

# BIDDING DOCUMENT

## Procurement of Dawn Raid Toolkits and Other Tools for Investigation

Single-Stage: One-Envelope  
Bidding Procedure

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**Issued on:** 16 August 2021

**Invitation for Bids No.:** IFB-001

**OCB No.:** OCB/OPI/06

**Purchaser:** Philippine Competition Commission

**Country:** Republic of the Philippines

# **Preface**

This Bidding Document for Procurement of Goods has been prepared by Philippine Competition Commission and is based on the Standard Bidding Document for the Procurement of Goods issued by the Asian Development Bank dated June 2018.

This document reflects the structure and the provisions of the Master Procurement Document for the Procurement of Goods, except where specific considerations within the Asian Development Bank have required a change.

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# Invitation for Bids

## Philippine Competition Commission

25/F Vertis North Corporate Center I  
North Avenue, Quezon City 1105

<b>Date:</b>	12 August 2021
<b>Loan No. and Title:</b>	3878-PHI: Capacity Building to Foster Competition Project
<b>Contract No. and Title:</b>	OCB/OPI/06: Procurement of Dawn Raid Toolkits and Other Tools for Investigation
<b>Deadline for Submission of Bids:</b>	15 September 2021, 2:00 p.m. (Philippine Standard Time)

1. The Republic of the Philippines has received financing from the Asian Development Bank (ADB) toward the cost of **Capacity Building to Foster Competition Project**, and it intends to apply part of the proceeds of this financing to payments under the contracts/lots named herein. Bidding is open to bidders from eligible source countries of ADB.
2. The **Philippine Competition Commission** (“the Purchaser”) invites sealed bids from eligible bidders for the procurement of the following goods and related services:

Lot 1: Digital Forensic Equipment, including all software, cables, connectors and peripherals

- 1.1 Data Extractor/Duplicator, one (1) main unit
- 1.2 Portable Server and All-in-One Workstation
  - 1.2.1 Portable Server (Laptop type), one (1) unit
  - 1.2.2 All-in-One Workstation, three (3) units

Delivery/completion period: Sixty-five (65) days

Lot 2: Mobile Forensic Equipment, including all software, cables, connectors and peripherals

- 2.1 Mobile Forensic Equipment, one (1) set
- 2.2 Laptop, one (1) unit
- 2.3 Intelligent Book Scanner, one (1) unit
- 2.4 Portable All-in-One Printer, four (4) units
- 2.5 Portable Printer, two (2) units
- 2.6 Solid State Devices (SSD) Portable Drive, 1 TB, five (5) units
- 2.7 Solid State Devices (SSD) Portable Drive, 2 TB, three (3) units

Delivery/completion period: Sixty-five (65) days

Lot 3: Digital Forensic Discovery, Extraction and Analysis Software

- 3.1 Digital Forensic Discovery, Extraction and Analysis Software, one (1) license for main software; subscription period: twelve (12) months
  - 3.2 Digital Forensic Discovery, Extraction and Analysis Software, five (5) licenses for reviewer; subscription period: twelve (12) months
- Delivery/completion period: sixty-five (65) days

3. Bidders may bid for one or several contracts/lots, as further defined in the Bidding Document. Bidders wishing to offer discounts in case they are awarded more than one contract/lot will be allowed to do so provided those discounts are included in the Bid Submission Sheet.
4. **National competitive bidding** will be conducted in accordance with ADB's Single-Stage: One-Envelope procedure and is open to all bidders from eligible countries as described in the Bidding Document.
5. Only eligible bidders meeting the following minimum qualification requirements should participate in the bidding:
  - a. Must submit the following documents together with the bid:
    - Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives;
    - Mayor's/Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas. In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit.; and
    - Tax clearance per E.O. 398, s. 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR).
  - b. Must be an established IT company with at least three (3) years of experience in supply, delivery of (i) data centers, servers, networking, security and forensic equipment/ software and peripherals; (ii) data extractor, duplicator, retrieval or backup software/ appliance; and, (iii) portable and rack mounted servers and desktop workstation;
  - c. Must have successfully completed as main supplier within the last five (5) years, of at least three (3) contracts each valued at ₱1 million for Lot 1, ₱2 million for Lot 2, ₱2 million for Lot 3, with nature, and complexity similar to the scope of supply described in the Bidding Document;
  - d. Must have minimum average annual turnover of ₱3 million for Lot 1, ₱3.5 million for Lot 2, ₱4 million for Lot 3, calculated as total payments received by

the bidder for contracts completed or under execution over the last five (5) years.

- e. Must submit certification of authorized distributorship/dealership/resellership from the distributor/manufacture of the product/s being offered; and
- f. Must submit copies of client's satisfactory certificates and/or certificate of completion and acceptance from at least three (3) clients for the last five (5) years, with similar contracts.

This document summarizes only a part of the requirements for information to the potential bidders. Bidders are requested to refer to the Bidding Document for the full range of criteria prior to submitting a bid. If there are any discrepancies between this Invitation for Bid and the Bidding Document, the Bidding Document shall prevail.

- 6. To obtain further information and inspect the Bidding Document, bidders should contact:

**Capacity Building to Foster Competition Project**

The Chairperson

PCC Bids and Awards Committee

Philippine Competition Commission

25/F Vertis North Corporate Center I

North Avenue, Quezon City, Philippines 1105

Attention: Allan Roy Mordeno, IT Officer III

Mobile: +63 9081714609

E-mail: admordeno@phcc.gov.ph

- 7. To purchase the Bidding Documents in English, eligible bidders should
  - write to the address above requesting the Bidding Document for Contract No.: OCB/OPI/06 – Procurement of Dawn Raid Toolkits and Other Tools for Investigation, and
  - pay a nonrefundable fee of Philippine Pesos: Five Thousand (₱5,000) to Philippine Competition Commission to cover reproduction and mailing costs.

The document will be given to the authorized person of the bidder at the Purchaser's address.

- 8. Deliver your bid:

- to the following address:  
Philippine Competition Commission  
25/F Vertis North Corporate Center I  
North Avenue, Quezon City, Philippines 1105

- **on or before the deadline 15 September 2021, 2:00 p.m. (Philippine Standard Time), and**
- together with a Bid-Securing Declaration as described in the Bidding Document.

Late bids shall be rejected.

9. Bids will be opened immediately after the deadline for bid submission in the presence of bidders' representatives who choose to attend.



**JESON Q. DE LA TORRE**  
Chairperson  
PCC Bids and Awards Committee

# Section 1: Instructions to Bidders

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## A. General

- 1. Scope of Bid**
- 1.1 In connection with the Invitation for Bids (IFB) indicated in the Bid Data Sheet (BDS), the Purchaser, as indicated in the BDS, issues this Bidding Document for the supply of Goods and Related Services incidental thereto as specified in Section 6 (Schedule of Supply). The name, identification, and number of lots of the open competitive bidding (OCB) are provided in the BDS.
- 1.2 Throughout this Bidding Document,
- (a) the term “in writing” means communicated in written form and delivered against receipt;
  - (b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and
  - (c) “day” means calendar day.
- 2. Source of Funds**
- 2.1 The Borrower or Recipient (hereinafter called “Borrower”) indicated in the BDS has applied for or received financing (hereinafter called “funds”) from the Asian Development Bank (hereinafter called “ADB”) toward the cost of the project named in the BDS. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding Document is issued.
- 2.2 Payments by ADB will be made only at the request of the Borrower and upon approval by ADB in accordance with the terms and conditions of the Financing Agreement between the Borrower and ADB (hereinafter called the Financing Agreement), and will be subject in all respects to the terms and conditions of that Financing Agreement. No party other than the Borrower shall derive any rights from the Financing Agreement or have any claim to the funds.
- 3. Fraud and Corruption**
- 3.1 ADB’s Anticorruption Policy (1998, as amended to date) requires Borrowers (including beneficiaries of ADB-financed activity), as well as Bidders, Suppliers, and Contractors under ADB-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, ADB
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
    - (ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
    - (iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

- (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
  - (v) “abuse” means theft, waste, or improper use of assets related to ADB-related activity, either committed intentionally or through reckless disregard;
  - (vi) “conflict of interest” means any situation in which a party has interests that could improperly influence that party’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations;
  - (vii) “obstructive practice” means (a) deliberately destroying, falsifying, altering, or concealing of evidence material to an ADB investigation, or deliberately making false statements to investigators, with the intent to impede an ADB investigation; (b) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to a Bank investigation or from pursuing the investigation; or (c) deliberate acts intended to impede the exercise of ADB’s contractual rights of audit or inspection or access to information; and
  - (viii) “integrity violation” is any act, as defined under ADB’s Integrity Principles and Guidelines (2015, as amended from time to time), which violates ADB’s Anticorruption Policy, including (i) to (vii) above and the following: violations of ADB sanctions, retaliation against whistleblowers or witnesses, and other violations of ADB’s Anticorruption Policy, including failure to adhere to the highest ethical standard.
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract;
  - (c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or of a beneficiary of ADB-financing engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations during the procurement or the execution of that contract, without the borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation;
  - (d) will impose remedial actions on a firm or an individual, at any time, in accordance with ADB’s Anticorruption Policy and Integrity Principles and Guidelines, including declaring ineligible, either indefinitely or for a stated period of time, to participate<sup>1</sup> in ADB-financed, -administered, or -supported activities or to benefit from an ADB-financed, -administered, or -supported contract, financially or otherwise, if it at any time determines that

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<sup>1</sup> Whether as a Contractor, Subcontractor, Consultant, Manufacturer or Supplier, or Service Provider; or in any other capacity (different names are used depending on the particular Bidding Document).

the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations; and

- (e) will have the right to require that a provision be included in bidding documents and in contracts financed by ADB, requiring Bidders, suppliers and contractors to permit ADB or its representative to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by ADB.
- 3.2 All Bidders, consultants, contractors, suppliers and other third parties engaged or involved in ADB-related activities have a duty to cooperate fully in any screening or investigation when requested by ADB to do so. Such cooperation includes, but is not limited to, the following:
- (a) being available to be interviewed and replying fully and truthfully to all questions asked;
  - (b) providing ADB with any items requested that are within the party's control including, but not limited to, documents and other physical objects;
  - (c) upon written request by ADB, authorizing other related entities to release directly to ADB such information that is specifically and materially related, directly or indirectly, to the said entities or issues which are the subject of the investigation;
  - (d) cooperating with all reasonable requests to search or physically inspect their person and/or work areas, including files, electronic databases, and personal property used on ADB activities, or that utilizes ADB's Information and Communications Technology (ICT) resources or systems (including mobile phones, personal electronic devices, and electronic storage devices such as external disk drives);
  - (e) cooperating in any testing requested by ADB, including but not limited to, fingerprint identification, handwriting analysis, and physical examination and analysis; and
  - (f) preserving and protecting confidentiality of all information discussed with, and as required by, ADB.
- 3.3 All Bidders, consultants, contractors and suppliers shall ensure that, in its contract with its sub-consultants, Subcontractors and other third parties engaged or involved in ADB-related activities, such sub-consultants, Subcontractors and other third parties similarly undertake the foregoing duty to cooperate fully in any screening or investigation when requested by ADB to do so.
- 3.4 The Purchaser hereby puts the Bidder on notice that the Bidder or any joint venture partner of the Bidder (if any) may not be able to receive any payments under the Contract if the Bidder or any of its joint venture partners, as appropriate, is, or is owned (in whole or in part) by a person or entity subject to applicable sanctions.
- 3.5 Furthermore, Bidders shall be aware of the provision stated in Subclause 3.2 and Subclause 35.1 (a)(iii) of the General Conditions of Contract.

- 4. Eligible Bidders**
- 4.1 A Bidder may be a natural person, private entity, or government-owned enterprise subject to ITB 4.5-or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture. In the case of a Joint Venture,
- (a) all parties to the Joint Venture shall be jointly and severally liable; and
  - (b) the Joint Venture shall nominate a representative who shall have the authority to conduct all businesses for and on behalf of any and all the parties of the Joint Venture during the bidding process and, in the event the Joint Venture is awarded the Contract, during contract execution.
- 4.2 A Bidder, and all parties constituting the Bidder, shall have the nationality of an eligible country, in accordance with Section 5 (Eligible Countries). A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract, including related services.
- 4.3 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to be in a conflict of interest with one or more parties in this bidding process if any of, including but not limited to, the following apply:
- (a) they have controlling shareholders in common; or
  - (b) they receive or have received any direct or indirect subsidy from any of them; or
  - (c) they have the same legal representative for purposes of this Bid; or
  - (d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to material information about or improperly influence the Bid of another Bidder, or influence the decisions of the Purchaser regarding this bidding process; or
  - (e) a Bidder participates in more than one bid in this bidding process, either individually or as a partner in a Joint Venture, except for alternative offers permitted under ITB 13. This will result in the disqualification of all Bids in which it is involved. However, subject to any finding of a conflict of interest in terms of ITB 4.3(a)–(d) above, this does not limit the participation of a Bidder as a subcontractor in another bid or of a firm as a subcontractor in more than one Bid; or
  - (f) a Bidder, Joint Venture partner, associates, parent company or any affiliated entity, participated as a consultant in the preparation of the design or technical specifications of the goods and services that are the subject of the Bid; or

- (g) a Bidder was affiliated with a firm or entity that has been hired (or is proposed to be hired) by the Purchaser or Borrower as Project Manager for the contract; or
  - (h) a Bidder would be providing goods, works, or nonconsulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm.
- 4.4 A firm shall not be eligible to participate in any procurement activities under an ADB-financed, -administered, or -supported project while under temporary suspension or debarment by ADB pursuant to its Anticorruption Policy (see ITB 3), whether such debarment was directly imposed by ADB, or enforced by ADB pursuant to the Agreement for Mutual Enforcement of Debarment Decisions. A bid from a temporary suspended or debarred firm will be rejected.
- 4.5 Government-owned enterprises in the Purchaser's country shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not dependent agencies of the Purchaser.
- 4.6 A Bidder shall not be under suspension from Bidding by the Purchaser as a result of the execution of a Bid–Securing Declaration.
- 4.7 Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.
- 4.8 Firms shall be excluded if by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods or contracting of works or services from that country or any payments to persons or entities in that country.
- 5. Eligible Goods and Related Services**
- 5.1 All Goods and Related Services to be supplied under the Contract and financed by ADB, shall have their country of origin in eligible source countries as defined in ITB 4.2, and all expenditures under the Contract will be limited to such Goods and Related Services.
- 5.2 For purposes of this clause, the term “goods” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” includes services such as insurance, transportation, installation, commissioning, training, and initial maintenance.
- 5.3 The term “country of origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its imported components.
- 5.4 The nationality of the firm that produces, assembles, distributes, or sells the goods shall not determine their origin.

