



04 October 2023

**TECHNICAL ADVISORY NO. 16**

Series of 2023

**FOR : ALL ELECTRIC COOPERATIVES**

**SUBJECT : PROCUREMENT GUIDELINES FOR PRIVATE  
DISTRIBUTION UTILITIES (PDUs) AND NATIONAL GRID  
CORPORATION OF THE PHILIPPINES (NGCP)**

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This advisory reiterates the Energy Regulatory Commission (ERC) Resolution No. 08, Series of 2023 that adopts the procurement of regulated transmission and distribution assets of privately-owned Distribution Utilities (PDUs) and the National Grid Corporation of the Philippines (NGCP).

We enjoin all electric cooperatives (ECs) to adhere to the said guidelines whenever they engage in transactions and/or services with the regulated entities.

For your compliance, please.

**FOR AND IN BEHALF OF THE ADMINISTRATOR:**

**ENGR. ERNESTO O. SILVANO, JR.**  
Deputy Administrator for Technical Services



Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City

**RESOLUTION NO. 08, SERIES OF 2023**  
**A RESOLUTION ADOPTING THE PROCUREMENT GUIDELINES**  
**FOR THE REGULATED TRANSMISSION AND DISTRIBUTION**  
**ASSETS OF REGULATED ENTITIES**

**WHEREAS**, Section 43 (f) (v) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), provides that “*Any significant costs or project investments of the TransCo and distribution utilities which shall become part of the rate base shall be subject to verification by the ERC to ensure that the contracting and procurement of the equipment, assets and services have been subjected to transparent and accepted industry procurement and purchasing practices to protect the public interest.*”

**WHEREAS**, on 03 February 2022, the Commission posted on its official website the draft Procurement Guidelines for the Regulated Transmission and Distribution Assets Applicable to Regulated Entities (Procurement Guidelines). Relative thereto, all interested parties were given opportunity to submit their comments on the draft Procurement Guidelines;

**WHEREAS**, the following interested parties have filed their comments in relation thereto: (1) Cotabato Light and Power Company, Inc. (CLPC); (2) Davao Light and Power Co. Inc, (DLPC); (3) Manila Electric Company (MERALCO); (4) National Grid Corporation of the Philippines (NGCP); (5) National Transmission Corporation (TransCo); (6) Tarlac Electric, Inc. (TEI); (7) Olongapo Electricity Distribution Company, Inc. (OEDC); (8) Clark Electric Distribution Company (CEDC); (9) Philippine Electric Plant Owners Association (PEPOA); and (10) Subic Enerzone Corporation (SEZ);

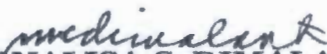
**WHEREAS**, these guidelines are intended to set the principles and minimum procurement processes of regulated entities in a manner that is efficient, fair, and transparent toward meeting the objectives of EPIRA;

**WHEREAS**, the Commission took note of all the submissions and considered all comments submitted by the parties in finalizing the proposed Guidelines;

**NOW THEREFORE**, the Commission, after thorough and due deliberation, **RESOLVED**, as it hereby **RESOLVES** to **ADOPT** the Procurement Guidelines for the Regulated Transmission and Distribution Assets of Regulated Entities, hereto attached as **Annex "A"**. This Resolution shall take effect fifteen (15) days following its publication in a newspaper of general circulation in the Philippines.

Let copies of this Resolution be furnished all parties concerned, the University of the Philippines Law Center - Office of the National Administrative Register (UPLC-ONAR), National Grid Corporation of the Philippines (NGCP), National Transmission Corporation (TransCo), Philippine Electric Plant Owners Association (PEPOA), as well as be published in the Commission's website and such other online platform available to the Commission.

Pasig City, 30 May 2023.


  
**MONALISA C. DIMALANTA**  
Chairperson and CEO



  
**ALEXIS M. LUMBATAN**  
Commissioner

  
**CATHERINE P. MACEDA**  
Commissioner

  
**FLORESINDA G. BALDO-DIGAL**  
Commissioner

  
**MARKO ROMEO L. FUENTES**  
Commissioner

  
ROS: JTE/ABS/AJMO/LLG

# **Procurement Guidelines for the Regulated Transmission and Distribution Assets and Services of Regulated Entities**

**Energy Regulatory Commission (ERC)**

Philippines

30 May 2023

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# Glossary

**“Administrative Authority”** refers to powers of an officer in relation to the need for procurement of an asset;

**“Annual Asset Procurement Plan”** refers to procurement plan to be prepared by Regulated Entities in accordance with Section 2.2 of these Guidelines;

**“Bid”** refers to a formal offer made in pursuance of an invitation by a Procuring Entity and includes any tender, proposal or quotation;

**“Bidder”** refers to any person participating in a Procurement process with a Procuring Entity;

**“Bid Documents”** refer to documents issued by a Procuring Entity, including any amendments thereto, that set out the terms and conditions of a given Procurement, furnishing all information necessary for a prospective Bidder to prepare Bid;

**“Bids and Awards Committee”** refers to a committee of members who will evaluate the bids and declare winning bidders;

**“BIR”** refers to the Bureau of Internal Revenue;

**“Budget”** refers to the allocation of financial resources for the procurement of assets;

**“BOC”** refers to the Bureau of Customs;

**“Capital Expenditure Program”** refers to the programs prepared by Distribution Utilities, and the National Grid Corporation of Philippines (NGCP) in accordance with the EPIRA and its Implementing Rules, and Regulations, and pertinent resolutions, rules and regulations, guidelines, and other issuances of the Commission;

**“Competitive Bidding”** refers to an open and transparent procurement process, in which any interested party may participate, subject to a clear process and set of mechanics, conducted by the Procuring Entity for the objectives stated therein;

**“Competent Authority”** refers to officers/ personnel of a Regulated Entity as defined in the delegation of powers under the procurement manual of the Regulated Entity;

**“Contract”** refers to a binding agreement between a Supplier/ Vendor and Procuring Entity which specifies the terms and conditions for the procurement of asset(s);

**“DENR”** refers to the Department of Environment and Natural Resources;

**“Department of Energy (DOE)”** refers to the government agency created pursuant to Republic Act No. 7638 and RA 9146 (EPIRA), mandated to prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the Government relative to energy exploration, development, utilization, distribution and conservation;

**"Distribution Development Plan (DDP)"** refers to the expansion, reinforcement and rehabilitation program of the distribution system which is prepared by the distribution utility and submitted to the DOE for integration with the Power Development Plan (PDP) and Philippine Energy Plan (PEP);

**"DTI"** refers to the Department of Trade and Industry;

**"DU(s)"** refers to Distribution Utilities;

**"Emergency Purchases"** refers to procurements done by Regulated Entities in accordance with provisions of Section 3.3 of these Guidelines;

