contractors, or consultants shall be made in accordance with the *Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors, and Consultants*. A suspended or blacklisted supplier, contractor or consultant shall not be allowed to participate in all procurement opportunities of the government for the duration of the suspension or blacklisting, regardless of the modality of procurement employed by the Procuring Entity.

V. SPECIFIC GUIDELINES

A. DIRECT CONTRACTING³⁹

1. **Definition.** Direct Contracting or single source procurement is a method of procurement of goods that does not require elaborate Bidding Documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations. Direct Contracting may be resorted to under any of the following conditions:
 - a) Procurement of goods of proprietary nature which can be obtained only from the proprietary source, *i.e.*, when patents, trade secrets, and copyrights prohibit others from manufacturing the same item;
 - b) When the procurement of critical components from a specific supplier is a condition precedent to hold a contractor to guarantee its project performance, in accordance with the provisions of its contract; or
 - c) Those sold by an exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the government.

To justify the need to procure through the Direct Contracting method, the End-User should conduct a survey of the industry and determine the supply source. In all cases where Direct Contracting is contemplated, the survey must be conducted prior to the commencement of the procurement process. Moreover, the End-User must justify the necessity for an item that may only be procured through Direct Contracting, and it must be able to prove that there is no suitable substitute in the market that can be obtained at more advantageous terms.

2. Procedure

- a) The BAC shall prepare the RFQ or pro-forma invoice together with the terms and conditions of sale, and shall send the same to the identified direct supplier.
- b) Simplified negotiations on the terms and conditions of the contract may be conducted by the BAC to ensure that the supplier is technically, legally and financially capable to deliver the goods at the most advantageous price and contract for the Government.

³⁹ Section 50, R.A. 9184 and its IRR.

- c) The BAC shall recommend to the HOPE the award of contract in favor of the supplier. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

B. REPEAT ORDER⁴⁰

1. **Definition.** *Repeat Order* is a method of procurement of goods from the previous winning bidder, whenever there is a need to replenish goods subject to the following conditions:

- a) The goods were procured under a contract previously awarded through Competitive Bidding;
- b) Unit prices must be the same as or lower than those in the original contract, provided that such prices are still the most advantageous to the government after price verification;
- c) The repeat order will not result in splitting of contracts, requisitions, or purchase orders, as provided for in Article IV(B) of this Guidelines;
- d) Except in cases duly approved by the GPPB, repeat orders shall be availed of only within six (6) months from the date of the NTP arising from the original contract, provided that there has been a partial delivery, inspection and acceptance of the goods within the same period;
- e) Repeat orders shall not exceed twenty-five percent (25%) of the quantity of each item in the original contract. In order not to exceed the 25% threshold, the goods under the original contract must be:
 - i. Quantifiable;
 - ii. Divisible; and
 - iii. Consisting of at least four (4) units per item.

2. **Procedure**

- a) Upon determination of the need to replenish the goods earlier procured through competitive bidding, the End-User unit shall prepare the necessary Purchase Request for the procurement of additional goods, after a careful study and confirmation of the prevailing market price of the goods to be re-ordered and comparing this with the price of the goods in the original contract, accompanied by the appropriate justification why the re-ordering is being pursued.
- b) When all the conditions are present, the BAC shall recommend to the HOPE the award of contract through Repeat Order. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

⁴⁰ Section 51, R.A. 9184 and its IRR.

C. SHOPPING⁴¹

1. **Definition.** *Shopping* is a method of procurement of goods whereby the Procuring Entity simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications. This method of procurement shall be employed in any of the following cases:

a) When there is an unforeseen contingency requiring immediate purchase, the amount shall not exceed the following:

- i. For NGAs, GOCCs, GFIs, SUCs, and Autonomous Regional Government, Two Hundred Thousand Pesos (₱200,000)
- ii. For LGUs, in accordance with the following schedule:

DOF Classification of LGUs	Maximum Amount (in Philippine Peso)		
	Province	City	Municipality
1 st Class	200,000	200,000	100,000
2 nd Class	200,000	200,000	100,000
3 rd Class	200,000	160,000	100,000
4 th Class	160,000	120,000	100,000
5 th Class	120,000	100,000	100,000
6 th Class	100,000	100,000	100,000