## B. Contents of Bidding Document

6. **Sections of the Bidding Document** 6.1 The Bidding Document consists of Parts I, II, and III, which include all the sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITB 8.

### **PART I Bidding Procedures**

- Section 1 Instructions to Bidders (ITB)
- Section 2 Bid Data Sheet (BDS)
- Section 3 Evaluation and Qualification Criteria (EQC)
- Section 4 Bidding Forms (BDF)
- Section 5 Eligible Countries (ELC)

### **PART II Supply Requirements**

- Section 6 Schedule of Supply (SS)

### **PART III Conditions of Contract and Contract Forms**

- Section 7 General Conditions of Contract (GCC)
- Section 8 Special Conditions of Contract (SCC)
- Section 9 Contract Forms (COF)

- 6.2 The IFB issued by the Purchaser is not part of the Bidding Document.
- 6.3 The Purchaser is not responsible for the completeness of the Bidding Document and its addenda, if they were not obtained directly from the source stated by the Purchaser in the IFB.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document, may result in the rejection of the Bid.
7. **Clarification of Bidding Documents, Pre-bid Conference** 7.1 A prospective Bidder requiring any clarification on the Bidding Document shall contact the Purchaser in writing at the Purchaser's address indicated in the BDS or raise its enquiries during the pre-bid conference if provided for in accordance with ITB 7.2. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than 21 days prior to the deadline for submission of Bids. The Purchaser shall forward copies of its response to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB 8 and ITB 24.2.
- 7.2 If so specified in the BDS, the Bidder's designated representative is invited to attend a pre-bid conference. The purpose of the conference will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.3 The Bidder is requested to submit any questions in writing, to reach the Purchaser not later than seven (7) days before the conference.

Minutes of the pre-bid conference, if applicable, including the text of the questions asked by the Bidders, without identifying the source, and

the responses given, together with any responses prepared after the conference, will be transmitted promptly to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3. Any modification to the Bidding Document that may become necessary as a result of the pre-bid conference shall be made by the Purchaser exclusively through the issue of an addendum pursuant to ITB 8 and not through the minutes of the pre-bid conference. Nonattendance at the pre-bid conference will not be a cause for disqualification of a Bidder.

- 8. Amendment of Bidding Document**
- 8.1 At any time prior to the deadline for submission of the Bids, the Purchaser may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the Purchaser in accordance with ITB 6.3.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of the Bids, pursuant to ITB 24.2.

## C. Preparation of Bids

- 9. Cost of Bidding**
- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Purchaser shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 10. Language of Bid**
- 10.1 The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be written in the language specified in the BDS. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 11. Documents Comprising the Bid**
- 11.1 The Bid shall comprise the following:
- (a) Bid Submission Sheet and the applicable Price Schedules, in accordance with ITB 12, ITB 14, and ITB 15;
  - (b) Bid Security or Bid-Securing Declaration, in accordance with ITB 21;
  - (c) alternative Bids, if permissible, in accordance with ITB 13;
  - (d) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 22;
  - (e) documentary evidence in accordance with ITB 16, establishing the Bidder's eligibility to bid;
  - (f) documentary evidence in accordance with ITB 17, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
  - (g) documentary evidence in accordance with ITB 18 and ITB 31, that the Goods and Related Services conform to the Bidding



- Document;
- (h) documentary evidence in accordance with ITB 19, establishing the Bidder's qualifications to perform the contract if its Bid is accepted; and
  - (i) any other document required in the BDS.
- 12. Bid Submission Sheet and Price Schedules**
- 12.1 The Bidder shall submit the Bid Submission Sheet using the form furnished in Section 4 (Bidding Forms). This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 12.2 The Bidder shall submit the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms furnished in Section 4 (Bidding Forms) and as required in the BDS.
- 13. Alternative Bids**
- 13.1 Unless otherwise indicated in the BDS, alternative Bids shall not be considered.
- 14. Bid Prices and Discounts**
- 14.1 The prices and discounts quoted by the Bidder in the Bid Submission Sheet and in the Price Schedules shall conform to the requirements specified below.
- 14.2 All items in the Schedule of Supply must be listed and priced separately in the Price Schedules. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. Items not listed in the Price Schedule shall be assumed not to be included in the Bid, and provided that the Bid is substantially responsive, the corresponding adjustment shall be applied in accordance with ITB 32.3
- 14.3 The price to be quoted in the Bid Submission Sheet shall be the total price of the Bid excluding any discounts offered. Absence of the total bid price in the Bid Submission Sheet may result in the rejection of the Bid.
- 14.4 The Bidder shall quote discounts and the methodology for their application in the Bid Submission Sheet.
- 14.5 The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce, at the date of the Invitation for Bids or as specified in the BDS.
- 14.6 Prices shall be quoted as specified in each Price Schedule included in Section 4 (Bidding Forms). The disaggregation of price components is required solely for the purpose of facilitating the comparison of Bids by the Purchaser. This shall not in any way limit the Purchaser's right to contract on any of the terms offered
- (a) for Goods offered from within the Purchaser's country:
    - (i) the price of the goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and

- other taxes already paid or payable on the components and raw material used in the manufacture or assembly of goods quoted ex works or ex factory, or on the previously imported goods of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf;
- (ii) sales tax and all other taxes applicable in the Purchaser's country and payable on the Goods if the Contract is awarded to the Bidder; and
  - (iii) the total price for the item.
- (b) for Goods offered from outside the Purchaser's country:
- (i) the price of the goods quoted CIF (named port of destination), or CIP (border point), or CIP (named place of destination), in the Purchaser's country, as specified in the BDS;
  - (ii) the price of the goods quoted FOB port of shipment (or FCA, as the case may be), if specified in the BDS; and
  - (iii) the total price for the item.
- (c) for Related Services whenever such are specified in the Schedule of Supply:
- (i) the local currency cost component of each item comprising the Related Services; and
  - (ii) the foreign currency cost component of each item comprising the Related Services, inclusive of all customs duties, sales and other similar taxes applicable in the Purchaser's country, payable on the Related Services, if the Contract is awarded to the Bidder.
- 14.7 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the BDS. A Bid submitted with an adjustable price quotation shall be treated as nonresponsive and shall be rejected, pursuant to ITB 31. If in accordance with the BDS, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract in accordance with Clause 15.2 of the General Conditions of Contract in Section 7, a Bid submitted with a fixed price will also be treated as non-responsive and be rejected.
- 14.8 If so indicated pursuant to ITB 1.1, Bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise indicated in the BDS, prices quoted shall correspond to 100% of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price discount for the award of more than one Contract shall specify in their bid the price discount applicable to each package, or alternatively, to individual Contracts within the package. Price discounts shall be submitted in accordance with ITB 14.4, provided the bids for all lots are submitted and opened at the same time.

- 15. Currencies of Bid**
- 15.1 Bid prices shall be quoted in the following currencies:
- (a) Bidders may express their bid price in any fully convertible currency. If a Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly.
  - (b) If some of the expenditures for the Related Services are to be incurred in the borrowing country, such expenditures should be expressed in the Bid and will be payable in the Purchaser's currency.
- 16. Documents Establishing the Eligibility of the Bidder**
- 16.1 To establish their eligibility in accordance with ITB 4, Bidders shall
- (a) complete the eligibility declarations in the Bid Submission Sheet, included in Section 4 (Bidding Forms); and
  - (b) if the Bidder is an existing or intended Joint Venture in accordance with ITB 4.1, submit a copy of the Joint Venture Agreement, or a letter of intent to enter into such an agreement. The respective document shall be signed by all legally authorized signatories of all the parties to the existing or intended Joint Venture, as appropriate.
- 17. Documents Establishing the Eligibility of the Goods and Related Services**
- 17.1 To establish the eligibility of the Goods and Related Services, in accordance with ITB 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms included in Section 4 (Bidding Forms).
- 18. Documents Establishing the Conformity of the Goods and Related Services to the Bidding Document**
- 18.1 To establish the conformity of the Goods and Related Services to the Bidding Document, the Bidder shall furnish as part of its Bid documentary evidence that the Goods and Related Services conform to the requirements specified in Section 6 (Schedule of Supply).
- 18.2 The documentary evidence may be in the form of literature, drawings, or data, and shall consist of a detailed item-by-item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to those requirements, and if applicable, a statement of deviations and exceptions to the provisions of Section 6 (Schedule of Supply).
- 18.3 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in Section 6 (Schedule of Supply), are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in Section 6 (Schedule of Supply).
- 19. Documents Establishing the Qualifications**
- 19.1 The documentary evidence of the Bidder's qualifications to perform the contract, if its bid is accepted, shall establish to the Purchaser's satisfaction that the Bidder meets each of the qualification criterion specified in Section 3 (Evaluation and Qualification Criteria).

## of the Bidder

- 19.2 If so required in the BDS, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section 4 (Bidding Forms) to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Purchaser's country.
- 19.3 If so required in the BDS, a Bidder that does not conduct business within the Purchaser's country shall submit evidence that it will be represented by an agent in the country equipped and able to carry out the Supplier's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.
- 20. Period of Validity of Bids**
- 20.1 Bids shall remain valid for the period specified in the BDS after the bid submission deadline date prescribed by the Purchaser. A Bid valid for a shorter period shall be rejected by the Purchaser as nonresponsive.
- 20.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB 21, it shall also be extended 28 days beyond the deadline of the extended bid validity period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.
- 21. Bid Security/ Bid-Securing Declaration**
- 21.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its Bid, in original form, either a Bid-Securing Declaration or a bid security as specified in the BDS. In the case of a bid security, the amount and currency shall be as specified in the BDS.
- 21.2 If a Bid-Securing Declaration is required pursuant to ITB 21.1, it shall use the form included in Section 4 (Bidding Forms). The Purchaser will declare a Bidder ineligible to be awarded a Contract for a specified period of time, as indicated in the BDS, if a Bid-Securing Declaration is executed.
- 21.3 If a bid security is specified pursuant to ITB 21.1, the bid security shall be, at the Bidder's option, in any of the following forms:
- (a) an unconditional bank guarantee,
  - (b) an irrevocable letter of credit,
  - (c) a cashier's or certified check, or
  - (d) SWIFT message in the form of MT760.
- all from a reputable source from an eligible country as described in Section 5 (Eligible Countries). In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section 4 (Bidding Forms), or another form acceptable to the Purchaser. The form must include the complete name of the Bidder. The bid security shall be valid for 28 days beyond the original

validity period of the bid, or beyond any period of extension if requested under ITB 20.2.

- 21.4 Unless otherwise specified in the BDS, any bid not accompanied by a substantially compliant bid security or Bid-Securing Declaration, if one is required in accordance with ITB 21.1, shall be rejected by the Purchaser as nonresponsive.
- 21.5 If a bid security is specified pursuant to ITB 21.1, the bid security of unsuccessful Bidders shall be returned promptly upon the successful Bidder's furnishing of the performance security pursuant to ITB 45.
- 21.6 If a bid security is specified pursuant to ITB 21.1, the bid security of the successful Bidder shall be returned promptly once the successful Bidder has signed the Contract Agreement and furnished the required performance security.
- 21.7 The bid security may be forfeited or the Bid-Securing Declaration executed, if
- (a) notwithstanding ITB 26.3, a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Sheet, except as provided in ITB 20.2; or
  - (b) the successful Bidder fails to
    - (i) sign the Contract Agreement in accordance with ITB 44;
    - (ii) furnish a performance security in accordance with ITB 45; or
    - (iii) accept the arithmetical corrections of its bid in accordance with ITB 33.
- 21.8 If the bid security is required as per ITB 21.1, the bid security of a Joint Venture shall be in the name of the Joint Venture that submits the Bid. If the Joint Venture has not been legally constituted at the time of bidding, the bid security shall be in the name of any or all of the Joint Venture partners. If the Bid-Securing Declaration is required as per ITB 21.1, the Bid-Securing Declaration of a Joint Venture shall be in the name of the Joint Venture that submits the Bid. If the Joint Venture has not been legally constituted at the time of bidding, the Bid-Securing Declaration shall be in the names of all future partners as named in the letter of intent mentioned in ITB 4.1.