**"E-procurement"** refers to an online (i.e. web-based) process of procurement, which enables a Procuring Entity to conduct (at the minimum) activities including online publishing of bid documents/ purchase requisitions, online receipt of pre-bid queries, online acceptance of bids/ offers and live evaluation/ publishing of results of Procurement process and may also include digitization of post-award activities for better monitoring and ease of record keeping;

**"Energy Regulatory Commission (ERC)"** refers to the independent, quasi-judicial regulatory body created pursuant to Republic Act No. 9136, which is mandated to promote competition, encourage market development, ensure customer choice, and penalize abuse of market power in the restructured electricity industry;

**"Force Majeure Event"** refers to an event beyond the reasonable control of the Regulated Entity claiming force majeure which, through the exercise of due foresight, that Regulated Entity could not have avoided and which, by exercise of due diligence, that Regulated Entity is unable to overcome. Such events include, but are not limited to the following, to the extent that such event prevents performance of a Regulated Entity of an obligation: typhoon, storm, tropical depression, flood or inundation; lightning strikes; earthquake; volcanic eruption, fire; epidemic; war; invasion; riot; national emergencies, civil disturbance; sabotage; explosion; insurrection; military or usurped power; action of any court or governmental authority, or any civil or military authority de facto or de jure; act of God or the public enemy; or any other event or cause of a similar nature beyond the reasonable control of the Regulated Entity claiming force majeure. A strike or labor dispute is not a Force Majeure Event;

**"Guidelines"** refer to these "Procurement Guidelines for the Regulated Transmission and Distribution Assets and Services of Regulated Entities";

**"ISPPIA"** refers to International Standards for the Professional Practice of Internal Auditing;

**"LGU"** refers to Local Government Unit;

**"Major Procurement(s)"** refers to all Procurements done by a Regulated Entity, for implementation of its Major Project(s);

**"Major Project(s)"** refers to a capital expenditure project:



- a) which is contained in the capital expenditure program that is approved by the ERC for a Regulated Entity; and
- b) for which the capital expenditure forecasted in any Regulatory Year for that project (as contained in that program) is equivalent to -
  - 1) thirty (30) million Pesos or twenty percent (20%) of the total capital expenditure forecasted for that Regulatory Year under that program, whichever is lower, for Distribution Utilities, escalated annually using Construction Materials Wholesale Price Index (CMWPI) published by Philippines Statistical Authority, and
  - 2) fifty (50) million Pesos or more for National Grid Corporation of the Philippines (NGCP), escalated annually using Construction Materials Wholesale Price Index (CMWPI) published by Philippines Statistical Authority;

**"Monitoring Report"** refers to the annual report to be submitted by Regulated Entities to the ERC in accordance with Section 2.3.7 of these Guidelines;

**"Open Access Transmission Service (OATS) Rules"** refers to the Rules, Terms and Conditions for the provision of the Open Access Transmission Service, as approved by the ERC which describe the services provided by the Transmission Network Provider that operates the high voltage backbone, transmission system.

**"Philippine Distribution Code (PDC)"** refers to the basic rules and procedures that govern the operation, maintenance, development, connection, and use of the electric distribution systems in the Philippines. PDC refers to the PDC 2017 edition and amendments thereof;

**"Performance Guarantee"** refers to a written guarantee from a third-party bank or surety company submitted by Supplier/ Vendor to Procuring Entity on winning the award for Contract, to ensure payment of a sum of money in case the Supplier/ Vendor fails in the performance of the Contract;

**"PEC"** refers to the Philippine Electrical Code;

**"Philippine Grid Code (PGC)"** refers to the set of rules, requirements, procedures, and standards to ensure the safe, reliable, secured and efficient operation, maintenance, and development of the high voltage backbone Transmission System and its related facilities, promulgated and approved by the ERC. PGC refers to the PGC 2016 edition and amendments thereof;

**"PNS"** refers to the Philippine National Standards;

**"Procurement"** refers to the acquisition of assets by purchase, lease, license or otherwise by a Procuring Entity from Supplier(s)/ Vendor(s) with which a Contract for Procurement is entered into;

**"Procuring Entity"** refers to the Regulated Entity procuring assets;

**“Regulated Entity(ies)”** refers to privately-owned Distribution Utilities and the National Grid Corporation of the Philippines (NGCP);

**“Rules for Setting Distribution Wheeling Rates (RDWR)”** refers to the rules issued by the Energy Regulatory Commission (ERC) to prescribe the methodology in setting the maximum distribution wheeling rates that may be charged for the provision of Regulated Distribution Services by privately owned electricity distribution utilities covering pertinent regulatory periods;

**“Rules for Setting Transmission Wheeling Rates (RTWR)”** refers to the rules issued by the Energy Regulatory Commission that sets out the methodology to be used in setting the maximum transmission wheeling rates that may be charged for the provision of regulated transmission services by the Regulated Entity covering pertinent regulatory periods;

**“Related group”** includes a person’s business interests, including its subsidiaries, affiliates, directors or officers or any of their relatives by consanguinity or affinity, legitimate or common law, within the fourth civil degree;

**“SEC”** refers to the Securities and Exchange Commission;

**“Shortlisting”** refers to a process of pre-selecting Supplier(s)/ Vendor(s), through a Competitive Bidding process, who meet eligibility and technical requirements set under the bidding documents/contract;

**“Standard Bidding Documents”** refer to the Bid documents prepared by Regulated Entities in accordance with Section 3.1 of these Guidelines;

**“Supplier/ Vendor”** refers to direct suppliers, manufacturers (domestic or foreign) or traders engaged in the supply of assets to Procuring Entity;

**“Transmission Development Plan (TDP)”** refers to the program for the expansion, reinforcement, and rehabilitation of the grid which is approved by the DOE for integration with the Power Development Plan (PDP) and the Philippine Energy Plan (PEP);

In addition, words and phrases not defined in these Guidelines but defined in the EPIRA or its IRR or PGC or PDC or OATS or RDWR or RTWR shall have the meanings assigned to them in the respective document (as the case may be).