In the case of *barangays*, Fifty Thousand Pesos (₱50,000).

b) Procurement of ordinary or regular office supplies and equipment not available in the DBM-PS, in the amount not to exceed the following:

- i. For NGAs, GOCCs, GFIs, SUCs, and Autonomous Regional Government, One Million Pesos (₱1,000,000)
- ii. For LGUs, in accordance with the following schedule:

DOF Classification of LGUs	Maximum Amount (in Philippine Peso)		
	Province	City	Municipality
1 st Class	1,000,000	1,000,000	200,000
2 nd Class	1,000,000	1,000,000	200,000
3 rd Class	1,000,000	800,000	200,000
4 th Class	800,000	600,000	100,000
5 th Class	600,000	400,000	100,000
6 th Class	400,000	200,000	100,000

In the case of *barangays*, Fifty Thousand Pesos (₱50,000).

The phrase "*ordinary or regular office supplies*" shall be understood to include those supplies, commodities, or materials which are necessary in the transaction of its official businesses, and consumed in the day-to-day office operations.

⁴¹ Section 52, R.A. 9184 and its IRR.

However, office supplies shall not include services such as repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services.

2. Procedure

a) Shopping under Section 52.1(a)

- i. The End-User unit or the duly authorized official or personnel shall submit a purchase request to the BAC indicating the urgency to address an identified need of the Procuring Entity and the unforeseen contingency that caused its necessity.
- ii. The BAC shall immediately prepare the RFQ, indicating the specifications, quantity, ABC, and other terms and conditions of the contract.
- iii. The RFQ may be sent directly to the supplier of known technical, legal and financial qualifications. Due to the attendant circumstances and the urgency of the procurement, the supplier shall immediately respond to the RFQ and signify its technical, legal and financial capability to supply and deliver the goods to be procured. Posting of the RFQ may be dispensed with.
- iv. The BAC shall immediately validate the technical, legal and financial capability of the supplier to supply and deliver the goods by requiring the submission of relevant documents or through other verifiable means to prove the capability of the Supplier.
- v. Upon confirmation and ascertainment of such capability, the BAC shall recommend to the HOPE the award of contract in favor of the supplier with the Single or Lowest Calculated and Responsive Quotation. In case of approval, the HOPE shall immediately enter into a contract with the said supplier.

b) Shopping under Section 52.1(b)

- i. The End-User unit or the duly authorized official or personnel shall submit a purchase request to the BAC relative to the goods to be procured through Shopping.
- ii. The BAC shall prepare the RFQ, indicating the specifications, quantity, ABC, and other terms and conditions of the contract.
- iii. Except for those with ABCs equal to Fifty Thousand Pesos (P 50,000.00) and below, RFQs shall be posted for a period of at least three (3) calendar days in the PhilGEPS website, website of the Procuring Entity, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity.
- iv. The BAC shall send the RFQs to at least three (3) suppliers of known qualifications, and at least three (3) price quotations must be

obtained. This, notwithstanding, those who responded through any of the required postings shall be allowed to participate.

- v. The deadline for submission may be extended thrice, if none or less than the required number of quotations are received. For ABCs more than Fifty Thousand Pesos (P50,000.00), extensions of deadline shall likewise be posted for a period of three (3) calendar days in the PhilGEPS, the website of the Procuring Entity, if any, and at any conspicuous place in the Procuring Entity's premises. In case no supplier responded after the third extension, the BAC shall conduct a mandatory review in accordance with Section IV(K) of this Guidelines.
- vi. Upon receipt of at least three (3) quotations within the prescribed deadline, the BAC shall prepare an Abstract of Quotations setting forth the names of those who responded to the RFQ, their corresponding price quotations, and the lowest calculated quotation submitted.
- vii. The BAC shall validate the technical, legal and financial capability of the supplier to supply and deliver the goods.
- viii. Upon confirmation and ascertainment of such capability, the BAC shall recommend to the HOPE the award of contract in favor of the supplier with the Lowest Calculated and Responsive Quotation. In case of approval, the HOPE shall immediately enter into a contract with the said supplier.