**22. Format and Signing of Bid**

- 22.1 The Bidder shall prepare one original set of the documents comprising the Bid as described in ITB 11 and clearly mark it "ORIGINAL." Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE". In addition, the Bidder shall submit copies of the bid, in the number specified in the BDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the Bid. The name and position held by each person signing the authorization

must be typed or printed below the signature. If a Bidder submits a deficient authorization, the Bid shall not be rejected in the first instance. The Purchaser shall request the Bidder to submit an acceptable authorization within the number of days as specified in the BDS. Failure to provide an acceptable authorization within the period stated in the Purchaser's request shall cause the rejection of the Bid. If either the Bid Submission Sheet or the Bid-Securing Declaration (if applicable) is not signed, the Bid shall be rejected.

- 22.3 Any amendments such as interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

## D. Submission and Opening of Bids

### 23. Sealing and Marking of Bids

- 23.1 Bidders may always submit their bids by mail or by hand. When so specified in the BDS, Bidders have the option of submitting their bids electronically. Procedures for submission, sealing and marking are as follows:

- (a) Bidders submitting Bids by mail or by hand shall enclose the original and each copy of the Bid, including alternative Bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL", "ALTERNATIVE" and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB 23.2 and ITB 23.3.
- (b) Bidders submitting Bids electronically shall follow the electronic bid submission procedures specified in the BDS.

- 23.2 The inner and outer envelopes shall

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Purchaser in accordance with ITB 24.1;
- (c) bear the specific identification of this bidding process pursuant to ITB 1.1 and any additional identification marks as specified in the BDS; and
- (d) bear a warning not to open before the time and date for bid opening, in accordance with ITB 27.1.

- 23.3 If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the Bid.

### 24. Deadline for Submission of Bids

- 24.1 Bids must be received by the Purchaser at the address and no later than the date and time indicated in the BDS.

- 24.2 The Purchaser may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with ITB 8, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall

thereafter be subject to the deadline as extended.

- 25. Late Bids**
- 25.1 The Purchaser shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB 24. Any Bid received by the Purchaser after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.
- 26. Withdrawal, Substitution, and Modification of Bids**
- 26.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 22.2 (except for withdrawal notices, which do not require copies). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be
- (a) prepared and submitted in accordance with ITB 22 and ITB 23 (except for withdrawal notices, which do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and
  - (b) received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB 24.
- 26.2 Bids requested to be withdrawn in accordance with ITB 26.1 shall be returned unopened to the Bidders.
- 26.3 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Sheet or any extension thereof.
- 27. Bid Opening**
- 27.1 The Purchaser shall open the Bids in public at the address, on the date, and time specified in the BDS in the presence of Bidders` designated representatives and anyone who chooses to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 23.1, shall be as specified in the BDS.
- 27.2 First, envelopes marked "WITHDRAWAL" shall be opened, read out, and recorded, and the envelope containing the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened, read out, recorded, and exchanged for the corresponding Bid being substituted. The substituted Bid shall not be opened, but returned unopened to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out and recorded at bid opening. Envelopes marked "MODIFICATION" shall be opened, read out, and recorded with the corresponding Bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out and recorded at bid opening. Only envelopes that are opened, read out, and recorded at bid opening shall be considered further.

- 27.3 All other envelopes shall be opened one at a time, reading out the name of the Bidder and whether there is a modification; the Bid Prices (per lot if applicable), discounts, and alternative offers; the presence of a bid security or a Bid-Securing Declaration, if required; and any other details as the Purchaser may consider appropriate. Only discounts and alternative offers read out and recorded at bid opening shall be considered for evaluation. Unless otherwise specified in the BDS, all pages of the Bid Submission Sheet and Price Schedules are to be initialed by at least three representatives of the Purchaser attending the bid opening. No Bid shall be rejected at bid opening except for late bids, in accordance with ITB 25.1.
- 27.4 The Purchaser shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot if applicable, any discounts, and alternative offers if they were permitted; and the presence or absence of a bid security or Bid-Securing Declaration, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders who submitted bids on time, and posted online if electronic bidding was permitted.

## E. Evaluation and Comparison of Bids

- 28. Confidentiality**
- 28.1 Information relating to the examination, evaluation, comparison, and postqualification of Bids, and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until the publication of Contract award.
- 28.2 Any attempt by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and postqualification of the Bids or Contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB 28.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it should do so in writing.
- 29. Clarification of Bids**
- 29.1 To assist in the examination, evaluation, comparison and post-qualification of the Bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder with regard to its Bid and that is not in response to a request by the Purchaser shall not be considered. The Purchaser's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the Bids, in accordance with ITB 33.
- 29.2 If a Bidder does not provide clarifications on its Bid by the date and time set in the Purchaser's request for clarification, its bid may be rejected.
- 30. Deviations, Reservations,**
- 30.1 During the evaluation of Bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified in



- and Omissions** the Bidding Document;
- (b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
- (c) “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Document.
- 31. Determination of Responsiveness**
- 31.1 The Purchaser’s determination of a bid’s responsiveness is to be based on the contents of the bid itself, as defined in ITB 11.
- 31.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would
- (i) affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in Section 6 (Schedule of Supply); or
- (ii) limits in any substantial way, inconsistent with the Bidding Document, the Purchaser’s rights or the Bidder’s obligations under the proposed Contract; or
- (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids.
- 31.3 The Purchaser shall examine the technical aspects of the Bid in particular, to confirm that all requirements of Section 6 (Schedule of Supply) have been met without any material deviation, reservation, or omission.
- 31.4 If a Bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Purchaser and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
- 32. Nonmaterial Nonconformities**
- 32.1 Provided that a Bid is substantially responsive, the Purchaser may waive nonconformities in the bid that do not constitute a material deviation, reservation, or omission.
- 32.2 Provided that a Bid is substantially responsive, the Purchaser may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
- 32.3 Provided that a Bid is substantially responsive, the Purchaser shall rectify quantifiable nonmaterial nonconformities or omissions related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component. The adjustment shall be made using the method indicated in Section 3 (Evaluation and Qualification Criteria).

- 33. Correction of Arithmetical Errors**
- 33.1 Provided that the Bid is substantially responsive, the Purchaser shall correct arithmetical errors on the following basis:
- (a) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected.
  - (b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected.
  - (c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 33.2 If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be rejected, and its bid security may be forfeited, or its Bid-Securing Declaration executed.
- 34. Conversion to Single Currency**
- 34.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency as specified in the BDS.
- 35. Domestic Preference**
- 35.1 Unless otherwise specified in the BDS, domestic preference shall not apply.
- 36. Evaluation and Comparison of Bids**
- 36.1 The Purchaser shall use the criteria and methodologies indicated in this clause. No other criteria or methodologies shall be permitted.
- 36.2 To evaluate a Bid, the Purchaser shall consider the following:
- (a) the bid price as quoted in accordance with ITB 14;
  - (b) price adjustment for correction of arithmetic errors in accordance with ITB 33.1;
  - (c) price adjustment due to discounts offered in accordance with ITB 14.4;
  - (d) adjustment for nonmaterial nonconformities in accordance with ITB 32.3;
  - (e) assessment whether the bid is abnormally low in accordance with ITB 37; and
  - (f) price adjustment due to application of the evaluation criteria specified in Section 3 (Evaluation and Qualification Criteria). These criteria may include factors related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services which shall be expressed to the extent practicable in monetary terms to

facilitate comparison of bids unless otherwise specified in Section 3; and

- (g) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 34.

36.3 The Purchaser's evaluation of a bid will exclude and not take into account,

- (a) in the case of Goods offered from within the Purchaser's country, all sales tax and all other taxes, applicable in the Purchaser's country and payable on the Goods if the Contract is awarded to the Bidder;
- (b) in the case of Goods offered from outside the Purchaser's country, all customs duties, sales tax, and other taxes, applicable in the Purchaser's country and payable on the Goods if the Contract is awarded to the Bidder; and
- (c) any allowance for price adjustment during the period of performance of the Contract, if provided in the Bid.

36.4 If the Bidding Document allows Bidders to quote separate prices for different lots (contracts), and the award to a single Bidder of multiple lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Bid Submission Sheet, is specified in Section 3 (Evaluation and Qualification Criteria).

36.5 The Purchaser shall compare all substantially responsive Bids to determine the lowest evaluated bid, in accordance with ITB 36.2.

### **37. Abnormally Low Bids**

37.1 An abnormally low bid is one where the bid price, in combination with other elements of the bid, appears to be so low that it raises concerns as to the capability of the Bidder to perform the contract for the offered bid price.

37.2 When the offered bid price appears to be abnormally low, the Purchaser shall undertake a three-step review process as follows:

- (a) identify abnormally low costs and unit rates by comparing them with the engineer's estimates, other substantially responsive bids, or recently awarded similar contracts;
- (b) clarify and analyze the bidder's resource inputs and pricing, including overheads, contingencies and profit margins; and
- (c) decide whether to accept or reject the bid.

37.3 With regard to ITB 37.2 (b) above, the Purchaser will seek a written explanation from the bidder of the reasons for the offered bid price, including a detailed analysis of costs and unit prices, by reference to the scope, proposed methodology, schedule, and allocation of risks and responsibilities. This may also include information regarding the economy of the manufacturing process; the services to be provided, or the construction method to be used; the technical solutions to be adopted; and any exceptionally favorable conditions available to the bidder for the goods or services proposed.

37.4 After examining the explanation given and the detailed price analyses

presented by the bidder, the Purchaser may:

- (a) accept the bid, if the evidence provided satisfactorily accounts for the low bid price and costs, in which case the bid is not considered abnormally low;
- (b) accept the bid, but require that the amount of the performance security be increased at the expense of the bidder to a level sufficient to protect the Purchaser against financial loss. The amount of the performance security shall generally be not more than 20% of the contract price; or
- (c) reject the bid if the evidence provided does not satisfactorily account for the low bid price, and make a similar determination for the next lowest evaluated bid, if required

- 38. Post-qualification of the Bidder**
- 38.1 The Purchaser shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive Bid is qualified to perform the Contract satisfactorily.
- 38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 19. Unless permitted in the BDS, the determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates, Subcontractors, or any other firm(s) different from the Bidder.
- 38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. The Purchaser reserves the right to reject the bid of any bidder found to be in circumstances described in GCC 35.2. A negative determination shall result in disqualification of the Bid, in which event the Purchaser shall proceed to the next lowest evaluated Bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.
- 39. Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids**
- 39.1 The Purchaser reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to the Bidders. In case of annulment, all Bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.
- 40. Notice of Intention for Award of Contract**
- 40.1 If Standstill provisions apply as specified in the BDS, the standstill period shall be defined in the BDS to specify the duration subsequent to notification of intention for award of contract (before making the actual contract award) within which any unsuccessful bidder can challenge the proposed award.

## F. Award of Contract

- 41. Award Criteria**
- 41.1 The Purchaser shall award the Contract to the Bidder whose offer has been determined, in line with ITB 36 to ITB 38 above, to be the lowest evaluated Bid and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
- 42. Purchaser's**
- 42.1 At the time the Contract is awarded, the Purchaser reserves the right

- Right to Vary Quantities at Time of Award** to increase or decrease the quantity of Goods and Related Services originally specified in Section 6 (Schedule of Supply), provided this does not exceed the percentages indicated in the BDS, and without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document.
- 43. Notification of Award**
- 43.1 Prior to the expiration of the period of bid validity and upon expiry of the standstill period specified in ITB 40.1, or upon satisfactory resolution of a complaint filed within standstill period, if applicable, the Purchaser shall transmit the Notification of Award using the form included in Section 9 (Contract Forms) to the successful Bidder, in writing, that its Bid has been accepted. At the same time, the Purchaser also notify all other Bidders of the results of the bidding.
- 43.2 Unless standstill period applies, upon notification of award, unsuccessful Bidders may request in writing to the Purchaser for a debriefing seeking explanations on the grounds on which their Bids were not selected. The Purchaser shall promptly respond in writing and/or in a debriefing meeting to any unsuccessful Bidder who, after publication of contract award, requests a debriefing.
- 43.3 Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 43.4 Within 2 weeks of the award of contract or expiry of the standstill period, where such period applies, or, if a complaint has been filed within the standstill period, upon receipt of ADB's confirmation of satisfactory resolution of the complaint, the Borrower shall publish in an English language newspaper or well-known freely accessible website the results identifying the Bid and lot or package numbers as applicable and the following information:
- (a) name of each Bidder who submitted a Bid;
  - (b) bid prices as read out at bid opening;
  - (c) name and evaluated prices of each Bid that was evaluated;
  - (d) name of Bidders whose Bids were rejected and the reasons for their rejection; and
  - (e) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.
- 44. Signing of Contract**
- 44.1 Promptly after notification, the Purchaser shall send to the successful Bidder the Contract Agreement.
- 44.2 Within 28 days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Purchaser.
- 45. Performance Security**
- 45.1 Within 28 days of the receipt of notification of award from the Purchaser, the successful Bidder shall furnish the Performance Security in accordance with the GCC, subject to ITB 37, using for that purpose the Performance Security Form included in Section 9 (Contract Forms), or another form acceptable to the Purchaser. If the institution issuing the performance security is located outside the

country of the Purchaser, it shall have a correspondent financial institution located in the country of the Purchaser to make it enforceable.

45.2 Failure of the successful Bidder to submit the abovementioned Performance Security or sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security or execution of the Bid-Securing Declaration. In that event, the Purchaser may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.

**46. Bidding-  
Related  
Complaints**

46.1 The procedures for dealing with Bidding-Related Complaints arising out of this bidding process are specified in the BDS.