# 1. Introduction

## 1.1. Rationale

- 1.1.1. The "Electric Power Industry Reform Act of 2001 (EPIRA) mandates the ERC to ensure that the Procurement process for assets by Regulated Entities is transparent and is as per accepted industry Procurement practices, before it can be allowed to become a part of their rate base. Section 43 (f) thereof states:

*SEC 43. Functions of the ERC. xxx*

*It shall be responsible for the following key functions in the restructured industry:*

*xxx*

*(f) In the public interest, establish and **enforce a methodology for setting transmission and distribution wheeling rates** and retail rates for the captive market of a distribution utility, **taking into account all relevant considerations, including the efficiency or inefficiency of the regulated entities.***

*(v) Any significant operating costs or **project investments** of the TRANSCO and distribution utilities **which shall become part of the rate base** shall be subject to verification by the **ERC to ensure that the contracting and procurement** of the equipment, assets and services have been subjected to **transparent and accepted industry procurement and purchasing practices** to protect the public interest.'*

- 1.1.2. After approval of ERC, acquisition cost of assets procured by Regulated Entities gets added to their Regulatory Asset Base (RAB). RAB impacts the wheeling charges of Regulated Entities which are ultimately paid by consumers. It is therefore essential for the ERC to ensure that procurement of assets/ equipment by Regulated Entities is done efficiently.
- 1.1.3. This 'Procurement Guidelines for Regulated Transmission and Distribution Assets' (hereinafter referred to as 'Guidelines') is being promulgated in view of the mandate prescribed by the EPIRA.

## 1.2. Objectives

- 1.2.1. The objectives of these Guidelines are:
- a) To promote competitive Procurement of assets by Regulated Entities to optimize the cost of assets being procured;
  - b) To facilitate transparency and fairness in the Procurement processes of Regulated Entities; and

- c) To set the principles and minimum Procurement processes of regulated entities that is efficient, fair, and transparent toward meeting the objectives of EPIRA.

### **1.3. Applicability**

- 1.3.1. These Guidelines shall apply to privately owned regulated transmission and distribution utilities for procurement of assets and services forming part of regulatory asset base or OPEX of the DUs or the NGCP, in accordance with the RDWR or the RTWR, respectively, and other pertinent laws, rules and regulations of the Commission. These Guidelines shall not be applicable for procurement of power supply by the DUs.

## 2. Responsibilities of Regulated Entities

### 2.1. Procurement Manual

In accordance with these Guidelines, each Regulated Entity shall prepare/amend its procurement manual, specifying the following minimum provisions:

- i. Procurement team (responsible for conducting Procurement) ✓
  - a. Composition of procurement team; ✓ BAC 2-TRIS
  - b. Responsibilities and functions of procurement team; ✓
  - c. Administrative Authority for approving strategic/ other Procurement requests; ✓
  - d. Financial authority (in Philippine Pesos) at different levels for Procurement of assets at various levels of officers, including delegation of power. ✓
- ii. Modes of Procurement (PUBLIC WORKS CONTRACT AGREEMENT)
  - a. Procurement modes along with conditions for their applicability/ use;
  - b. Process for Shortlisting by pre-qualification of Bidders.
- iii. Competitive tendering and Bid evaluation process
  - a. Prescribed timelines for each stage of tendering process;
  - b. Constitution of Bids and Awards Committee;
- iv. Procurement monitoring

### 2.2. Annual Asset Procurement Plan (APP?)

- 2.2.1. Procurement of assets shall be anticipated well in advance to initiate Procurement in a timely manner toward ensuring that required assets are available when needed.
- 2.2.2. Accordingly, Regulated Entities shall prepare an Annual Asset Procurement Plan for the year and submit the same to ERC by the 30<sup>th</sup> June of each year. For instance, Regulated Entities shall submit their respective Annual Asset Procurement Plan covering the period from 01 January 2024 to 31 December 2024, by 30<sup>th</sup> June 2023. APP 2023  
JAN - DEC 2024
- 2.2.3. Such Annual Asset Procurement Plan of a Regulated Entity shall be consistent with its Capital Expenditure Program and Transmission Development Plan or Distribution Development Plan of the corresponding year.
- 2.2.4. The Annual Asset Procurement Plan shall cover:

- a. Quantity of various assets/types of assets to be procured;
- b. Proposed method of Procurement for each asset/type of asset;
- c. Budgetary cost of each proposed Procurement;
- d. Funding source(s);
- e. Timelines for Procurement, including lead time for placing orders and expected delivery time;
- f. Details of inventory sharing or joint procurement with other privately owned DUs; and
- g. Specific projects consistent with the DDP, TDP or CAPEX program.

} added  
to main list  
APP

## 2.3. Procurement Monitoring

- 2.3.1. Regulated Entities shall develop a 'unique procurement numbering' system to be used for end-to-end tracking of all Procurement(s) across all processes.
- 2.3.2. Regulated Entities shall develop a Procurement Management Information System (MIS) for tracking of Procurement processes, within twelve (12) months of issuance of these Guidelines. The MIS should be able to generate a list of ongoing as well as completed Procurements. The MIS shall track, at the minimum, following types of information:
  - a. Mode of Procurement; ✓
  - b. Description of Procurement - Codes, unit size, short description and quantity of units, unit price, total cost per item and expected delivery/ completion date;
  - c. Asset type and high level specifications; ✓
  - d. Timelines - Date of request or origin of the procurement, dates of bidding process, Contract date, date of delivery etc. ;
  - e. Number of Bids/ Quotes received;
  - f. Name of successful Bidder or selected Supplier/ Vendor; ??
  - g. Range of financial Bids/ Quotes received;
  - h. Type as well as value of bid security and Performance Guarantee along with their validity dates, estimated value of Contract and actual value of Contract, unit wise and total;
  - i. Status of Procurement – project preparation/ Bid process/ under award/ under implementation/ contract closed/ process terminated or voided;
  - j. Price variation and price fall clause;
  - k. Stores receipt voucher date and number;
  - l. Delays and penalties imposed;
  - m. Invocation of Performance Guarantee;
  - n. Appeals filed and disposed;
  - o. Specific projects consistent with the DDP, TDP or CAPEX program;
  - p. Remarks and disputes, if any.
- 2.3.3. All Suppliers/ Vendors/ Bidders and head of Procuring Entity/ officer/ corporate secretary, upon delivery of assets, shall prepare a bill of materials with the corresponding technical specifications, price, quantity, date of delivery, among other relevant facts. This document shall include an attestation by the Supplier/ Vendor and the Procuring Entity that the materials therein were delivered, actually used for its purpose, and corresponds to the prevailing market price.

- 2.3.4. This bill of materials as per clause 2.3.3, relating to all Procurements during a year, shall be submitted by Regulated Entities to ERC by the 30<sup>th</sup> of June of the following year. Data format for submission of bill of materials is provided under Annex 3 of these Guidelines. The bill of materials shall be duly notarized (to ascertain that the information submitted is truthful and accurate), before submission to the ERC.
- 2.3.5. All Procurements from Related Group entities shall be brought forward separately by the Regulated Entity in the Procurement MIS.
- 2.3.6. Review of Procurement processes and Contracts shall be conducted annually by the Regulated Entity's internal auditors, in accordance with International Standards for the Professional Practice of Internal Auditing (ISPPIA).
- 2.3.7. Procurement team/department of the Regulated Entity shall conduct spend analysis of their Procurements executed during the past year, to identify opportunities for cost reduction or process improvements in future Procurements. The findings of the analysis and action items shall be included in the subsequent Annual Asset Procurement Plan.
- 2.3.8. Regulated Entities shall submit to the ERC, every 30<sup>th</sup> of June of each year, a Monitoring Report of all Procurements conducted during the previous year. The Monitoring Report shall include, at the minimum, the data in the prescribed format provided as Annex 2 of these Guidelines. The Monitoring Report shall be duly notarized (to ascertain that the information submitted is truthful and accurate), before submission to the ERC. The Monitoring Report shall cover all: (i) Contracts placed, (ii) progress against ongoing Contracts, and (iii) assets capitalized during the previous year.