D. **NEGOTIATED PROCUREMENT⁴²**. *Negotiated Procurement* is a method of procurement of Goods, Infrastructure Projects and Consulting Services, whereby the Procuring Entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant in any of the following cases:

1. **TWO FAILED BIDDINGS⁴³**

- a) **Definition.** Where there has been failure of competitive bidding or Limited Source Bidding for the second time as provided for in Section 35 of RA 9184 and its IRR, when:
 - i. No bids are received;
 - ii. All prospective bidders are declared ineligible;
 - iii. All bids fail to comply with all the bid requirements or fail post-qualification, or, in the case of consulting services, there is no successful negotiation; or
 - iv. The bidder with the Lowest/Single Calculated Responsive Bid or Highest/Single Rated Responsive Bid refuses, without justifiable

⁴² Section 53, R.A. 9184 and its IRR.

⁴³ Section 53.1, IRR of R.A. 9184.

cause, to accept the award of contract, and no award is made in accordance with Section 40 of RA 9184 and its IRR.

b) Procedures

- i. After conduct of the mandatory review of the terms, conditions, specifications, and cost estimates, as prescribed in Section 35 of the IRR, the BAC, based on its findings, as assisted by its Secretariat, TWG and End-User unit may revise and agree on the technical, legal and financial eligibility requirements and technical specifications or terms of reference, and if necessary, adjust the ABC, subject to the required approvals. However, the ABC cannot be increased by more than twenty percent (20%) of the ABC for the last failed bidding.
- ii. The BAC shall invite at least three (3) suppliers, contractors or consultants, including those disqualified in previous biddings for the project, for negotiations to ensure effective competition. This, notwithstanding, those who responded through any of the required postings shall be allowed to participate. Even if only one (1) bidder should respond to such invitation or posting, the BAC shall proceed with the negotiation subject to the rules prescribed hereunder.
- iii. Any requirements, guidelines, documents, clarifications, or other information relative to the negotiations that are communicated by the BAC to a supplier, contractor, or consultant shall be communicated on an equal basis to all other suppliers, contractors, or consultants engaging in negotiations with the BAC relative to the procurement. The prospective bidders shall be given equal time and opportunity to negotiate and discuss the technical and financial requirements of the project to be able to submit a responsive quotation or proposal.
- iv. Following completion of the negotiations, the BAC shall request all suppliers, contractors, or consultants in the proceedings to submit, on a specified date, a best offer based on the final technical and financial requirements. Pursuant to Section IV(G) of this Guidelines, the Procuring Entity shall require the submission of a Certificate of PhilGEPS Registration in accordance with Section 8.5.2 of the IRR of RA 9184.
- v. The BAC shall recommend award of contract to the HOPE in favor of the supplier, contractor or consultant determined to have the Single or Lowest Calculated and Responsive Quotation (for goods and infrastructure projects) or Single or Highest Rated and Responsive Proposal (for consulting services). Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

2. EMERGENCY CASES⁴⁴.

a) Instances when Negotiated Procurement under Emergency Cases may be resorted to:

- i. In case of imminent danger to life or property during a state of calamity, or
- ii. When time is of the essence arising from natural or man-made calamities or
- iii. Other causes where immediate action is necessary:
 - a) to prevent damage to or loss of life or property, or
 - b) to restore vital public services, infrastructure facilities and other public utilities.

In all instances of Negotiated Procurement under this Section, the HOPE shall confirm in writing the existence and veracity of the ground or grounds relied upon before approving the ensuing contract.

Considering that the underlying reason to support a Negotiated Procurement through the Emergency modality relates to “time element” as when there is – a) imminent danger to life or property; or, b) when time is of the essence; or, c) immediate action is necessary, the Procuring Entity, through the HOPE, BAC, its Secretariat and End-User unit, should consider appropriate timing or the proximity of time between the actual procurement activity to be conducted and the emergency sought to be addressed, such that when the reason or cause for the emergency has already been abated, adoption of competitive bidding as the primary mode of procurement shall be considered.