## Section 2: Bid Data Sheet

<b>A. General</b>	
ITB 1.1	The number of the Invitation for Bids (IFB) is: <b>IFB-001</b>
ITB 1.1	The Purchaser is: <b>Philippine Competition Commission</b>
ITB 1.1	<p>The name of the open competitive bidding (OCB) is: <b>Procurement of Dawn Raid Toolkits and Other Tools for Investigation</b></p> <p>The identification number of the OCB is: <b>OCB/OPI/06</b></p> <p>The number and identification of lots comprising this OCB is: <b>Three (3)</b></p> <p style="padding-left: 40px;"><b>Lot 1: Digital Forensic Equipment</b></p> <p style="padding-left: 40px;"><b>Lot 2: Mobile Forensic Equipment</b></p> <p style="padding-left: 40px;"><b>Lot 3: Digital Forensic Discovery, Extraction and Analysis Software</b></p> <p>The Goods and Related Services are grouped in lots. Bidders shall have the option of submitting Bids for one, any combination, or all of the lots. Lots shall not be further subdivided for the purpose of bidding.</p>
ITB 2.1	The Borrower is: <b>Government of the Republic of the Philippines</b>
ITB 2.1	The name of the Project is: <b>Capacity Building to Foster Competition Project</b>
<b>B. Contents of Bidding Document</b>	
ITB 7.1	<p>For <b>clarification purposes</b> only, the Purchaser's address is:</p> <p><b>The Chairperson, PCC Bids and Awards Committee (PBAC)</b></p> <p>Street address: <b>North Avenue</b></p> <p>Floor/Room number: <b>25/F Vertis North Corporate Center I</b></p> <p>City: <b>Quezon City</b></p> <p>ZIP code: <b>1105</b></p> <p>Country: <b>Republic of the Philippines</b></p> <p>Attention: <b>Allan Roy Mordeno, IT Officer III</b></p> <p>Mobile: <b>+63 9081714609</b></p> <p>E-mail: <b>admordeno@phcc.gov.ph</b></p>

<b>ITB 7.2</b>	An online pre-bid conference shall be conducted on <b>25 August 2021, Wednesday, 2:30 p.m. at PCC Meeting Room and through Microsoft Teams Teleconference</b> to clarify issues and to answer questions on the Bidding Document. The Bidder's designated representative is invited to attend the pre-bid conference.
<b>C. Preparation of Bids</b>	
<b>ITB 10.1</b>	The language of the Bid is: <b>English</b>
<b>ITB 11.1 (i)</b>	<p>The Bidder shall submit with its Bid the following additional documents:</p> <ul style="list-style-type: none"> <li>i. certification of authorized distributorship/ dealership/ resellership from the distributor/ manufacturer of the product/s being offered; and</li> <li>ii. copies of client's satisfactory certificates and/or certificate of completion and acceptance from at least three (3) clients for the last five (5) years, with similar contracts.</li> <li>iii. Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives.</li> <li>iv. Mayor's/Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas. In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit.</li> <li>v. Tax clearance per E.O. 398, s. 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR).</li> </ul>
<b>ITB 12.2</b>	The units and rates in figures entered into the Price Schedules should be typewritten or if written by hand, must be in print form. Price Schedules not presented accordingly may be considered nonresponsive.
<b>ITB 13.1</b>	Alternative Bids shall <b>not</b> be permitted.
<b>ITB 14.5</b>	The Incoterms edition is: <b>Incoterms 2020</b>
<b>ITB 14.6 (b) (i)</b>	For Goods offered from outside the Purchaser's country, the Bidder shall quote prices using the following Incoterms: <b>CIF Manila</b>
<b>ITB 14.6 (b) (ii)</b>	<p>In addition to the above, the Bidder shall quote prices for Goods offered from outside the Purchaser's country using the following Incoterms: <b>FOB Manila</b></p> <p>However, the identification of the lowest evaluated bid must be on the basis of the CIF price, but the Purchaser may sign the contract on FOB terms and make its own arrangement for transportation and/or insurance.</p>
<b>ITB 14.7</b>	The prices quoted by the Bidder shall <b>not</b> be adjustable.
<b>ITB 14.8</b>	Prices quoted for each lot shall correspond to <b>100%</b> of the items specified for each lot.



	Prices quoted for each item of a lot shall correspond to <b>100%</b> of the quantities specified for this item of a lot.
<b>ITB 19.2</b>	<p>The Bidder shall include with its bid the Manufacturer's Authorization for the following item(s):</p> <p style="padding-left: 40px;"><b>Lot 1: Digital Forensic Equipment</b></p> <p style="padding-left: 40px;"><b>Lot 2: Mobile Forensic Equipment</b></p> <p style="padding-left: 40px;"><b>Lot 3: Digital Forensic Discovery, Extraction and Analysis Software</b></p> <p>The Bidder is required to submit documentation to substantiate that it is an authorized dealer, distributor or reseller of the goods being procured.</p>
<b>ITB 19.3</b>	The Bidder is required to include with its bid, evidence that it will be represented by an Agent in the Purchaser's country.
<b>ITB 20.1</b>	The bid validity period shall be <b>90</b> days.
<b>ITB 21.1</b>	The Bidder shall furnish a <b>Bid-Securing Declaration</b> .
<b>ITB 21.2</b>	The ineligibility period will be <b>two (2)</b> years.
<b>ITB 21.4</b>	No further instruction.
<b>ITB 22.1</b>	In addition to the original Bid, the number of copies is: <b>One (1)</b>
<b>ITB 22.2</b>	The written confirmation of Authorization to sign on behalf of the Bidder shall consist of an organizational document, board resolution or its equivalent, or power of attorney specifying the representative's authority to sign the Bid on behalf of, and to legally bind, the Bidder. If the Bidder is an intended or an existing joint venture, the power of attorney should be signed by all partners and specify the authority of the named representative of the joint venture to sign on behalf of, and legally bind, the intended or existing joint venture. If the joint venture has not yet been formed, also include evidence from all proposed joint venture partners of their intent to enter into a joint venture in the event of a contract award in accordance with ITB 16.1 (b).
<b>ITB 22.2</b>	The Bidder shall submit an acceptable authorization within <b>fourteen (14) days</b> .
<b>D. Submission and Opening of Bids</b>	
<b>ITB 23.1</b>	Bidders <b>shall not</b> have the option of submitting their bids electronically.
<b>ITB 23.1 (b)</b>	If Bidders shall have the option of submitting their bids electronically, the electronic bidding submission procedures shall be as follows: <b>not applicable</b>
<b>ITB 23.2 (c)</b>	<p>The additional identification marks are: <b>OCB/OPI/06: Procurement of Dawn Toolkits and Other Tools for Investigation</b></p> <p><b>DO NOT OPEN BEFORE 2:00 p.m. (Philippine Standard Time), 15 September 2021.</b></p>

ITB 24.1	<p>For <b>bid submission</b> purposes only, the Purchaser's address is:</p> <p><b>The Chairperson, PCC PBAC</b></p> <p>Street address: <b>North Avenue</b></p> <p>Floor/Room number: <b>25/F Vertis North Corporate Center I</b></p> <p>City: <b>Quezon City</b></p> <p>ZIP code: <b>1105</b></p> <p>Country: <b>Philippines</b></p> <p>Attention: <b>Allan Roy Mordeno, IT Officer III</b></p> <p>Mobile: <b>+63 9081714609</b></p> <p>E-mail: <b>admordeno@phcc.gov.ph</b></p>
ITB 24.1	<p><b>The deadline for bid submission is:</b></p> <p>Date: <b>15 September 2021</b></p> <p>Time: <b>2:00 p.m. (Philippine Standard Time)</b></p>
ITB 27.1	<p><b>The bid opening shall take place at:</b></p> <p>Street address: <b>North Avenue</b></p> <p>Floor/Room number: <b>25/F Vertis North Corporate Center I</b></p> <p>City: <b>Quezon City</b></p> <p>Country: <b>Philippines</b></p> <p>and online: <b>Through Microsoft Teams Teleconference</b></p> <p>Date: <b>15 September 2021</b></p> <p>Time: <b>Immediately after the deadline for bid submission.</b></p>
ITB 27.1	<p>The electronic bid opening procedure shall be as follows: <b>not applicable</b></p>
ITB 27.3	<p>The Bid Submission Sheet and Price Schedules shall be initialed by <b>at least three (3)</b> representatives of the Purchaser attending Bid opening.</p>
<p><b>E. Evaluation and Comparison of Bids</b></p>	
ITB 34.1	<p>The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is: <b>Philippine Peso.</b></p> <p>The source of the selling exchange rate shall be the <b>Bangko Sentral ng Pilipinas.</b></p> <p>The date for the selling exchange rate shall be the <b>date of the deadline for submission of bids.</b></p>

<b>ITB 35.1</b>	Domestic preference shall <b>not</b> apply.
<b>ITB 38.2</b>	<p>The qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates, subcontractors <b>shall be</b> permitted.</p> <p>The Bidder shall fill out the Affiliate Company Guarantee Form included in Section 4 (Bidding Forms) for each subsidiary, parent entity, affiliate, subcontractor, etc. that the Bidder submits for consideration of the Purchaser in determining its qualifications.</p>
<b>ITB 40.1</b>	<b>Standstill provisions shall not apply.</b>
<b>F. Award of Contract</b>	
<b>ITB 42.1</b>	<p>The maximum percentage by which quantities may be increased is <b>15%</b>.</p> <p>The maximum percentage by which quantities may be decreased is <b>15%</b>.</p>
<b>ITB 46.1</b>	<p>The procedures for Bidding-Related Complaints are referenced in the Procurement Regulations for ADB Borrowers (Appendix 7). The Bidder should submit its complaint following these procedures, in writing, to:</p> <p>For the attention: <b>Jeson Q. de la Torre</b></p> <p>Title/position: <b>Chairperson, PCC BAC</b></p> <p>Purchaser: <b>Philippine Competition Commission</b></p> <p>E-mail address: <b>jqdlatorre@phcc.gov.ph</b></p>

# Section 3: Evaluation and Qualification Criteria

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# 1. Evaluation Criteria

## 1.1 Technical Criteria

The cost of all quantifiable deviations or deficiencies from the technical requirements as specified in Section 6 (Schedule of Supply) shall be evaluated. The Purchaser will make its own assessment of the cost of these deviations or deficiencies for the purpose of ensuring fair comparison of Bids.

## 1.2 Domestic Preference

Domestic preference **shall not** apply.

## 1.3 Economic Criteria

### 1.3.1 Adjustment for Scope

#### 1.3.1.1 Local Handling and Inland Transportation

Costs for inland transportation, insurance, and other incidental costs for delivery of the goods from the EXW premises, or port of entry, or border point to Project Site as defined in Section 6 (Schedule of Supply), shall be quoted in the **Price Schedule for Related Services to Be Offered from Outside and Within the Purchaser's Country** provided in Section 4 (Bidding Forms). These costs will be taken into account during bid evaluation. If a Bidder fails to include such costs in its Bid, then these costs will be estimated by the Purchaser on the basis of published tariffs by the rail or road transport agencies, insurance companies, or other appropriate sources, and added to EXW or CIF or CIP price.

#### 1.3.1.2 Minor Omissions or Missing Items

Pursuant to ITB 32.3, the cost of all quantifiable nonmaterial nonconformities or omissions from the contractual and commercial conditions shall be evaluated. The Purchaser will make its own assessment of the cost of any nonmaterial nonconformities and omissions for the purpose of ensuring fair comparison of Bids. The price adjustment shall be based on the price equal to the highest price quoted for the same item by the other responsive Bidders.

### 1.3.2 Adjustment for Deviations from the Terms of Payment

Deviations from the Terms of Payment as specified in SCC 16.1 are **not** permitted.

### 1.3.3 Adjustment for Deviations in the Delivery and Completion Schedule

The Goods covered by this bidding process are required to be delivered in accordance with, and completed within, the Delivery and Completion Schedule specified in Section 6 (Schedule of Supply). No credit will be given for earlier completion. Bids offering late contract performance schedules will be accepted but the Bids shall be adjusted in the evaluation by adding to the Bid Price at the rate of 1% of the Bid Price for each day of delay. Bids offering delivery schedules beyond 10 days of the date specified in Section 6 (Schedule of Supply), shall be rejected.

**1.3.4 Operation and Maintenance (O&M) Costs**

Not Applied.

**1.3.5 Spare Parts**

Only those spare parts and tools that are specified on an item-wise basis in the List of Goods and Related Services in Section 6 (Schedule of Supply), shall be taken into account in the bid evaluation. Supplier recommended spare parts for a specified operating requirement shall not be considered in bid evaluation.

**1.3.6 Performance and Productivity of the Goods**

Not Applied.

**1.4 Multiple Lots (Contracts)**

If Goods and Related Services are grouped in multiple lots, the following provision must be used:

Goods are grouped in lots. The Purchaser will evaluate and compare Bids on the basis of a lot, or a combination of lots, or as a total of lots to arrive at the least cost combination for the Purchaser by taking into account discounts offered by Bidders in case of award of multiple contracts.