## **2.4. Vendor Development**

- 2.4.1. Regulated Entities shall prepare a Vendor Rating Policy, defining parameters for monitoring performance of their Supplier(s)/Vendor(s).
- 2.4.2. The Vendor Rating Policy shall enable assessment of Supplier(s)/Vendor(s) performance on parameters like quality, service orientation, adherence to timely delivery, lowest cost, post Procurement support, responsiveness to communication, flexibility to contingencies etc. The Regulated Entities shall implement such Policy within twelve (12) months from the issuance of these Guidelines.
- 2.4.3. Regulated Entity shall monitor the performance of its Supplier(s)/Vendor(s) for the Procurement placed with them above a specified threshold (to be determined under Vendor Rating Policy) of work order/ Contract value.

## **2.5. E-procurement**

- 2.5.1. Regulated Entities shall adopt and follow an E-procurement process either through competitive or alternative mode of procurement. Regulated Entities, serving a peak demand of fifty (50) MW or above, shall mandatorily establish and

operationalize the E-procurement facilities within twelve (12) months from the issuance of these Guidelines.

Regulated Entities serving a peak demand of less than fifty (50) MW at the time of issuance of these guidelines are encouraged to establish and operationalize their respective E-Procurement facilities. Notwithstanding the same, such DUs shall mandatorily implement E-Procurement facilities within twelve (12) months from the date of recording a peak demand of fifty (50) MW or above.

- 2.5.2. Regulated Entities may establish joint E-Procurement facilities to achieve economies of scale.
- 2.5.3. Regulated Entities shall assess and identify the most cost effective E-procurement solution suitable for their needs in accordance with the provisions of these Guidelines. In addition to the requirements outlined in the Glossary Section of these Guidelines, the E-procurement system to be implemented, including its software application, shall provide the means by which the Regulated Entities shall:
  - a. Publish and disclose timely and accurate information to all stakeholders, including details on their procurement requirements, the Terms of Reference, and other details necessary to competitive and transparent procurement process;
  - b. Provide transparent, faster, easy to access, and secure system solutions with proper confidentiality features that will widen the reach of its procurement information with the view to encouraging and building competition among various suppliers;
  - c. Reduce processing and communication times for both buyers and Bidders;
  - d. Enhance efficiency of procurement process;
  - e. Enable ease, quality and timeliness in availability of procurement related MIS;
  - f. Integrate Procurement data into other systems such as budgeting, inventory, asset register etc.
- 2.5.4. Regulated Entities shall endeavour to undertake all procurements through E-procurement. However, for procurements below two (2) million Pesos, an alternate mechanism may be adopted on a case-by-case basis.



## 3. Modes of Procurement

### 3.1. Competitive Bidding Process (Public Bidding)

- 3.1.1. Procurement of assets, at all times, shall be through Competitive Bidding, except when otherwise provided under Section 3.2 of these Guidelines.
- 3.1.2. Regulated Entities shall develop Standard Bidding Documents for Procurement of assets through competitive tendering process. The Standard Bidding Documents shall mandatorily include provisions listed under Annex 1 of these Guidelines. No deviations shall be allowed from Standard Bidding Documents, unless it leads to better or more competitive bid results, with due approvals from the Regulated Entity's Competent Authority.
- 3.1.3. All Bid Documents prepared and used for the Procurement of assets by Regulated Entities shall adhere to these Guidelines and procurement manual, and the Standard Bidding Documents of respective Regulated Entities. No deviations shall be allowed from Standard Bidding Documents, except for the purpose of ensuring better and more competitive results from the procurement process.
- 3.1.4. The Bid Documents shall avoid non-essential conditions that may increase the price of assets to be procured.
- 3.1.5. Complete Bid Documents for all Procurements shall be made available to all applicants without prejudice, except to entities that have been blacklisted or disbarred/sanctioned by other national agencies, foreign governments, international organizations, local and international financial institutions, and other procuring entities. No contract shall be awarded to blacklisted companies, whether domestic or international, under any of the procurement modalities provided under these Guidelines. Notice/invitation of Procurement shall also be made available or posted on the Regulated Entities' official website or online procurement portal(s) and social media accounts of the Regulated Entities. Additionally, for Major Procurements, the Bids and Awards Committee shall cause the mandatory publication of the notice/invitation of Procurement (not complete Bid Documents) in at least one (1) local newspaper of general circulation. All procurements shall be subject to audit by the ERC, as may be deemed necessary.
- 3.1.6. The value of fees set by the Procuring Entity, for the purchase of Bid Documents by potential Bidder(s), shall not exceed 0.1% of the approved Budget for a given Procurement and shall be payable at the time of Bid submission. Bid Documents shall be made available to all prospective Bidders.
- 3.1.7. The Bid Documents shall clearly specify the following:
  - a. Technical specifications (as per applicable national or equivalent international technical standards) of the assets to be procured;
  - b. Minimum quantity to be procured;
  - c. Budget or Estimated Cost;

- d. Bid security requirement;
- e. Eligibility and ineligibility conditions;
- f. Bid evaluation and selection criteria for selection of successful Bidder(s);
- g. Quality checks/ user acceptance testing processes;
- h. Delivery schedule;
- i. Payment milestones;
- j. Penalties applicable;
- k. Bid forms - formats for Bid submission, draft contract to be signed, formats for declarations;
- l. Documents to be submitted, such as, but not limited to, certification of completion of previous Bids/ projects, certification of status of on-going projects/ Procurement with other entities, business permits (LGU), national government agency permits (SEC, DTI, BIR, DENR), importation permits (BOC), as applicable;
- m. Terms & conditions for fulfilment of Contract.

**3.1.8. Pre-bid queries and the pre-bid conference:**

- a. Bid Documents issued by the Regulated Entities shall allow potential Bidders to seek clarifications on the Bid Documents by submitting written pre-bid queries.
- b. The Regulated Entities shall conduct pre-bid conference, prior to the Bid submission date, to address the queries from potential Bidders or for Major Procurements.
- c. The pre-bid conference shall discuss, clarify, and explain, among other things, the eligibility requirements and the technical and financial components of the contract to be bid out, including questions and clarifications raised by the prospective Bidders, before and during the pre-bid conference.
- d. To consider the impact of the discussions during the pre-bid conference or the clarifications subsequently issued, the Bidders shall be given a period of not less than seven (7) calendar days for their bid submission from the date of the pre-bid conference, or the issuance of clarifications, whichever is later.