When the ground is based on imminent danger to life during a state of calamity, there must be a declaration by a competent authority of a state of calamity pursuant to existing laws, rules and regulations before any procurement activity may be undertaken.⁴⁵

b) Procedure

- i. The End-User unit or the duly authorized official or personnel shall submit a request to the BAC or the HOPE, as the case may be, accompanied by appropriate supporting documents identifying the emergency sought to be addressed, and the necessary goods, civil works or consulting services (*e.g.*, Technical Specifications, Scope of Work or Terms of Reference) that have to be procured to address the emergency.
- ii. Upon preparation of the appropriate procurement documents, the BAC may directly negotiate with a supplier, contractor or consultant

⁴⁴ Section 53.2, IRR of R.A. 9184.

⁴⁵ Section 16, R.A. 10121.

with technical, legal and financial capability to deliver the goods, execute the works and perform the services to address the emergency. Upon confirmation and ascertainment of such capability to address the emergency, the HOPE, upon recommendation of the BAC, shall immediately award the contract to the Supplier, Contractor or Consultant.

3. TAKE-OVER OF CONTRACTS⁴⁶

a) Instances when Take-over of contracts may be resorted to:

- i. The contract, previously awarded through Competitive Bidding, has been rescinded or terminated for causes provided for in the contract and existing laws; and
- ii. Where immediate action is necessary:
 - a) to prevent damage to or loss of life or property, or
 - b) to restore vital public services, infrastructure facilities and other public utilities.

b) Procedure

- i. The BAC shall post-qualify and negotiate with the second lowest calculated/highest rated bidder for the project under consideration at the said bidder's own original bid price, applicable to the remaining works to be done. Authority to negotiate contracts for projects under the foregoing exceptional cases shall be subject to prior approval by the HOPE concerned, within their respective limits of approving authority.
- ii. If negotiation fails, then the BAC shall post-qualify and negotiate with the next lowest calculated/highest rated bidder at the said bidder's own original bid price.
- iii. If the negotiation fails another time, the process is repeated until all the bidders from the previous bidding have been considered.
- iv. If the negotiation fails and there is no bidder left from the previous bidding or if the original awardee is a Single Calculated Responsive Bidder/Single Rated Responsive Bidder, the BAC may either invite at least three (3) suppliers/contractors/consultants to submit their bids, or resort to any other appropriate alternative method of procurement.
- v. In case of successful post-qualification and negotiation, the BAC shall recommend to the HOPE the award of contract with the said supplier, contractor or consultant. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

⁴⁶ Section 53.3, IRR of R.A. 9184.

4. ADJACENT OR CONTIGUOUS⁴⁷

a) **Definition.** Where the subject contract is adjacent or contiguous to an on-going Infrastructure Project or Consulting Service where the consultants have unique experience and expertise to deliver the required service, subject to the following conditions:

- i. Original contract is the result of a Competitive Bidding;
- ii. Subject contract to be negotiated has similar or related scopes of work;
- iii. It is within the contracting capacity of the contractor/consultant considering the legal, technical (*e.g.*, PCAB license, SLCC) and financial (*e.g.*, NFCC for the contiguous project) requirements for eligibility;
- iv. In determining the SLCC, NFCC and PCAB license, the sum of the value of the remaining works for the existing contract and the ABC of the contiguous or adjacent work shall be considered;
- v. The contractor/consultant uses the same prices or lower unit prices as in the original contract less mobilization cost;
- vi. The ABC of the contiguous or adjacent work involved does not exceed the contract amount of the ongoing project;
- vii. The contractor/consultant has no negative slippage/delay in the original contract during the time of negotiation; and
- viii. Negotiations for the procurement are commenced before the expiry of the original contract.

In infrastructure projects, the phrase “adjacent or contiguous” refers to projects that are in actual physical contact with each other or in the immediate vicinity such that the required equipment and other resources can easily be mobilized; while in consulting services, it pertains to the linkage or relationship of the subject matters, outputs or deliverables required.