## 2. Qualification Criteria

### Contract Type A: Off-the-Shelf Items

#### 2.1 Eligibility

Criteria	Compliance Requirements			Documents
Requirement	Single Entity	Joint Venture		Submission Requirements
		All Partners Combined	Each Partner	

##### 2.1.1 Nationality

Nationality in accordance with ITB 4.2.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet; Forms ELI – 1 and ELI – 2
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##### 2.1.2 Conflict of Interest

No conflicts of interest in accordance with ITB 4.3.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet
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##### 2.1.3 ADB Eligibility

Not having been declared ineligible by ADB, as described in ITB 4.4.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet
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##### 2.1.4 Government-Owned Enterprise

Bidder required to meet conditions of ITB 4.5.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet; Forms ELI – 1 and ELI – 2
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##### 2.1.5 United Nations Eligibility

Not having been excluded by an act of compliance with a United Nations Security Council resolution in accordance with ITB 4.8.	Must meet requirement	Must meet requirement	Must meet requirement	Not applicable	Bid Submission Sheet
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## 2.2 Experience and Technical Capacity

### 2.2.1 Contractual Experience

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Successful completion as main supplier within the last five (5) years, of at least three (3) contracts each valued at: <ul style="list-style-type: none"> <li>(a) ₱1,000,000 for Lot 1</li> <li>(b) ₱2,000,000 for Lot 2</li> <li>(c) ₱2,000,000 for Lot 3</li> </ul> with nature, and complexity similar to the scope of supply described in Section 6 (Schedule of Supply).	Must meet requirement	Must meet requirement	Not applicable	Not applicable	Form EXP – 1

## 2.3 Financial Situation

### 2.3.1 Historical Financial Performance

Criteria	Compliance Requirements				Documents
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Submission of audited financial statements or, if not required by the law of the Bidder's country, other financial statements acceptable to the Purchaser, for the last three (3) years to demonstrate the current soundness of the Bidder's financial position. As a minimum, the Bidder's net worth for the last year calculated as the difference between total assets and total liabilities should be positive.	Must meet requirement	Not applicable	Must meet requirement	Not applicable	Form FIN – 1



### 2.3.2 Size of Operation (Average Annual Turnover)

Criteria	Compliance Requirements			Documents	
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Minimum average annual turnover of: (a) ₱3,000,000 for Lot 1 (b) ₱3,500,000 for Lot 2 (c) ₱4,000,000 for Lot 3 calculated as total payments received by the Bidder for contracts completed or under execution over the last five (5) years.	Must meet requirement	Must meet requirement	Must meet 25% of the requirement	Must meet 40% of the requirement	Form FIN – 2

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## Bid Submission Sheet

### - Note to Bidder -

1. *The Bidder must accomplish the Bid Submission Sheet on its letterhead clearly showing the Bidder's complete name, and address.*

Date: \_\_\_\_\_  
 Open Competitive Bidding (OCB) No.: OPI/06  
 Invitation for Bid (IFB) No.: 001

To: Philippine Competition Commission

We, the undersigned, declare that:

(a) We have examined and have no reservations to the Bidding Document, including Addenda issued in accordance with Instructions to Bidders (ITB) 8.

(b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in Section 6 (Schedule of Supply), the following Goods and Related Services:

Lot 1: Digital Forensic Equipment, including all software, cables, connectors and peripherals  
 1.1 Data Extractor/Duplicator, one (1) main unit  
 1.2 Portable Server and All-in-One Workstation  
     1.2.1 Portable Server (Laptop type), one (1) unit  
     1.2.2 All-in-One Workstation, three (3) units

Lot 2: Mobile Forensic Equipment, including all software, cables, connectors and peripherals  
 2.1. Mobile Forensic Equipment, one (1) set  
 2.2 Laptop, one (1) unit  
 2.3 Intelligent Book Scanner, one (1) unit  
 2.4 Portable All-in-One Printer, four (4) units  
 2.5 Portable Printer, two (2) units  
 2.6 Solid State Devices (SSD) Portable Drive, 1 TB, five (5) units  
 2.7 Solid State Devices (SSD) Portable Drive, 2 TB, three (3) units

Lot 3: Digital Forensic Discovery, Extraction and Analysis Software  
 3.1 Digital Forensic Discovery, Extraction and Analysis Software, one (1) license for main software; subscription period: twelve (12) months  
 3.2 Digital Forensic Discovery, Extraction and Analysis Software, five (5) licenses for reviewer; subscription period: twelve (12) months

(c) The total price of our Bid, excluding any discounts offered in item (d) below, is

*[amount of foreign currency in words], [amount in figures], and [amount of local currency in words], [amount in figures]*

*The total bid price from the price schedules should be entered by the bidder inside this box. Absence of the total bid price in the Bid Submission Sheet may result in the rejection of the bid.*

- (d) The discounts offered and the methodology for their application are as follows:

Discounts: If our Bid is accepted, the following discounts shall apply: *[specify in detail each discount offered and the specific item of the Schedule of Supply to which it applies]*

Methodology of Application of the Discounts: The discounts shall be applied using the following method: *[specify in detail the method that shall be used to apply the discounts]*

- (e) Our Bid shall be valid for a period of 90 days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (f) If our Bid is accepted, we commit to obtain a Performance Security in accordance with the Bidding Documents.
- (g) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from eligible countries in accordance with ITB 4.2.
- (h) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 4.3.
- (i) We are not participating, as a Bidder, either individually or as partner in a Joint Venture, in more than one Bid in this bidding process in accordance with ITB 4.3I, other than alternative offers in accordance with the Bidding Document.
- (j) Our firm, Joint Venture partners, associates, parent company, its affiliates or subsidiaries, including any Subcontractors or Suppliers for any part of the contract, are not subject to, or not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Asian Development Bank or a debarment imposed by the Asian Development Bank in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the Asian Development Bank and other development banks.<sup>1</sup>
- (k) Our firm, Joint Venture partners, associates, parent company, affiliates or subsidiaries, including any Subcontractors or Suppliers for any part of the Contract, are not, or have never been, temporarily suspended, debarred, declared ineligible, or blacklisted by the Purchaser's country, any international organization, and other donor agency.

If so debarred, declared ineligible, temporarily suspended or blacklisted, please state details (as applicable to each Joint Venture partner, associate, parent company, affiliate, subsidiaries, Subcontractors, and/or Suppliers):

- (i) Name of Institution: \_\_\_\_\_
- (ii) Period of debarment, ineligibility, or blacklisting *[start and end date]*: \_\_\_\_\_
- (iii) Reason for the debarment, ineligibility, or blacklisting: \_\_\_\_\_

<sup>1</sup> These institutions include African Development Bank, European Bank for Reconstruction and Development (EBRD), Inter-American Development Bank (IADB), and the World Bank Group. According to paragraph 9 of the Agreement, other international financial institutions may join upon the consent of all Participating Institutions and signature of a Letter of Adherence by the international financial institution substantially in the form provided (Annex B to the Agreement). Upon adherence, such international financial institution shall become a Participating Institution for purposes of the Agreement. Bidders are advised to check [www.adb.org/integrity](http://www.adb.org/integrity) for updates.

- (l) Our firm's, Joint Venture partners, associates, parent company's affiliates or subsidiaries, including any Subcontractors or Suppliers key officers and directors have not been [*charged or convicted*] of any criminal offense (including felonies and misdemeanors) or infractions/violations of ordinance which carry the penalty of imprisonment.

If so charged or convicted, please state details:

- (i) Nature of the offense/violation: \_\_\_\_\_  
 (ii) Court and/or area of jurisdiction: \_\_\_\_\_  
 (iii) Resolution [*i.e. dismissed; settled; convicted/duration of penalty*]: \_\_\_\_\_  
 (iv) Other relevant details [*please specify*]: \_\_\_\_\_
- (m) We understand that it is our obligation to notify ADB should our firm, Joint Venture partners, associates, parent company, affiliates or subsidiaries, including any Subcontractors or Suppliers, be temporarily suspended, debarred or become ineligible to work with ADB or any other MDBs, the Purchaser's country, international organizations, and other donor agencies, or any of our key officers and directors be charged or convicted of any criminal offense or infractions/violations of ordinance which carry the penalty of imprisonment.
- (n) Our firm, Joint Venture partners, associates, parent company, affiliates or subsidiaries, including any Subcontractors or Suppliers, are not from a country which is prohibited to export goods to or receive any payments from the Purchaser's country by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.
- (o) [We are not a government-owned enterprise] / [We are a government-owned enterprise but meet the requirements of ITB 4.5].<sup>2</sup>
- (p) We have not been suspended nor declared ineligible by the Purchaser based on execution of a Bid-Securing Declaration in accordance with ITB 4.6.
- (q) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract:<sup>3</sup>

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____

- (r) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed.
- (s) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (t) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by ADB.

<sup>2</sup> Use one of the two options as appropriate.

<sup>3</sup> If none has been paid or is to be paid, indicate "None."

- (u) We understand that any misrepresentation that knowingly or recklessly misleads, or attempts to mislead may lead to the automatic rejection of the Bid or cancellation of the contract, if awarded, and may result in remedial actions, in accordance with ADB's Anticorruption Policy (1998, as amended to date) and Integrity Principles and Guidelines (2017, as amended from time to time).

Name: *[insert complete name of person signing the bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

Signed: *[insert signature of person whose name and capacity are shown above]*

Duly authorized to sign the Bid for and on behalf of *[insert complete name of the bidder]*

Date: *[insert date of signing]*

## Price Schedules

The Bidder shall complete and submit with its Bid the Price Schedules pursuant to ITB 12 and in accordance with Part 2 Supply Requirements, Section 6 (Schedule of Supply). The list of items in column 1 of the Price Schedules shall coincide with the List of Goods and Related Services specified by the Purchaser in the Schedule of Supply. This Guide helps the Purchaser and Bidder fill out all the required information in the Price Schedule Form.

The units and rates in figures entered into the Price Schedules should be typewritten or if written by hand, must be in print form. Price Schedules not presented accordingly may be considered nonresponsive. Any necessary alterations due to errors, etc., shall be signed by the Bidder.

## Price Schedule for Goods to Be Offered from Within the Purchaser's Country

Name of Bidder \_\_\_\_\_ IFB Number: 001

Page \_\_\_\_ of \_\_\_\_

Item	Description	Country of Origin	Domestic Value Added in Percentage	Quantity and Unit of Measurement	Unit Price EXW	Total EXW Price per item	Sales and Other Taxes Per Item	Total Price per Item including Taxes
1	2	3	4	5	6	7 = 5 x 6	8	9 = 7 + 8
<b>LOT 1</b>	<b>DIGITAL FORENSIC EQUIPMENT</b>							
1.1	Data Extractor/ Duplicator		N/A	1 unit				
1.2	Portable Server and All-in-One Workstation							
	1.2.1 Portable Server		N/A	1 unit				
	1.2.2 All-in-One Workstation		N/A	3 units				
<b>Total Amount</b>								

Item	Description	Country of Origin	Domestic Value Added in Percentage	Quantity and Unit of Measurement	Unit Price EXW	Total EXW Price per item	Sales and Other Taxes Per Item	Total Price per Item including Taxes
1	2	3	4	5	6	7 = 5 x 6	8	9 = 7 + 8
<b>LOT 2</b>	<b>MOBILE FORENSIC EQUIPMENT</b>							
2.1	Mobile Forensic Equipment, cables and other peripherals		N/A	1 unit				
2.2	Laptop		N/A	1 unit				
2.3	Intelligent Book Scanner		N/A	1 unit				
2.4	Portable All-in-One Printer		N/A	4 units				
2.5	Portable Printer		N/A	2 units				
2.6	Solid State Device (SSD) Portable Drive, 1TB		N/A	5 units				
2.7	Solid State Device (SSD) Portable Drive, 2TB		N/A	3 units				



<b>Total Amount</b>			
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Item	Description	Country of Origin	Domestic Value Added in Percentage	Quantity and Unit of Measurement	Unit Price EXW	Total EXW Price per item	Sales and Other Taxes Per Item	Total Price per Item including Taxes
1	2	3	4	5	6	7 = 5 x 6	8	9 = 7 + 8
<b>LOT 3</b>	<b>DIGITAL FORENSIC DISCOVERY, EXTRACTION AND ANALYSIS SOFTWARE</b>							
3.1	Digital Forensic Discovery, Extraction and Analysis Software, Main License		N/A	1 license				
3.2	Digital Forensic Discovery, Extraction and Analysis Software, License for Reviewer		N/A	5 licenses				
<b>Total Amount</b>								

**Notes:**

- Column 4: In accordance with margin of preference ITB 35, if applicable. Domestic Value Added comprises domestic labor, the domestic content of materials, domestic overheads and profits from the stage of mining the raw material until final assembly.
- Column 6: Incoterm in accordance with ITB 14.  
Currency in accordance with ITB 15.  
Price shall include all customs duties and sales and other taxes already paid or payable on the components and raw materials used in the manufacture or assembly of the item or the customs duties and sales and other taxes already paid on previously imported items.
- Column 8: Payable in the Purchaser's country if Contract is awarded.