**3.1.9.** Regulated Entities shall invite Bids using two-part system – the first part containing technical Bid, and second part containing financial Bid. However, for certain cases, particularly procurement of items under Section 3.1.14, only financial Bids may be invited.

**3.1.10.** Financial Bids shall be opened only for technically qualified Bidders after completion of evaluation of technical Bids. Proper records of proceedings of Bid opening shall be maintained, duly authenticated by the Bids and Awards Committee.

**3.1.11.** The records of proceedings of Bid openings shall include, as a minimum:

- a. Names of Bidders
- b. Bid price quoted by Bidders

- c. Findings of preliminary examination of Bids
- d. Manifestations during the Bid opening
- e. Details of any withdrawal or modification
- f. Attendance sheet with contact number and email-ids

3.1.12. During any Procurement process, if the Bids and Awards Committee ends-up with only one responsive Bid after evaluation of Bids, in such situation, the Bids and Awards Committee shall check as to whether while issuing the Bid Documents, all necessary requirements to encourage competition like standard Bid conditions, industry accepted specifications, wide publicity, sufficient time for formulation of Bids, etc. were fulfilled or not. If not, the Bid invitation shall be re-issued after rectifying deficiencies. The Bid process shall be considered valid even if there is one responsive Bid, provided that:

- a. the Bid is technically qualified
- b. adequate opportunity was provided to other potential Bidders
- c. the price quoted by the Bidder is assessed to be reasonable
- d. the Bid is unconditional and complete in all respects
- e. there are no obvious indicators of collusion amongst Bidders

3.1.13. All Procurements shall be done based on the most competitive financial Bid submitted by technically qualified Bidders. However, Procurements related to professional services (capitalized as an asset) a Procuring Entity may exercise the option to adopt a quality, and cost-based selection process wherein the highest rated bidder is identified through a composite score of technical and financial bids.

3.1.14. For Procurement of assets which are required routinely, or those repetitively procured items such as, but not limited to, Insulators, Poles, Transformers, Cables, Switchgear, with usual technical specifications, as may be identified and listed under procurement manual, a Regulated Entity may opt for Shortlisting of Vendors subject to the following:

- a. Shortlisting is done through a Competitive Bidding process following the conditions outlined in clause 3.1.1 to 3.1.14.
- b. The period of each Shortlisting shall not exceed two (2) years.
- c. Each request for quotation or proposal under a given Shortlisting shall be made available to all shortlisted Vendors without prejudice.
- d. Financial quotations from at least three (3) shortlisted Vendors shall be received for placing each Contract.
- e. Order shall be placed on Vendor(s) that submitted the lowest and most competitive financial bid.

3.1.15. The Procuring Entity shall encourage participation of independent third party observers in pre-bid meetings, Bid opening and meetings of Bids and Awards Committee.

### 3.2. Alternative modes of procurement

3.2.1. The Regulated Entities may adopt following alternative modes of Procurement, subject to the following conditions, in the event Competitive Bidding-based Procurement is not feasible:

Sl.	Mode of Procurement	Boundaries/ conditions of Procurement
1.	<b>Negotiated/ Single source procurement</b>	<ul style="list-style-type: none"> <li>• When requirement to be satisfied by the assets under consideration can be met only by procuring from a specific Supplier/ Vendor.</li> <li>• Two (2) failed consecutive Competitive Bidding attempts.</li> <li>• Takeover of rescinded or terminated competitively awarded Contracts, at value equal to or lower than the original contract amount, pro-rated for the remaining scope of the contract.</li> </ul>
2.	<b>Repeat order:</b> Procurement of assets from a previously selected Bidder, awarded through Competitive Bidding.	<ul style="list-style-type: none"> <li>• Unit price must be equal to or lower than the original contract price.</li> <li>• Quantity of Procurement does not exceed the original Contract.</li> <li>• Shall be availed only within one (1) year from the end of the original Contract.</li> <li>• There has been a partial delivery, inspection and acceptance of the assets, under the original Contract, within the same period.</li> </ul>
3.	<b>Emergency purchase:</b> Procurement transacted for emergency requirement due to critical/ urgent maintenance/ repair activities.	<ul style="list-style-type: none"> <li>• In case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities.</li> <li>• The instances or situations where the foregoing conditions may be applied include the provision of immediate response and initial recovery steps to avoid loss of life, injury, disease and other negative effects on human, physical, mental and social well-being, together with</li> </ul>

Sl.	Mode of Procurement	Boundaries/ conditions of Procurement
		<p>damage to property, destruction of assets, loss of services, social and economic disruption and environmental degradation.</p> <ul style="list-style-type: none"> <li>• All emergency purchase shall be subject to mandatory internal audits, in accordance with International Standards for the Professional Practice of Internal Auditing (ISPPIA).</li> </ul>

3.2.2. Total value of Procurements made through alternative modes shall not exceed five percent (5%) of the total value (in Pesos) of all Procurements done in the previous year.

3.2.3. Emergency Purchases under Force Majeure events and purchases that are costly, inefficient and unnecessary (“gold-plated”) shall be excluded from the value of procurements done using alternate modes for assessing compliance to Section 3.2.2 of these Guidelines.

**3.3. Sourcing impositions**

3.3.1. Sourcing impositions applicable on Regulated Entities, as issued by DOE, ERC or any other Government Agency/ Authority, using their powers under appropriate laws, rules and/ or regulations, shall apply on grounds such as:

- a. Location of Supplier/ Vendor;
- b. Types of assets being procured;
- c. Socio-economic policy of the state;
- d. Blacklisting of suppliers by other national agencies, governments, international organizations, financial organizations, among others;
- e. Any other consideration in public interest.

**3.4. Equipment sharing and joint procurement by DUs**

3.4.1. EPIRA Act 2001 requires DUs to achieve economies of scale in their utility operations through joint actions between or among the distribution utilities, subject to the guidelines issued by the ERC.