If there is a necessity to introduce new items which are related to the scope of work of the original contract, the Procuring Entity shall ensure that the unit prices of the new items are equal to or lower than the prevailing market prices.

b) Procedure

- i. The BAC shall negotiate with the contractor or consultant for the ongoing infrastructure project or consulting services (*e.g.*, scope of work or terms of reference, unit price and other terms and conditions of the contract).

⁴⁷ Section 53.4, IRR of R.A. 9184.

- ii. In case of successful negotiation, the BAC shall recommend to the HOPE the award of contract in favor of the contractor or consultant. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

5. AGENCY-TO-AGENCY⁴⁸

- a) **Definition.** Procurement from another agency of the government (i.e., Servicing Agency) that has the mandate to deliver goods or services or to undertake infrastructure projects or consultancy services as required by the Procuring Entity.

Agency-to-Agency Agreements shall be governed by the Guidelines, unless otherwise provided by a special law, such as in the case of Procurement of Printing Services from Recognized Government Printers⁴⁹ and Procurement of Common-use Supplies and Equipment from the DBM-PS.

All procurement to be undertaken by the Servicing Agency, including those required for the project, shall continue to be governed by the provisions of R.A. 9184.

All projects undertaken through Agency-to-Agency Agreements shall be subject to pertinent budgeting, accounting, and auditing rules and regulations.

- b) **Conditions.** It is the general policy of government to purchase its requirements from the private sector. However, it acknowledges that, in some exceptional cases, procurement from another agency of the government is more efficient and economical for the government, subject to the following conditions:
 - i. The Procuring Entity shall justify that entering into an Agency-to-Agency Agreement with the Servicing Agency is more efficient and economical to the government;
 - ii. Servicing Agency has the mandate to deliver the goods and services required to be procured or to undertake the infrastructure project or consultancy required by the Procuring Agency;
 - iii. Servicing Agency has the absorptive capacity to undertake the project;
 - iv. Servicing Agency owns or has access to the necessary tools and equipment required for the project;
 - v. Sub-contracting is not allowed. However, the servicing agency may implement the infrastructure project in-house, by job-order, or through the *pakyaw* contracting system; and

⁴⁸ Section 53.5, IRR of R.A. 9184.

⁴⁹ Refer to Appendix 20 for the Guidelines on the Procurement of Printing Services.

- vi. For procurement of infrastructure projects, the Servicing Agency must have a track record of having completed, or supervised a project, by administration or by contract, similar to and with a cost of at least fifty percent (50%) of the project at hand.

c) Procedure

- i. The End-User unit shall justify to the BAC that the resort to Agency-to-Agency is more efficient and economical to the government.
- ii. It shall likewise secure a certificate from the relevant officer of the Servicing Agency that the latter complies with all the foregoing conditions.
- iii. Based on the assessment and recommendation of the End-User unit, the BAC shall issue a Resolution recommending the use of Agency-to-Agency Agreement to the HOPE.
- iv. In case of approval, the HOPE shall enter into a Memorandum of Agreement (MOA) with the Servicing Agency.

6. *SCIENTIFIC, SCHOLARLY OR ARTISTIC WORK, EXCLUSIVE TECHNOLOGY AND MEDIA SERVICES*⁵⁰.

- a) **Definition.** Where Goods, Infrastructure Projects and Consulting Services can be contracted to a particular supplier, contractor, or consultant as determined by the HOPE, for any of the following reasons:

- i. The requirement is for:
 - a) Work of art; commissioned work or services of an artist for specific artistic skills (*e.g.*, singer, performer, poet, writer, painter, sculptor, etc.)
 - b) Scientific, academic, scholarly work or research, or legal services;
 - c) Highly-specialized life-saving medical equipment, as certified by the Department of Health;
 - d) Scientific, technical, economic, business, trade or legal journal, magazine, paper, subscription, or other exclusive statistical publications and references; or
 - e) Media documentation, advertisement, or announcement through television, radio, newspaper, internet, and other communication media.

Due to the nature of the information to be disseminated, alongside principles of transparency, efficiency and economy,

⁵⁰ Section 53.6, IRR of R.A. 9184.

award to more than one (1) supplier may be made by the Procuring Entity.