Name: *[insert complete name of person signing the bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

Signed: *[insert signature of person whose name and capacity are shown above]*

Duly authorized to sign the Bid for and on behalf of *[insert complete name of the bidder]*

Date: *[insert date of signing]*

## Price Schedule for Goods to Be Offered from Outside the Purchaser's Country

Name of Bidder \_\_\_\_\_ IFB Number: 001

Page \_\_\_\_ of \_\_\_\_

Item	Description	Country of Origin	Quantity and Unit of Measurement	Unit Price CIF	Unit Price FOB	Total Price CIF per Item	Total Price FOB per Items
1	2	3	4	5	6	7 = 4 x 5	8 = 4 x 6
<b>LOT 1</b>	<b>DIGITAL FORENSIC EQUIPMENT</b>						
1.1	Data Extractor/ Duplicator		1 unit				
1.2	Portable Server and All-in-One Workstation						
	1.2.1 Portable Server		1 unit				
	1.2.2 All-in-One Workstation		3 units				
<b>Total Amount</b>							

Item	Description	Country of Origin	Quantity and Unit of Measurement	Unit Price CIF	Unit Price FOB	Total Price CIF per Item	Total Price FOB per Items
1	2	3	4	5	6	7 = 4 x 5	8 = 4 x 6
<b>LOT 2</b>	<b>MOBILE FORENSIC EQUIPMENT</b>						
2.1	Mobile Forensic Equipment, cables and other peripherals		1 unit				
2.2	Laptop		1 unit				
2.3	Intelligent Book Scanner		1 unit				
2.4	Portable All-in-One Printer		4 units				
2.5	Portable Printer		2 units				
2.6	Solid State Device (SSD) Portable Drive, 1TB		5 units				
2.7	Solid State Device (SSD) Portable Drive, 2TB		3 units				
<b>Total Amount</b>							

Item	Description	Country of Origin	Quantity and Unit of Measurement	Unit Price CIF	Unit Price FOB	Total Price CIF per Item	Total Price FOB per Items
1	2	3	4	5	6	7 = 4 x 5	8 = 4 x 6
<b>LOT 3</b>	<b>DIGITAL FORENSIC DISCOVERY, EXTRACTION AND ANALYSIS SOFTWARE</b>						
3.1	Digital Forensic Discovery, Extraction and Analysis Software, Main License		1 license				
3.2	Digital Forensic Discovery, Extraction and Analysis Software, License for Reviewer		5 licenses				
<b>Total Amount</b>							

**Notes:**

Columns 5 and 6: Incoterm in accordance with ITB 14.  
 Currency in accordance with ITB 15.

Column 6: Only to be used if the Purchaser wishes to reserve transportation and insurance to domestic companies or other designated sources. Identification of the lowest evaluated bid must be on the basis of the CIF price, but the Purchaser may sign the contract on FOB terms and make its own arrangement for transportation and/or insurance.

Name: *[insert complete name of person signing the bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

Signed: *[insert signature of person whose name and capacity are shown above]*

Duly authorized to sign the Bid for and on behalf of *[insert complete name of the bidder]*

Date: *[insert date of signing]*

## Price Schedule for Related Services to Be Offered from Outside and Within the Purchaser's Country

Name of Bidder \_\_\_\_\_ IFB Number: 001

Page \_\_\_\_ of \_\_\_\_

Item No.	Description	Country of Origin	Quantity and Unit of Measurement	Unit Price		Total Price Per Item	
				(a)	(b)	(a)	(b)
				Foreign Currency	Local Currency	Foreign Currency	Local Currency
1	2	3	4	5(a)	5(b)	6(a) = 4 x 5(a)	6(b) = 4 x 5(b)
<b>LOT 1</b>	<b>DIGITAL FORENSIC EQUIPMENT</b>						
1.1	Data Extractor/ Duplicator		1 unit				
1.2	Portable Server and All-in-One Workstation						
	1.2.1	Portable Server		1 unit			
	1.2.2	All-in-One Workstation		3 units			
<b>Total Amount</b>							

Item No.	Description	Country of Origin	Quantity and Unit of Measurement	Unit Price		Total Price Per Item	
				(a)	(b)	(a)	(b)
				Foreign Currency	Local Currency	Foreign Currency	Local Currency
1	2	3	4	5(a)	5(b)	6(a) = 4 x 5(a)	6(b) = 4 x 5(b)
<b>LOT 2</b>	<b>MOBILE FORENSIC EQUIPMENT</b>						
2.1	Mobile Forensic Equipment, cables and other peripherals		1 unit				
2.2	Laptop		1 unit				
2.3	Intelligent Book Scanner		1 unit				
2.4	Portable All-in-One Printer		4 units				
2.5	Portable Printer		2 units				
2.6	Solid State Device (SSD) Portable Drive, 1TB		5 units				
2.7	Solid State Device (SSD) Portable Drive, 2TB		3 units				
<b>Total Amount</b>							

Item No.	Description	Country of Origin	Quantity and Unit of Measurement	Unit Price		Total Price Per Item	
				(a)	(b)	(a)	(b)
				Foreign Currency	Local Currency	Foreign Currency	Local Currency
1	2	3	4	5(a)	5(b)	6(a) = 4 x 5(a)	6(b) = 4 x 5(b)
<b>LOT 3</b>	<b>DIGITAL FORENSIC DISCOVERY, EXTRACTION AND ANALYSIS SOFTWARE</b>						
3.1	Digital Forensic Discovery, Extraction and Analysis Software, Main License		1 license				
3.2	Digital Forensic Discovery, Extraction and Analysis Software, License for Reviewer		5 licenses				
<b>Total Amount</b>							

**Notes:**

Columns 5 and 6: Currencies in accordance with ITB 15

Prices are to be quoted inclusive of all customs duties, sales and other similar taxes applicable in the Purchaser's country and payable on the Related Services, if the Contract is awarded to the Bidder.

Name: *[insert complete name of person signing the bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

Signed: *[insert signature of person whose name and capacity are shown above]*

Duly authorized to sign the Bid for and on behalf of *[insert complete name of the bidder]*

Date: *[insert date of signing]*

## **Bid Security and Bid-Securing Declaration**

When requested in the Bid Data Sheet, the Bidder shall furnish as part of its bid, either a Bid-Securing Declaration or a Bid Security.

In case of an unconditional guarantee issued by a bank, the Bidder shall use the Bid Security Form included in this section or another form acceptable to the Purchaser prior to bid submission pursuant to ITB 21.3. In either case, the form must include the complete name of the Bidder. The bid security shall be valid for number of days as specified in the BDS beyond the original validity period of the Bid, or beyond any period of extension if requested under ITB 20.2.

If a Bid-Securing Declaration is specified pursuant to ITB 21.1 the Bidder shall use the form included in this section.

## Bid-Securing Declaration

Date: *[insert date (as day, month, and year)]*

Bid No.: 001

To: Philippine Competition Commission

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Borrower for the period of time of two (2) years starting on the date that we receive a notification from the Purchaser that our Bid-Securing Declaration is executed, if we are in breach of our obligation(s) under the bid conditions, because we

- (a) have withdrawn our Bid during the period of bid validity specified in the Bid Submission Sheet; or
- (b) do not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract Agreement, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) 28 days after the expiration of our Bid.

Signed: *[insert signature of person whose name and capacity are shown]*

In the capacity of *[insert legal capacity of person signing the Bid-Securing Declaration]*

Name: *[insert complete name of person signing the Bid-Securing Declaration]*

Duly authorized to sign the bid for and on behalf of *[insert complete name of the bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

Corporate Seal *(where appropriate)*

## Manufacturer's Authorization

Date: *[insert date (as day, month, and year) of bid submission]*

OCB No.: OPI/06

To: Philippine Competition Commission

WHEREAS

We *[insert complete name of the manufacturer]*, who are official manufacturers of *[insert type of goods manufactured]*, having factories at *[insert full address of manufacturer's factories]*, do hereby authorize *[insert complete name of the bidder]* to submit a bid the purpose of which is to provide the following goods, manufactured by us *[insert name and/or brief description of the goods]*, and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 28 of the General Conditions, with respect to the goods offered by the above firm.

Signed: *[insert signature(s) of authorized representative(s) of the manufacturer]*

Name: *[insert complete name(s) of authorized representative(s) of the manufacturer]*

Title: *[insert title]*

Duly authorized to sign this Authorization on behalf of *[insert complete name of the manufacturer]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

**-- Note to Bidder --**

*All italicized text is for use in preparing this form and shall be deleted from the final document.*

*The bidder shall require the manufacturer to fill out this form in accordance with the instructions indicated. This letter of authorization should be signed by a person with the proper authority to sign documents that are binding on the manufacturer. The bidder shall include it in its bid, if so indicated in the Bid Data Sheet (BDS).*



## Affiliate Company Guarantee

Name of Contract/Contract No.: OPI/06: Dawn Raid Toolkits and other Tools for Investigation

Name and address of Purchaser: Philippine Competition Commission, 25//F Vertis North  
Corporate Center 1, North Avenue, Quezon City 1105

*[together with successors and assigns].*

We have been informed that *[name of Contractor]* (hereinafter called the “Contractor”) is submitting an offer for the above-referenced Contract in response to your invitation, and that the conditions of your invitation require its offer to be supported by an affiliate company guarantee.

In consideration of you, the Purchaser, awarding the Contract to the Contractor, we *[name of affiliated company]* irrevocably and unconditionally guarantee to you, as a primary obligation, that (i) throughout the duration of the Contract, we will make available to the Contractor our financial, technical capacity, expertise and resources required for the Contractor’s satisfactory performance of the Contract; and (ii) we are fully committed, along with the Contractor, to ensuring a satisfactory performance of the Contract.

If the Contractor fails to so perform its obligations and liabilities and comply with the Contract, we will indemnify the Purchaser against and from all damages, losses and expenses (including legal fees and expenses) which arise from any such failure for which the Contractor is liable to the Purchaser under the Contract.

This guarantee shall come into full force and effect when the Contract comes into full force and effect. If the Contract does not come into full force and effect within a year of the date of this guarantee, or if you demonstrate that you do not intend to enter into the Contract with the Contractor, this guarantee shall be void and ineffective. This guarantee shall continue in full force and effect until all the Contractor’s obligations and liabilities under the Contract have been discharged, when this guarantee shall expire and shall be returned to us, and our liability hereunder shall be discharged absolutely.

This guarantee shall apply and be supplemental to the Contract as amended or varied by the Purchaser and the Contractor from time to time. We hereby authorize them to agree on any such amendment or variation, the due performance of which and compliance with which by the Contractor are likewise guaranteed hereunder. Our obligations and liabilities under this guarantee shall not be discharged by any allowance of time or other indulgence whatsoever by the Purchaser to the Contractor, or by any variation or suspension of the works to be executed under the Contract, or by any amendments to the Contract or to the constitution of the Contractor or the Purchaser, or by any other matters, whether with or without our knowledge or consent.

This guarantee shall be governed by the law of the same country (or other jurisdiction) that governs the Contract and any dispute under this guarantee shall be finally settled under the *[Rules or Arbitration provided in the Contract]*. We confirm that the benefit of this guarantee may be assigned subject only to the provisions for assignment of the Contract.

Signed by:.....

(signature)

.....

(name)

.....

(position in parent/subsidiary company)

Signed by:.....

(signature)

.....

(name)

.....

(position in parent/subsidiary company)

Date:.....

**-- Note to Bidder --**

*If permitted in accordance with ITB 38.2 of the BDS, the Bidder shall fill out the Affiliate Company Guarantee Form for each subsidiary, parent entity, affiliate, Subcontractor, etc. that the Bidder submits for consideration of the Purchaser in determining its qualifications.*

## **Bidder's Qualification**

To establish its qualifications to perform the contract in accordance with Section 3 (Evaluation and Qualification Criteria), the Bidder shall provide the following information requested in the corresponding Information Sheets.

**Form ELI – 1: Bidder’s Information Sheet**

<b>Bidder’s Information</b>	
<b>Bidder’s legal name</b>	
<b>In case of a Joint Venture, legal name of each partner</b>	
<b>Bidder’s country of constitution</b>	
<b>Bidder’s year of constitution</b>	
<b>Bidder’s legal address in country of constitution</b>	
<b>Bidder’s authorized representative</b> (name, address, telephone number(s), fax number(s) and e-mail address)	
<p><b>Attached are copies of the following documents:</b></p> <p><input type="checkbox"/> 1. In case of a single entity, articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and ITB 4.2</p> <p><input type="checkbox"/> 2. Authorization to represent the firm or Joint Venture named above, in accordance with ITB 22.2</p> <p><input type="checkbox"/> 3. In case of a Joint Venture, a letter of intent to form a Joint Venture or Joint Venture agreement, in accordance with ITB 4.1.</p> <p><input type="checkbox"/> 4. In case of a government-owned enterprise, any additional documents not covered under 1 above required to comply with ITB 4.5</p>	

**Form ELI – 2: Joint Venture Information Sheet**

Each member of the Joint Venture must fill out this form separately.

<b>Joint Venture Information</b>	
<b>Bidder's legal name</b>	
<b>Joint Venture Partner's legal name</b>	
<b>Joint Venture Partner's country of constitution</b>	
<b>Joint Venture Partner's year of constitution</b>	
<b>Joint Venture Partner's legal address in country of constitution</b>	
<b>Joint Venture Partner's authorized representative information</b> <i>(name, address, telephone number(s), fax number(s) and e-mail address)</i>	
<b>Attached are copies of the following documents:</b>	
<input type="checkbox"/> 1. Articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and ITB 4.2	
<input type="checkbox"/> 2. Authorization to represent the firm named above, in accordance with ITB 22.2	
<input type="checkbox"/> 3. In the case of a government-owned enterprise, in accordance with ITB 4.5	

**Form EXP – 1: Contractual Experience**

Fill out one (1) form per contract.