*Sec. 23. Functions of Distribution Utilities.*

*.... To achieve economies of scale in utility operations, distribution utilities may, after due notice and public hearing, pursue structural and operational reforms such as but not limited to, joint actions between or among the distribution utilities, subject to the guidelines issued by the ERC. Such joint actions shall result in improved efficiencies, reliability of service, reduction of*

*costs and compliance to the performance standards prescribed in the IRR of this Act.*

- 3.4.2. In accordance with the PDC, privately owned DUs shall endeavour to cooperate and share their equipment and inventory, in order to minimize Procurement costs.
- 3.4.3. In accordance with the PDC, privately owned DUs shall endeavour to implement joint purchase programs, in order to achieve economies of scale in Procurement of equipment and supplies.
- 3.4.4. All provisions defined under these Guidelines shall apply to each Regulated Entity. Nevertheless, to achieve economies of scale, DUs which are subsidiaries of/or under control of same parent may:
  - a. Adopt a common procurement manual and/or Standard Bidding Document;
  - b. Establish inter-DU teams for functions such as Procurement planning, inspection and testing, bidding and inventory management;
  - c. Establish/ adopt standard systems or software for E-Procurement and related programs or applications.

## 4. Risk and quality assurance

### 4.1. Adherence to quality and technical specifications

4.1.1. Assets procured shall meet the minimum technical specifications and/or standards set in accordance with, including but not limited to PGC, PDC, PEC, PNS, or their international equivalent.

4.1.2. Procurement of assets shall take into consideration adequate warranty and after-sales support by the Supplier(s)/Vendor(s).

4.1.3. References to brand names, catalogue numbers, or similar classifications shall be avoided to the extent possible in the technical specifications for the Procurement of assets. If it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" shall be added after such reference.

#### 4.1.4. Technical specifications

a. Regulated Entities shall create a specialized committee to finalize and approve technical specifications for various types of assets, including but not limited to asset categories listed under RTWR or RDWR as applicable.

b. All Procurements shall be done using approved technical specifications only, with no variations.

c. Technical specifications shall be approved to cater to existing and future needs of Regulated Entity.

d. Technical specifications for any equipment shall not be changed more than once a year.

e. Approved technical specifications for all asset types shall be made available on the official website, the Terms of Reference, among other bidding documents of the Regulated Entity.

f. Regulated Entities are encouraged to gather best practices from each other and other leading global utilities in adopting technical specifications.

g. Regulated Entities should not limit the source of bid to favor a particular brand or supplier.

### 4.2. Inspection and testing

4.2.1. The Bid Documents or purchase requisition for Procurement prepared by Regulated Entity shall specify inspection and testing procedure for assets ordered and criteria of conformity.

4.2.2. As part of the Post qualification of bidders, the Procuring Entity shall inspect and test for the required capacities and operating conditions, of Supplier/ Vendor/ Bidder for the assets to be procured. If the Procuring Entity verifies any of these deficiencies to be due to the Supplier's/ Vendor's/ Bidder's fault or negligence, the Procuring Entity shall disqualify the award for Procurement.

4.2.3. The inspections and testing shall include criteria such as quality of assets supplied, warranties, the number of assets provided, timelines to be followed for the supply of asset and adherence to applicable technical standards specified under Bid Documents or purchase order/ contract. Non-conformity to any of the criteria shall be valid grounds for disqualification or termination of contract with the Supplier/ Vendor/ Bidder.

### **4.3. Prevention of corrupt practices**

4.3.1. The Regulated Entities as well as the Suppliers/ Vendors shall observe the highest standard of ethics during the Procurement and execution of Contract.

4.3.2. Regulated Entities shall prepare and enforce a Code of Integrity, applicable both for the Procuring Entities and the Suppliers/ Vendors.

4.3.3. No official of the Procuring Entity, connected directly or indirectly with the contract, shall demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, Bid evaluation, contracting or implementation process related to the Contract.

4.3.4. The Procuring Entity will, during the pre-contract stage, treat all Bidders/ Suppliers/ Vendors alike, and will provide the same information to all and will not provide any such information to any particular Bidder/ Supplier/ Vendor which could afford an undue advantage to that particular Bidder.

### **4.4. Conflict of interest**

4.4.1. Any member/ officer/ employee of the Regulated Entity having relations within the fourth civil degree of consanguinity or affinity with the Seller/ Vendor/ Bidder, or those having pecuniary interest over, or those with direct or indirect benefit from the Supplier/ Vendor/ Bidder shall not be allowed to participate as a part of procurement team or Bids and Awards Committee. Such persons previously appointed as a part of the procurement team or Bids and Awards Committee shall not take part in any process of such Procurement.

4.4.2. For a prospective Bidder/ Supplier/ Vendor, participation in the procurement process should not pose any conflict with their prior or current obligations to other entities, that may render them unable to work in best interest of the Procuring Entity. All prospective Bidder(s)/ Supplier(s)/ Vendor(s) shall submit undertaking/ statement or sworn affidavit, as appropriate, to the Procuring Entity, to ensure that they do not suffer from any conflict of interest. Failure to submit such or



submission of incorrect/ incomplete information or existence of a conflict of interest in the affidavit can be a ground for disqualification of the Bidder or cancellation of Bids.

- 4.4.3. Further, if any Bidder/ Supplier/ Vendor has a conflict of interest with other Bidder(s)/ Supplier(s)/ Vendor(s) participating in the same Procurement process, the offers of all such Bidder(s)/ Supplier(s)/ Vendor(s) shall be rejected by Procuring Entity.
- 4.4.4. The Bid Document/ purchase requisition shall have relevant clauses on conflict of interest to address the requirements as per Sections 4.4.2 and 4.4.3 of these Guidelines.
- 4.4.5. Bidder(s), directly or through Related Group entities participating through multiple Bids in any Procurement process, shall be disqualified and their bid security (if any) forfeited. All participating Bidders shall submit necessary undertakings in this regard.

#### **4.5. Procurement from Related Group**

- 4.5.1. To prevent anti-competitive behaviours through market-dominant positions, Regulated Entities shall ensure that all procurement from its Related Group entities are fair, on arm's-length terms and are entered into through Competitive Bidding process or allowed alternative modes in line with these Guidelines.
- 4.5.2. Regulated Entities shall be required to submit a notification with pertinent procurement information to the ERC before awarding any contract(s) to a Related Group entity once the cumulative value of contract(s) awarded to such Related Group entity surpasses thirty (30) million pesos in a calendar year. The Regulated Entity may proceed with award of such contract if no response is received from ERC within fifteen (15) days from receipt of such notification. Notwithstanding the same, the ERC reserves its right to review appropriateness of contract(s) placed by Regulated Entities on their Related Group entities, and disallow its pass-through in RTWR/ RDWR as appropriate.

The threshold of thirty (30) million pesos shall be suitably escalated annually by using Construction Materials Wholesale Price Index (CMWPI) published by Philippines Statistical Authority.

The ERC shall convey the mode/ manner/ nodal point for submitting the intimation to the Regulated Entities subsequently.

- 4.5.3. All Suppliers/ Vendors/ Bidders shall submit a declaration stating their direct and In-direct relationship with the Procuring Entity and its Related Group.