- ii. The construction or installation of an infrastructure facility where the material, equipment, or technology under a proprietary right can only be obtained from the same contractor.

To justify the need to procure through this negotiated modality, the End-User shall conduct a market study and determine the probable sources. This study should confirm that the supplier, contractor or consultant could undertake the project at more advantageous terms. In all cases, the market study must be conducted prior to the commencement of the procurement process.

b) Procedure

- i. The BAC shall undertake the negotiation with a technically, legally and financially capable supplier, contractor or consultant based on the Technical Specifications, Scope of Work or Terms of Reference prepared by the End-User.
- ii. Upon successful negotiation, the BAC shall recommend the award of contract to the HOPE in accordance with Section (IV)(L) of this Guidelines.

7. *HIGHLY TECHNICAL CONSULTANTS*⁵¹

- a) **Definition.** Procurement of consultancy contract involving an individual consultant, subject to the following conditions:

- i. The individual consultant will be hired to do work that is either:
 - a) Highly technical or proprietary; or
 - b) Primarily confidential or policy determining, where trust and confidence are the primary consideration.
- ii. The term of the individual consultant shall, at the most, be on a six (6) month basis, renewable at the option of the appointing HOPE, but in no case shall exceed the term of the latter.

b) Procedure

- i. The End-User Unit shall justify to the BAC the engagement of the individual in accordance with the conditions set forth in this Section.
- ii. The BAC shall undertake the negotiation with the individual consultant based on the Terms of Reference prepared by the End-User. Considering the nature of the consultancy work, the negotiations need not be elaborate, it is enough that the BAC has validated that the individual is legally, technically and financially

⁵¹ Section 53.7, IRR of R.A. 9184.

capable to undertake and fulfill the consultancy work based on the Terms of Reference.

- iii. The BAC shall recommend to the HOPE the award of contract to the individual consultant. Award of contract shall be made in accordance with Section (IV)(L) of this Guidelines.

8. **SMALL VALUE PROCUREMENT (SVP)**⁵²

- a) **Definition.** Procurement of (a) goods not covered by Shopping under Section 52 of the IRR of RA 9184, (b) infrastructure projects, and (c) consulting services, where the amount involved does not exceed the following threshold:

- i. For NGAs, GOCCs, GFIs, SUCs, and Autonomous Regional Government, One Million Pesos (₱ 1,000,000)
- ii. For LGUs, in accordance with the following schedule:

DOF Classification of LGUs	Maximum Amount (in Philippine Peso)		
	Province	City	Municipality
1 st Class	1,000,000	1,000,000	200,000
2 nd Class	1,000,000	1,000,000	200,000
3 rd Class	1,000,000	800,000	200,000
4 th Class	800,000	600,000	100,000
5 th Class	600,000	400,000	100,000
6 th Class	400,000	200,000	100,000

In the case of *barangays*, Fifty Thousand Pesos (₱ 50,000).

b) **Procedure**

- i. The End-User shall submit a request for SVP to the BAC, which indicates the technical specifications, scope of work, terms of reference, ABC and other terms and conditions.
- ii. The BAC shall prepare and send the RFQs/RFPs to at least three (3) suppliers, contractors or consultants of known qualifications. This, notwithstanding, those who responded through any of the required postings shall be allowed to participate. Receipt of at least one (1) quotation is sufficient to proceed with the evaluation thereof.
- iii. Except for those with ABCs equal to Fifty Thousand Pesos (₱ 50,000.00) and below, RFQs shall be posted for a period of three (3) calendar days in the PhilGEPS website, website of the Procuring Entity, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity.

⁵² Section 53.9, IRR of R.A. 9184.

- iv. Pre-bid conference may be conducted at the discretion of the BAC, in order to clarify and/or explain any of the requirements, terms, conditions, and specifications stipulated in the RFQ/RFP.
- v. After the deadline for submission of quotations/proposals, an Abstract of Quotations/Ratings shall be prepared setting forth the names of those who responded to the RFQ/RFP, their corresponding price quotations/ratings.
- vi. The BAC shall recommend to the HOPE the award of contract in favor of the supplier or contractor with the Single or Lowest Calculated and Responsive Quotation (for goods or infrastructure projects), or consultant with the Single or Highest Rated and Responsive Proposal (for consulting services). In case of approval, the HOPE shall immediately enter into contract with the said supplier, contractor or consultant.