<b>Contractual Experience</b>			
<b>Contract No . . . . . of . . . . .</b>	<b>Contract Identification</b>		
<b>Award Date</b>		<b>Completion Date</b>	
<b>Role in Contract</b>	<input type="checkbox"/> <b>Manufacturer</b>	<input type="checkbox"/> <b>Supplier</b>	<input type="checkbox"/> <b>Subcontractor</b>
<b>Total Contract Amount</b>	<b>\$</b>		
<b>If partner in a joint venture or subcontractor, specify participation of total contract amount</b>	<b>Percent of Total</b>	<b>Amount</b>	
<b>Purchaser's name</b> <b>Address</b> <b>Telephone/Fax Number</b> <b>E-mail</b>			

**Description of the Similarity in Accordance with Criteria 2.2.1 (Contract Type A) of Section 3  
(Evaluation and Qualification Criteria)**

<b>Lot</b>	<b>Contractual Experience</b>
<p><b>Lot 1: Digital Forensic Equipment</b></p> <p>Similar contracts refer but not limited to (i) supply, delivery, installation, configuration and testing of data extractor, duplicator, retrieval and backup software, and portable and rack mounted servers and desktop/workstation, and (ii) provision of technical and customer support, and training on the use and operation of the equipment and software.</p>	
<p><b>Lot 2: Mobile Forensic Solution</b></p> <p>Similar contracts refer but not limited to (i) supply, delivery, installation, configuration and testing of data centers, servers, networking, security and forensic equipment / software and peripherals, mobile forensic solution and all its related connectors and peripherals, (ii) provision of related software for extraction and analysis of mobile device digital related information and materials, (iii) installation and configuration of the equipment for mobile forensic for sim card reading, mobile device logical and physical examinations, GPS device and memory card physical examinations, and (iii) provision of technical and customer support, and training on the use and operation of the equipment and software.</p>	
<p><b>Lot 3: Digital Forensic Discovery, Extraction and Analysis Software</b></p> <p>Similar contracts refer but not limited to (i) supply, delivery, installation, configuration and testing of related software for extraction and analysis, data centers, servers, networking, security and forensic equipment / software and peripherals, and (ii) provision of technical and customer support, and training on the operation and use of the equipment and software.</p>	

**Form FIN – 1: Historical Financial Performance**

Each Bidder must fill out this form.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: \_\_\_\_\_

<b>Financial Data for Previous Three (3) Years [\$ Equivalent]</b>		
<b>Year 1:</b>	<b>Year 2:</b>	<b>Year 3:</b>

**Information from Balance Sheet**

<b>Total Assets (TA)</b>			
<b>Total Liabilities (TL)</b>			
<b>Net Worth = TA-TL</b>			
<b>Current Assets (CA)</b>			
<b>Current Liabilities (CL)</b>			
<b>Working Capital = CA - CL</b>			

**Information from Income Statement**

<b>Total Revenues</b>			
<b>Profits Before Taxes</b>			
<b>Profits After Taxes</b>			

- Attached are copies of financial statements (balance sheets including all related notes, and income statements) for the last 3 years,<sup>b</sup> as indicated above, complying with the following conditions:
- Unless otherwise required by Section 3 of the Bidding Documents, all such documents reflect the financial situation of the legal entity or entities comprising the Bidder and not the Bidder's parent companies, subsidiaries, or affiliates.
  - Historical financial statements must be audited by a certified accountant.
  - Historical financial statements must be complete, including all notes to the financial statements.
  - Historical financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).



**Form FIN – 2: Size of Operation (Average Annual Turnover)**

Each Bidder must fill out this form.

The information supplied should be the Annual Turnover of the Bidder or each member of a Joint Venture in terms of the amounts billed to clients for each year for work in progress or completed, converted to US dollars at the rate of exchange at the end of the period reported.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name:

Joint Venture Partner: \_\_\_\_\_

<b>Annual Turnover Data for the Last Five (5) Years</b>			
<b>Year</b>	<b>Amount Currency</b>	<b>Exchange Rate</b>	<b>\$ Equivalent</b>
<b>Average Annual Turnover</b>			

## Section 5: Eligible Countries

### Regional Members (49)

Afghanistan  
Armenia  
Australia  
Azerbaijan  
Bangladesh  
Bhutan  
Brunei Darussalam  
Cambodia  
Cook Islands  
Federated States of Micronesia  
Fiji  
Georgia  
Hong Kong, China  
India  
Indonesia  
Japan  
Kazakhstan  
Kiribati  
Kyrgyz Republic  
Lao People's Democratic Republic  
Malaysia  
Maldives  
Marshall Islands  
Mongolia  
Myanmar  
Nauru  
Nepal  
New Zealand  
Niue  
Pakistan  
Palau  
Papua New Guinea  
People's Republic of China  
Philippines  
Republic of Korea

Samoa  
Singapore  
Solomon Islands  
Sri Lanka  
Taipei, China  
Tajikistan  
Thailand  
Timor-Leste  
Tonga  
Turkmenistan  
Tuvalu  
Uzbekistan  
Vanuatu  
Viet Nam

### Nonregional Members (19)

Austria  
Belgium  
Canada  
Denmark  
Finland  
France  
Germany  
Ireland  
Italy  
Luxembourg  
The Netherlands  
Norway  
Portugal  
Spain  
Sweden  
Switzerland  
Turkey  
United Kingdom  
United States

# Section 6: Schedule of Supply

## Contents

1. List of Goods and Related Services .....6-**Error! Bookmark not defined.**
2. Delivery and Completion Schedule .....6-**Error! Bookmark not defined.**
3. Technical Specifications .....6-**Error! Bookmark not defined.**
4. Drawings .....6-**Error! Bookmark not defined.**

# 1. List of Goods and Related Services

The Goods and Related Services are grouped in lots. Bidders shall have the option of submitting Bids for one, any combination, or all of the lots. Lots shall not be further subdivided for the purpose of bidding.

<b>Lot No.: 1</b>				
<b>Lot Name: DIGITAL FORENSIC EQUIPMENT</b>				
<b>Item No.</b>	<b>Name of Goods or Related Services</b>	<b>Description</b>	<b>Unit of Measurement</b>	<b>Quantity</b>
1.1	Data Extractor/ Duplicator	Supply, delivery, installation and configuration of one main unit of Data Extractor/Duplicator, including all related connectors and peripherals; Provision of necessary software / driver for proper operation of the main unit and corresponding expansion modules	Each	1
1.2	Portable Server and All-in-One Workstation			
	1.2.1 Portable Server	Supply, delivery, installation and configuration of Portable Server (Laptop type) including all software, cables, connectors and peripherals	Each	1
	1.2.2 All-in-One Workstation	Supply, delivery, installation and configuration of All-in-One Workstation including all software, cables, connectors and peripherals, with storage capacity of 256GB M.2 PCIe NVMe SSD + 1TB 5400 RPM 2.5" SATA Drive; At least 16GB DDR4 2666MHZ or latest compatible; Provision of basic introductory training on the operation of equipment and software	Each	3

<b>Lot No.: 2</b>				
<b>Lot Name: MOBILE FORENSIC EQUIPMENT</b>				
<b>Item No.</b>	<b>Name of Goods or Related Services</b>	<b>Description</b>	<b>Unit of Measurement</b>	<b>Quantity</b>
2.1	Mobile Forensic Equipment, cables and other peripherals	Supply, delivery, installation and configuration of Mobile Forensic Equipment, cables and other peripherals, including connectors for mobile devices connections; Provision of related software for extraction and analysis of mobile device digital related information and materials, including basic introductory training on the operation of equipment and software	Set	1
2.2	Laptop	Supply, delivery, installation and configuration of one laptop with storage capacity of 256GB M.2 PCIe NVMe SSD + 1TB 5400 RPM 2.5" SATA Drive; Minimum 16GB DDR4 2666MHZ or latest compatible	Each	1
2.3	Intelligent Book Scanner	Supply, delivery, installation and configuration of Intelligent Book Scanner with CMOS sensor, 18 megapixels resolution, at least 4896 X 3672 DPI, software compatibility with Windows 10, etc.	Each	1
2.4	Portable All-in-One Printer	Supply, delivery, installation and configuration of Portable All-in-One Printer, Thermal or Inkjet or CIS Print Technology and with Print Speed up to 9ppm on battery (Black) and up to 6ppm on battery (Colored)	Each	4
2.5	Portable Printer	Supply, delivery, installation and configuration of Portable Printer, Thermal or Inkjet or CIS Print Technology and with Print Speed up to 9ppm on battery (Black) and up to 6ppm on battery (Colored)	Each	2
2.6	1 TB, Solid State Device (SSD) Portable Drive	Supply, delivery, installation and configuration of SSD Portable Drive with storage capacity of 1 TB; Interface: SATA 6Gb/s	Each	5
2.7	2 TB, Solid State Device (SSD) Portable Drive	Supply, delivery, installation and configuration of SSD Portable Drive with storage capacity of 2 TB; Interface: SATA 6Gb/s	Each	3

<b>Lot No.: 3</b>				
<b>Lot Name: DIGITAL FORENSIC DISCOVERY, EXTRACTION AND ANALYSIS SOFTWARE</b>				
<b>Item No.</b>	<b>Name of Goods or Related Services</b>	<b>Description</b>	<b>Unit of Measurement</b>	<b>Quantity</b>
3.1	Digital Forensic Discovery, Extraction and Analysis Software	Supply, delivery, installation and configuration of Digital Forensic Discovery, Extraction and Analysis Software for extraction and analysis; Software subscription period of 12 months, including basic introductory training on the operation of equipment and software; License for main software	License	1
3.2	Digital Forensic Discovery, Extraction and Analysis Software	Supply, delivery, installation and configuration of Digital Forensic Discovery, Extraction and Analysis Software for extraction and analysis; Software subscription period of 12 months, including basic introductory training on the operation of equipment and software; License for reviewer	License	5

## 2. Delivery and Completion Schedule

The delivery period shall start as of the date of the Notification of Award.

Single shipment delivery shall take place in compliance with the dates, duration, and locations indicated below:

Item No.	Description of Goods or Related Services	Delivery Schedule (Duration)	Location	Required Arrival Date of Goods or Completion Date for Related Services
<b>LOT 1.</b>	<b>DIGITAL FORENSIC EQUIPMENT</b>			
1.1	Data Extractor/ Duplicator	65 days during which delivery must take place	Purchaser's address	Within 65 days of the date of the Notification of Award
1.2	Portable Server and All-in-One Workstation			
	1.2.1 Portable Server			
	1.2.2 All-in-One Workstation			
<b>LOT 2.</b>	<b>MOBILE FORENSIC EQUIPMENT</b>			
2.1	Mobile Forensic Equipment, cables and other peripherals	65 days during which delivery must take place	Purchaser's address	Within 65 days of the date of the Notification of Award
2.2	Laptop			
2.3	Intelligent Book Scanner	65 days during which delivery must take place	Purchaser's address	Within 65 days of the date of the Notification of Award
2.4	Portable All-in-One Printer	65 days during which delivery must take place	Purchaser's address	Within 65 days of the date of the Notification of Award
2.5	Portable Printer			
2.6	1 TB, Solid State Device (SSD) Portable Drive	65 days during which delivery must take place	Purchaser's address	Within 65 days of the date of the Notification of Award
2.7	2 TB, Solid State Device (SSD) Portable Drive			
<b>LOT 3.</b>	<b>DIGITAL FORENSIC DISCOVERY, EXTRACTION AND ANALYSIS SOFTWARE</b>			
3.1	Digital Forensic Discovery, Extraction and Analysis Software	65 days during which delivery must take place	Purchaser's address	Within 65 days of the date of the Notification of Award
3.2	Digital Forensic Discovery, Extraction and Analysis Software			

## 3. Technical Specifications

### LOT 1: DIGITAL FORENSIC EQUIPMENT

- 1.1. Data Extractor/ Duplicator
- 1.2. Portable Server and All-in-One Workstation
  - 1.2.1 Portable Server
  - 1.2.2 All-in-One Workstation

### TECHNICAL DESCRIPTION, SPECIFICATIONS, AND STANDARDS:

#### I. Rationale

Section 12(g) of the Philippine Competition Act (PCA) empowers the Philippine Competition Commission (PCC) to undertake inspections of premises as part of its investigative tools. In September 2019, the Supreme Court issued the Rule on Administrative Search and Inspection under the Philippine Competition Act (“Rule”) which provides the legal and procedural framework for the conduct of inspections.

In order to effectively carry out its functions, procurement of digital forensic equipment is needed to be able to conduct dawn raids and do investigation with the aid of forensic investigation tools.

#### II. Objective

1. To support the Competition Enforcement Office (CEO) in the conduct of Administrative Search and Inspection with the use of digital forensic investigation techniques;
2. To operationalize the digital forensic capability of the Competition Enforcement Office and Information and Communication Technology Division;
3. To recover, store and analyze any digital related materials, in any format that can be part of the investigation conducted by CEO and be utilized as digital evidence.

#### III. Scope of Works

The supplier shall perform the following tasks:

1. Supply and deliver data extractor / duplicator and all its related connectors and peripherals;
2. Configure the equipment for data extraction / duplication on the following drives:
  - a. PATA/IDE (2.5”, 3.5”)
  - b. SATA (2.5”, 3.5”)
  - c. iSCSI
  - d. SATA SSD
  - e. SAS (2.5”, 3.5”)
  - f. Hitachi Drives 1.8”
  - g. Toshiba Drives 1.8”
  - h. MacBook Air
  - i. MSATA
  - j. Mini PCIe PATA
  - k. Mini PCIe SATA
  - l. Mini PCIe USB



- m. USB Thumb Drives (USB 3.0, 2.0, 1.0)
  - n. USB Drives (USB 3.0, 2.0, 1.0)
  - o. FireWire Drives
3. Test extractor / duplicator for speed, accuracy and compatibility on the above stated supported drives;
  4. Supply and deliver Portable Server and Workstation including all software, cables, connectors and peripherals;
  5. Test portable server and workstation for storage, compute speed and memory capacity;
  6. Provide basic introductory training on the operation of equipment;
  7. Submit manufacturer's catalog and product data;
  8. In the event of faulty part/s, for data extractor/duplicator, Portable Server and Workstation, the supplier must replace the parts within three (3) days upon detection. If part is not available with the time period, a service unit may be accepted, given that any damage/s to other peripherals due to the service unit will be replaced by the supplier at no cost to PCC;
  9. Provide all materials, equipment and peripherals, and other scope of works not mentioned in this Terms of Reference but needed in the completion of the project;
  10. Service Level Agreement.
    - i. Provide a single point of contact for technical and customer support, either by phone or electronic mail;
    - ii. Provide 8X7 call and onsite technical support with three (3) hours response time for technical problem that requires on-site services, including weekend and holidays.