## 5. Financial management

### 5.1. Splitting of Contract

- 5.1.1. Splitting of Contracts is not allowed. Splitting of Contracts means the division or breaking up of 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 applicable law and these Guidelines, particularly the necessity of Competitive Bidding and the requirements for the alternative methods of Procurement.
- 5.1.2. Regulated Entities shall neither divide a subject matter of Procurement nor use a particular valuation method for estimating the value of Procurement so as to avoid its obligations relating to sanction by a higher authority or to limit competition among Bidders or otherwise avoid its obligations under these Guidelines.

### 5.2. Performance Guarantee and liquidated damages

- 5.2.1. Procurement process followed by Regulated Entities shall ensure that adequate Performance Guarantee, of at least twenty percent (20%) of Procurement value, is secured from the Supplier/ Vendor, in an acceptable form of either bank guarantee or a demand draft.
- 5.2.2. Also, the Procurement process shall provide for securing adequate liquidated damages for delays/ failures from Suppliers/ Vendors, in an acceptable form.

### 5.3. Cost estimation and budget

- 5.3.1. Before initiating any Procurement process, the Regulated Entity shall estimate reasonable expenditure for the envisaged asset Procurement based on prevalent market rates for similar Procurement(s) and/ or expenditures incurred in the past by Regulated Entity or any other organization.
- 5.3.2. Regulated Entities shall ensure that sufficient Budget is available for the estimated cost of Procurement, before inviting bids or offers from Vendor(s)/ Supplier(s). The Regulated Entity shall ensure that all procurements have the necessary authorities or approvals of its Competent Authority prior to the conduct thereof.

### 5.4. Payment to Suppliers/ Vendors

- 5.4.1. The Regulated Entity shall ensure sufficient availability of funds for payments to its Suppliers/ Vendors in accordance with Bid Documents/ Contracts.
- 5.4.2. The Regulated Entities shall likewise exert reasonable efforts to make payments to its Suppliers/ Vendors within thirty (30) days from becoming due under the conditions stated in the Bid Documents/ Contract between the Procuring Entity and Supplier/ Vendor.

## **5.5. Termination**

- 5.5.1. The Standard Bidding Documents shall clearly define relevant events, terms and conditions for default by Supplier/ Vendor and consequential termination and effects. Adequate timeline (30 to 45 days) for notification and rectification and cure of default shall also be provided for in the Bid Documents.
- 5.5.2. The Bid Documents shall also provide conditions related to suspension, blacklisting and other sanctions of Suppliers/ Vendors in future Contracts by the Regulated Entity.

## 6. Grievances redressal

- 6.1.1. Each Regulated Entity shall designate an officer for grievance redressal, who shall receive and resolve grievances from any Supplier/ Vendor on matters related to the Procurement of assets. The designated officer for grievance redressal shall be a full-time employee of the Regulated Entity.
- 6.1.2. The designated officer for grievance redressal shall examine the facts and evidence presented if any and then decide on the merits of the complaint. The decision shall be in writing and communicated to the concerned Supplier/ Vendor within a reasonable time from the date of receipt of the complaint or any other such period, if any, as may be specified in the Bid Documents.
- 6.1.3. The designated officer for grievance redressal shall be independent and impartial and shall not be a member of the Bids and Awards Committee, Procurement team or any indenting team which conflicts with his/ her role. Also, the designated officer for grievance redressal shall report directly to the Regulated Entity's Board of Directors.
- 6.1.4. Designated officer for grievance redressal could be assigned some other duties as well while ensuring that there is no conflict of interest with their duties in regard to grievance redressal.

## 7. Final provisions

- 7.1.1. **Exception Clause:** Where good cause appears, the ERC may allow an exception from any provision(s) of these Guidelines, if the same is found to be in public interest and is not contrary to law or any other related rules and regulations.
- 7.1.2. **Separability Clause:** If any provision or part of a provision of these Guidelines is declared invalid or unconstitutional by a court of competent jurisdiction, those provisions which are not affected shall continue to be in full force and effect.
- 7.1.3. **Repealing:** All prior rules and guidelines, or portions thereof, issued by the ERC that are inconsistent with these Guidelines are hereby repealed or modified accordingly.
- 7.1.4. **Penalty:** Any Regulated Entity's failure to adhere to these Guidelines shall serve as a ground for imposition of appropriate penalties by the ERC pursuant to ERC Resolution No. 3, series of 2009, and its amendments thereof.
- 7.1.5. **Amendments:** The ERC may issue additional guidelines or introduce modification thereto through the amendment of its specific provisions as the need arises.
- 7.1.6. **Compliance review:** Using its quasi-judicial powers granted by the EPIRA, the ERC may conduct from time to time a review of any Regulated Entity, to assess their compliance against the provisions of these Guidelines.
- 7.1.7. **Effectivity:** These Guidelines shall take effect upon fifteen (15) days after publication in a newspaper in national circulation.

# Annexes

## 1. Minimum guiding provisions to be adopted in Standard Bidding Documents

### A. General Terms and Conditions

1. **Specifications of the Products:** The Supplier/ Vendor agrees to deliver to the Procuring Entity the products specified in the purchase order/ contract or technical and financial proposals or other pertinent Bid Documents, as may be specified by the Procuring Entity, in accordance with the specifications and the delivery schedule and terms indicated therein.
2. **Price:** The Procuring Entity shall pay to the Supplier/ Vendor, the price specified in the purchase order/ contract, subject to the Supplier's/ Vendor's compliance with the terms of the purchase order/ contract and provisions of 'Procurement Guidelines for the Regulated Transmission and Distribution Assets and Services of Regulated Entities' issued by the ERC (along with amendments, thereof).
3. **Delivery:** Time is of the essence. Non-delivery of the awarded items shall be a ground for the cancellation of order and imposition of penalty as defined under Bid Documents.

### B. Bid Preparation

1. Bids submitted by Bidders shall meet the following listed conditions:
  - a. All Bid Documents, forms and submissions required as per the Bid Documents are provided along with the Bid;
  - b. The technical proposal of the Bid does not include any details of financial proposal of the Bid;
  - c. Bid submitted shall, at all times, be in original form;
  - d. Bid is accompanied with acceptable bid security, in accordance to the Bid Documents; and
  - e. Bid submitted is not conditional.

*<additional conditions may be defined by the Procuring Entity in accordance to the nature of Procurement>*

Any Bid not meeting the conditions listed above shall be declared non-responsive and shall be disqualified. The financial proposal of such Bidders shall not be opened and returned.

2. The financial proposal shall clearly provide all details including, the quoted price as a separate amount, taxes/ duties/ fees/ levies and other charges applicable.
3. Bidders shall submit their Bids signed/ endorsed duly by their authorized representative using appropriate forms specified under Bid Documents, on or before the Bid submission deadline.
4. To establish the conformity of the Assets to the Bid Document, the Bidder shall furnish as part of its Bid, the documentary evidence (specifications, designs and drawings and conformance to standards) and where asked for, supply samples, demonstrate trials or carry out tests as specified under Bid Document.