9. LEASE OF REAL PROPERTY AND VENUE⁵³.

a) **Definition.** Procurement covering lease of real property and venue for official use, where:

- i. **Real Property** refers to land and buildings (office spaces or units) and constructions of all kinds adhered to the soil.
- ii. **Venue** refers to training centers, convention halls, hotels, and similar establishments catering to trainings, seminars, conferences, conventions, symposia and similar gatherings requiring the official participation of government officials and employees. This may include meals and accommodation depending on the requirements of the Procuring Entity.
- iii. **Lessee** refers to any government agency temporarily occupying a real property on the basis of a contract executed with the private individual, partnership, cooperative, association, or corporation having absolute ownership over such real property.
- iv. **Lessor** refers to any government agency or private individual, partnership, cooperative, association, or corporation having absolute ownership over the real property or venue to be leased.

b) Policy Considerations

- i. *Publicly-owned vis-a-vis privately-owned real property and venue*

It is preferred that government agencies lease publicly-owned real property or venue from other government agencies.

⁵³ Section 53.10, IRR of R.A. 9184.

If there is an available publicly-owned real property or venue that complies with the requirements of the Procuring Entity, it may enter into a contract of lease with the government-agency owner.

In the event that the Procuring Entity would resort to privately-owned real property or venue, the End-User unit shall justify that the same is more efficient and economical to the government.

ii. *Location*

The location of the real property or venue to be leased should have been meticulously selected by the Procuring Entity after taking into consideration, among others, the need for prudence and economy in government service and the suitability of the area in relation to the mandate of the office, and its accessibility to its clients. In the lease of venue, other factors such as the nature of the event or the level of security in the proposed location may also be taken into account.

iii. *ABC and rental rates*

The ABC shall be set using the mid point of the range obtained from the results of the market analysis on the prevailing lease rates for real property or venue within the vicinity of the selected location complying with the criteria and technical specifications of the End-User Unit. In no case shall the rental rates, including additional expenses, such as association dues in the case of lease of real property, exceed the ABC.

As a general rule, rental rates are considered reasonable when they represent or approximate the value of what the Lessee gets in terms of accommodation, facility, amenities, and convenience from the leased real property or venue, and the Lessor gets an equitable return of capital or investment.

Rental rates should also be within the prevailing market rates for lease of real property or venue with the same or similar condition or classification and located within the vicinity. Rental rate refers to the amount paid by the Lessee for the use and/or occupancy of the privately-owned real property to the Lessor, where payment is usually made on a monthly basis.

iv. *Technical Specifications*

Technical Specification shall be prepared taking into consideration the rating factors under Appendix B of this Guidelines.

c) Procedures for Lease of Privately-Owned Real Property and Venue

i. *Real Property*

- a) The BAC shall invite at least three (3) prospective Lessors to submit sealed price quotations.

On a specified date, submitted price quotations shall be opened to determine the Lowest Calculated Quotation. Receipt of at least one (1) quotation is sufficient to proceed with the evaluation thereof.

- b) The real property being offered by the Lessor with the Single or Lowest Calculated Quotation shall be rated in accordance with the technical specifications and the reasonableness of its price quotation shall be determined in accordance with the methodology prescribed in Appendix B.
- c) Upon determination of the responsiveness and reasonableness of the quotation, the BAC shall recommend to the HOPE the award of contract in favor of the Lessor with the Single or Lowest Calculated and Responsive Quotation. Award of contract shall be made in accordance with Section IV(L) of this Guidelines.