### **C. Bid Evaluation**

1. Bids received prior to Bid submission deadline shall only be considered for Bid evaluation. Bids received after the deadline for Bid submission shall not be accepted by Procuring Entity.
2. A Bidder may modify its Bid after it has been submitted, provided the modification is received by Procuring Entity prior to the deadline for Bid submission. No Bid may be modified post deadline of Bid submission.
3. To promote transparency and fairness in the process, the regulated entities shall consider the appointment or designation of third-party observers in the bidding process. The appointment of such third-party observers shall not result to any increase in procurement cost.
4. The technical proposals shall be opened at [Insert time] on [Insert Date] by the Procuring Entity at [Insert address] in presence of the Bidders or their representatives who wish to be present.
5. The financial proposals shall be opened at [Insert time] on [Insert Date] by the Procuring Entity at [Insert address] in presence of the Bidders or their representatives who wish to be present.
6. Bidders are prohibited from making or accepting any kind of communication with members of Bids and Awards Committee of the Procuring Entity, regarding evaluation of their Bids, unless otherwise allowed in accordance with the Bid documents.

### **D. Conditions Precedent/ Contract Award**

1. Failure to meet any of the conditions precedent listed under the Bid Document, within the specified period, or finding against the veracity thereof, shall disqualify the Bidder for award.
2. The Procuring Entity shall enter into contract with selected Bidder within [.] working days' period, once all documentary requirements are complied with.

## **E. Termination**

1. The Procuring Entity or Supplier/ Vendor may initiate termination proceedings in accordance with the terms and conditions defined under the purchase order/ contract/ Bid documents.
2. A written notice of termination must be served to the other party, at least thirty (30) days before the intended termination. The notice shall specify the nature of default/ failure, remedy required (if any) and time period allowed for remedy of default/ failure in accordance with the terms and conditions of purchase order/ contract/ Bid documents.

## **F. Corrupt, Fraudulent, Collusive, Coercive, and Obstructive Practices**

1. The Bidders/ Suppliers/ Vendors shall observe the highest standard of ethics during the Procurement and execution of the contract.
2. The Bidders/ Suppliers/ Vendors shall refrain from engaging in corrupt, fraudulent, collusive, coercive and obstructive practices, defined as follows:
  - a. 'corrupt practice' means behaviour 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 on in contract execution;
  - b. '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 practice 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;
  - c. '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;
  - d. '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;
  - e. 'obstructive practice' is:
    - i. 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 investigations 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

- ii. acts intended to materially impede the exercise of the inspection rights of the Procuring Entity

The Procuring Entity reserves its right to pursue imposition of 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 above.

3. Engagement in any of the corrupt, fraudulent, collusive, coercive and/or obstructive practices, or blacklisting or debarment by governments, international organizations, domestic and international financial institutions, and procuring entities, shall form valid grounds for termination of purchase order/ contract and/ or application of penalties defined under Bid Documents or under applicable laws.

#### **G. Code of integrity**

1. Any Bidder participating in the Procurement process shall:
  - (a) Not offer any bribe, reward or gift or any material benefit either directly or indirectly in exchange for an unfair advantage in Procurement process or to otherwise influence the Procurement process;
  - (b) Not misrepresent or omit that misleads or attempts to mislead so as to obtain a financial or other benefit or avoid an obligation;
  - (c) Not indulge in any collusion, Bid rigging or anti-competitive behaviour to impair the transparency, fairness and progress of the Procurement process;
  - (d) Not misuse any information shared between the Procuring Entity and the Bidders with an intent to gain unfair advantage in the Procurement process;
  - (e) Not indulge in any coercion including impairing or harming or threatening to do the same, directly or indirectly, to any party or to its property to influence the Procurement process;
  - (f) Not obstruct any investigation or audit of a Procurement process;
  - (g) Disclose conflict of interest, if any; and
  - (h) Disclose any previous transgressions with any entity in Philippines or any other country, other national agencies, foreign governments, international organizations, local and international and financial institutions, and other procuring entities during the last three (3) years, or any debarment by any other procuring entity.

## 2. Monitoring Report

**Name of Regulated Entity:**

**Year:**

**Total value of Procurement done in the year (in Pesos):**

Parameter / Description	Units	Procurement 1	Procurement 2	Procurement ....
<b>Procurement number and project name</b>	-			
• Number				
• Name				
<b>Particulars of the asset procured</b>				
• Name/ Code	-			
• Type/ Description	-			
• Specification	-			
• Other details	-			
<b>Procurement Quantity</b>	<Kg, Nos., Meters etc.>			
<b>Procurement value/ cost</b> (including applicable taxes)				
• Budgeted amount as per Annual Asset Procurement Plan (if any)	Pesos			
• Per unit cost of asset procured	Pesos/ unit			
• Total value of procurement	Pesos			
<b>Mode of Procurement</b> <competitive/ negotiated/ repeat/ emergency/ shortlisting>	-			
<b>Timelines</b>				
• Date of publishing Bid Document/ purchase requisition	DD/MM/YY			

Parameter/ Description	Units	Procurement 1	Procurement 2	Procurement ....
• Date of Bid opening (if procured through Competitive Bidding)	DD/MM/YY			
• Date of contract signing/ purchase order	DD/MM/YY			
• Date of delivery as per purchase order/ Bid document	DD/MM/YY			
• Date of actual delivery	DD/MM/YY			
<b>Details of Bidders/ Supplier</b>				
• Number of Bidders	Number			
• Winning Bidder/ supplier and its quote	Pesos/ unit			
• Vendor code of winning bidder/ supplier				
• 2nd most competitive Bidder and its quote (if any)	Pesos/ unit			
<b>Details of Vendor/ Supplier</b>				
• Is Vendor/ Supplier from Related Group	Yes/ No			
• Rating provided to Vendor/ Supplier	-			
<b>Any other remarks</b>	-			

NAME OF NOTARY PUBLIC

Serial No. of Commission \_\_\_\_\_

Notary Public for \_\_\_\_\_ until \_\_\_\_\_

Roll of Attorneys No. \_\_\_\_\_

PTR No. \_\_\_, [date issued], [place issued]

IBP No. \_\_\_, [date issued], [place issued]

Doc. No. \_\_\_\_

Page No. \_\_\_\_

Book No. \_\_\_\_  
Series of \_\_\_\_.

### 3. Bill of Materials

**Name of Regulated Entity:**

**Year:**

**Total value of Procurement done in the year (in Pesos):**

Procurement number	Project name	Item description	Consumption/ quantity	Unit of measure	Rate (in Pesos/ unit)	Amount (in Pesos)	Remarks
....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....

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