ii. Venue

- a) The BAC shall send the RFQ to at least three (3) venues within the vicinity of the selected location. Receipt of at least one (1) quotation is sufficient to proceed with the evaluation thereof.
- b) The venue being offered by the Lessor with the Lowest Calculated Quotation shall then be rated in accordance with the technical specifications prepared pursuant to Appendix B of this Guidelines. Compliance rating with technical specifications may be conducted through ocular inspection, interviews, or other forms of due diligence.
- c) Upon determination of the responsiveness of the quotation, the BAC shall recommend to the HOPE the award of contract in favor of the Lessor with the Single or Lowest Calculated and Responsive Quotation. Award of contract shall be made in accordance with Section IV(L) of this Guidelines

VI. REPEALING CLAUSE

This Consolidated Guidelines for Alternative Methods of Procurement (Consolidated Guidelines) repeals the following Guidelines: Guidelines for Shopping and Small Value Procurement⁵⁴, Guidelines for Agency-to-Agency Agreements⁵⁵, and Guidelines for Lease of Privately-Owned Real Estate and Venue⁵⁶.

Any other guidelines, administrative order, office order, rule or regulation and/or parts thereof contrary to or inconsistent with the provisions of the Consolidated Guidelines are hereby repealed, modified or amended accordingly.

⁵⁴ GPPB Resolution 09-2009, dated 23 November 2009.

⁵⁵ GPPB Resolution 018-2007, dated 31 May 2007.

⁵⁶ GPPB Resolution 08-2009, dated 3 November 2009.

VII. EFFECTIVITY CLAUSE

This Consolidated Guidelines for Alternative Methods of Procurement shall take effect sixty (60) calendar days after its publication in the Official Gazette or in a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) copies of this Annex “H”.

ANNEX “H”

**APPENDIX A
DOCUMENTARY REQUIREMENT
ALTERNATIVE METHODS OF PROCUREMENT**

- I. This Appendix prescribes for the documents that the BAC shall require from suppliers, contractors and consultants for Alternative Methods of Procurement, except for Repeat Order, Shopping under Section 52.1(a), and Negotiated Procurement under Sections 53.1 (Two-Failed Biddings), and 53.5 (Agency-to-Agency) of the IRR of RA 9184.
- II. The BAC shall indicate in the RFQ or RFP at what stage of the procurement process these requirements must be submitted, i.e., submission of offer/s, evaluation of offer/s, before issuance of Notice of Award or prior to payment.

Alternative Modality	Mayor's/ Business Permit	Professional License /Curriculum Vitae (Consulting Services)	PhilGEPS Reg. Number	PCAB License (Infra.)	NFCC (Infra.)	Income/ Business Tax Return	Omnibus Sworn Statement
I. Direct Contracting [Section 50]	✓		✓			✓ For ABCs above P500K	
II. Shopping [Sec 52.1(b)]	✓		✓				
III. Negotiated Procurement							
A. Emergency Cases (Section 53.2)]	✓			✓	✓ For ABCs above P500K	✓ For ABCs above P500K	✓
B. Take-Over of Contracts (Section 53.3.2; for new bidders)	✓	✓	✓	✓	✓		
C. Adjacent/ Contiguous (Section 53.4)				✓	✓		
D. Scientific, Scholarly or Artistic Work, Exclusive Technology and Media Services (Section 53.6)	✓	✓	✓			✓ For ABCs above P500K	

The 2016 Revised Implementing Rules and Regulations – Annex “H”

Alternative Modality	Mayor's/ Business Permit	Professional License /Curriculum Vitae (Consulting Services)	PhilGEPS Reg. Number	PCAB License (Infra.)	NFCC (Infra.)	Income/ Business Tax Return	Omnibus Sworn Statement
E. Highly Technical Consultant (Section 53.7)		✓	✓				
F. Small Value Procurement (Section 53.9)	✓	✓	✓	✓		✓	✓
G. Lease of Real Property Or Venue (Section 53.10)	✓		✓			✓ Except for gov't agencies as lessors	

***For individuals engaged under Sec. 53.6, 53.7 and 53.9 of the IRR of RA 9184, only the BIR Certificate of Registration shall be submitted in lieu of DTI Registration and Mayor's Permit.**

- III. Procuring Entities already maintaining an updated file of any of the bidder's above-mentioned requirements, whether through the PhilGEPS Certificate of Registration and Membership or its own records, may no longer require its re-submission.