#### **IV. Information Security and Non-Disclosure Agreement**

To ensure protection of PCC assets, Supplier/s are expected to observe and abide by the established PCC Information Security Management System (PCC ISMS) and shall agree to sign a non-disclosure agreement.

All data, documents, records, configuration files and metadata (collectively "Information") to be provided to the Supplier/s for purposes of delivering the Services are considered confidential information and shall remain the sole property of PCC. The Supplier/s shall acknowledge the importance of maintaining security and confidentiality of the Information and agree to prevent unauthorized transfer, disclosure, or use of these Information by any third person or entity. Supplier/s shall not use the Information for any purpose other than in connection with the Services. Supplier/s shall ensure that it will not retain, after completion of the Services with which the Information was provided, all or any portion of the Information, in any manner whatsoever.

Upon completion of the supply, delivery, configuration and testing, any and all Information shall be deleted by PCC. The Supplier/s shall not keep any copy of the Information in either digital or physical format, including, but not limited to notes, documents, memoranda, and other writing, electronic records, communications, and the like.

#### **V. Qualifications of the Supplier**

The Supplier/s should have the following minimum qualifications:

- a. Should be an established IT company with three (3) years of experience in supply, delivery of (i) data extractor, duplicator, retrieval or backup software/appliance, and (ii) portable and rack mounted servers and desktop workstation.
- b. Should submit certification of authorized distributorship / dealership / resellership from the distributor / manufacturer of the product/s offered.
- c. Should submit copies of client's satisfactory certificates and/or certificate of completion and acceptance from at least three (3) clients for the last five (5) years, with similar

- contracts. Similar contracts refer but not limited to supply, delivery, installation and configuration of (i) data extractor, duplicator, retrieval and backup software, and (ii) portable and rack mounted servers and desktop/workstation.
- d. Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives.
  - e. Mayor's/Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas. In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit.
  - f. Tax clearance per E.O. 398, s. 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR).

## VI. Technical Specifications

Serial No.	Requirement Summary	Technical Requirement Description		
Lot 1	Supply, delivery, installation and configuration of one main unit of Data Extractor/ Duplicator, including all related connectors and peripherals; Provision of necessary software / driver for proper operation of the main unit and corresponding expansion modules	<b>DIGITAL FORENSIC EQUIPMENT</b> The equipment provided shall support a minimum of the following:		
		<b>Item</b>	<b>Minimum Requirement</b>	
		<b>1.1 Data Extractor/ Duplicator</b>	One (1) main unit including necessary cables and connector included in the bundle;	
			Must have the following Input/Output (I/O) ports: <ul style="list-style-type: none"> <li>• IDE/PATA</li> <li>• USB 2.0</li> <li>• USB 3.0</li> <li>• eSATA</li> <li>• Gigabit Ethernet</li> </ul>	
			Must support the following Drive Types: <ul style="list-style-type: none"> <li>• PATA/IDE (2.5", 3.5")</li> <li>• SATA (2.5", 3.5")</li> <li>• iSCSI</li> <li>• SATA SSD</li> <li>• SAS (2.5", 3.5")</li> <li>• Hitachi Drives 1.8"</li> <li>• Toshiba Drives 1.8"</li> <li>• Macbook Air</li> <li>• mSATA</li> <li>• Mini PCIe PATA</li> <li>• Mini PCIe SATA</li> <li>• Mini PCIe USB</li> <li>• USB Thumb Drives (USB 3.0,2.0,1.0)</li> <li>• USB Drives (USB 3.0,2.0,1.0)</li> <li>• FireWire</li> </ul>	
	Must be compatible with 512n drives as well as advance format 4Kn and 512e type drives			
	Can be operated remotely on a web browser			

			Compatible with Windows OS, MacOS and Linux OS
			Capable of write blocking on source side on the following ports: eSATA (SATA), PATA/IDE, USB 3.0
			Capable of hashing with the following hashing information: MD5, SHA-1, SHA-256, MD5 + SHA-1, MD5 + SHA-256 and can hash during image or clone
			Have the following erase modes but not limited to: Clear Partition Table, Quick Erase, Custom Erase, Secure Erase Normal, Secure Erase Enhanced, DoD Clear, DoD Sanitize, NIST800-88 Clear, NIST800-88 Purge
			Must support the following image/clone output modes but not limited to: Single Drive Image, Single Drive Clone, Image and Clone, Image to mirrored disks, Clone to mirrored disks
			With tough, rugged water resistant carrying case
			Provide the following expansion module, cables, connectors, other peripherals: <ul style="list-style-type: none"> <li>• USB Expansion Module</li> <li>• SAS Expansion Module must be compatible with SATA 2.5", 3.5" and SAS 2.5", 3.5"</li> <li>• FireWire Expansion Module with FireWire Cable</li> <li>• DVD Reader</li> <li>• PCIe Adapter set (3 sets) must be compatible with PCIe/NVMe, M.2 SSD, mSATA and M.2 SATA</li> <li>• Cooling pad</li> </ul>
			Provide necessary software / driver for proper operation of the main unit and corresponding expansion modules
			Warranty: <ul style="list-style-type: none"> <li>• Main Unit – Three (3) years, onsite, parts and service</li> <li>• Expansion Modules and PCIe Adapter – Two (2) years, onsite, parts and service</li> </ul>
			Provide all materials, equipment and peripherals, and other scope of works not mentioned in this Terms of Reference but needed in the completion of the project
	Supply, delivery, installation and configuration of Portable	<b>1.2 Portable Server</b>	One (1) unit Portable Server (Laptop Type)
			Configure storage for 10TB: <ul style="list-style-type: none"> <li>• 6TB PCIe NVMe Three Layer Cell Solid State Drive</li> <li>• 2TB 5400RPM Hybrid Drive 8GB NAND</li> <li>• 2TB 5400RPM HDD</li> </ul>

	<p>Server (Laptop type) including all software, cables, connectors and peripherals</p>		<p>Server type processor, latest generation, with the following minimum specifications:</p> <ul style="list-style-type: none"> <li>• Lithography: 14nm</li> <li>• Processor frequency: 2.40 Ghz up to 5.0Ghz</li> <li>• Number of cores: 8</li> <li>• Number of threads: 16</li> <li>• Cache: 16MB</li> <li>• Bus speed: 8GT/s</li> </ul> <p>At least 128GB DDR4 2666MHZ or latest compatible</p> <p>Operating System (OS) must be compatible with the current OS version of PCC (e.g. Windows 10 pro 64, Window Server 2016 and 2019)</p> <p>With dedicated Graphic Adapter at least 4GB memory</p> <p>Must have the following peripherals and ports but not limited to:</p> <ul style="list-style-type: none"> <li>• Webcam</li> <li>• Wireless LAN Connectivity</li> <li>• Bluetooth Connectivity</li> <li>• Microphone/Headset jack and speakers</li> <li>• Ethernet Connectivity</li> <li>• USB Port</li> <li>• HDMI Port</li> <li>• Card Reader</li> <li>• Power adapter</li> </ul> <p>Battery at least 6-cell</p> <p>Must have completed and passed MIL-STD-810G Testing for laptops</p> <p>Warranty: Three (3) years, onsite, parts and service</p> <p>Provide all materials, equipment and peripherals, and other scope of works not mentioned in this Terms of Reference but needed in the completion of the project</p>
	<p>Supply, delivery, installation and configuration of All-in-One Workstation including all software, cables, connectors and peripherals, with Storage capacity of 256GB M.2 PCIe NVMe</p>	<p><b>1.3 All-in-One Workstation</b></p>	<p>Three (3) units All-in-One Workstation</p> <p>Storage: 256GB M.2 PCIe NVMe SSD + 1TB 5400 RPM 2.5" SATA Drive</p> <p>Commercial type processor, latest generation, with the following minimum specifications:</p> <ul style="list-style-type: none"> <li>• Lithography: 14nm</li> <li>• Processor frequency: 1.80 Ghz up to 4.90Ghz</li> <li>• Number of cores: 4</li> <li>• Number of threads: 8</li> <li>• Cache: 8MB</li> <li>• Bus speed: 4GT/s</li> </ul> <p>At least 16GB DDR4 2666MHZ or latest compatible</p>

	SSD + 1TB 5400 RPM 2.5” SATA Drive; At least 16GB DDR4 2666MHZ or latest compatible; Provision of basic introductory training on the operation of the equipment and software		Operating System (OS) must be compatible with the current OS version of PCC (e.g. Windows 10 pro 64, Window Server 2016 and 2019)
			Monitor at least 27” Full HD with Anti-Glare, non-touch
			With dedicated Graphic Adapter at least 2GB memory
			Must have the following peripherals and ports but not limited to: <ul style="list-style-type: none"> <li>• Webcam</li> <li>• Wireless LAN Connectivity</li> <li>• Bluetooth Connectivity</li> <li>• Microphone/Headset jack and speakers</li> <li>• Ethernet Connectivity</li> <li>• USB Port</li> <li>• HDMI Port</li> <li>• Card Reader</li> <li>• Power Cord</li> </ul>
			Warranty: One (1) year, onsite, parts and service
			Provide all materials, equipment and peripherals, and other scope of works not mentioned in this Terms of Reference but needed in the completion of the project

**LOT 2: MOBILE FORENSIC SOLUTION**

- 2.1. Mobile Forensic Equipment
- 2.2. Laptop
- 2.3. Intelligent Book Scanner
- 2.4. Portable All-in-One Printer
- 2.5. Portable Printer
- 2.6. SSD Portable Drive, 1 TB
- 2.7. SSD Portable Drive, 2 TB

**TECHNICAL DESCRIPTION, SPECIFICATIONS, AND STANDARDS:****I. Rationale**

Section 12(g) of the Philippine Competition Act (PCA) empowers the Philippine Competition Commission (PCC) to undertake inspections of premises as part of its investigative tools. In September 2019, the Supreme Court issued the Rule on Administrative Search and Inspection under the Philippine Competition Act ("Rule") which provides the legal and procedural framework for the conduct of inspections.

In order to effectively carry out its functions, PCC shall procure a mobile forensic solution to aid inspections under the Rule and conduct investigations using forensic tools.

**II. Objective**

1. To support the PCC in the conduct of Administrative Search and Inspection with the use of mobile forensic solution for mobile device investigation;
2. To operationalize the digital forensic capability of the Competition Enforcement Office and Information and Communication Technology Division;
3. To acquire, process, analyze and store any electronically stored information and any digital related materials in any format that can be part of the investigation conducted by the PCC and may be used as evidence.

**III. Scope of Works**

The supplier shall perform the following tasks:

1. Supply and deliver the mobile forensic solution and all its related connectors and peripherals;
2. Provide related software for extraction and analysis of mobile device digital related information and materials;
3. Install and configure the equipment for mobile forensic for sim card reading, mobile device logical and physical examinations, GPS device physical examinations, memory card physical examination;
4. Provide basic introductory training on the operation of equipment and software;
5. Submit manufacturer's catalog and product data;
6. In the event of faulty part/s, for all equipment/solution under this lot, the supplier must replace the parts within three (3) days upon detection. If part is not available with the time period, a service unit may be accepted, given that any damage/s to other peripherals due to the service unit will be replaced by the supplier at no cost to PCC;
7. Provide all materials, equipment and peripherals, and other scope of works not mentioned in this Terms of Reference but needed in the completion of the project;
8. Service Level Agreement.
  - i. Provide a single point of contact for technical and customer support, either by phone or electronic mail;

- ii. Provide 8X7 call and onsite technical support with three (3) hours response time for technical problem that requires on-site services, including weekend and holidays.

#### **IV. Information Security and Non-Disclosure Agreement**

To ensure protection of PCC assets, Supplier/s are expected to observe and abide by the established PCC Information Security Management System (PCC ISMS) and shall agree to sign a non-disclosure agreement.

All data, documents, records, configuration files and metadata (collectively "Information") to be provided to the Supplier/s for purposes of delivering the Services are considered confidential information and shall remain the sole property of PCC. The Supplier/s shall acknowledge the importance of maintaining security and confidentiality of the Information and agree to prevent unauthorized transfer, disclosure, or use of these Information by any third person or entity. Supplier/s shall not use the Information for any purpose other than in connection with the Services. Supplier/s shall ensure that it will not retain, after completion of the Services with which the Information was provided, all or any portion of the Information, in any manner whatsoever.

Upon completion of the supply, delivery, configuration and testing, any and all Information shall be deleted by PCC. The Supplier/s shall not keep any copy of the Information in either digital or physical format, including, but not limited to notes, documents, memoranda, and other writing, electronic records, communications, and the like.

#### **V. Qualifications of the Supplier**

The Supplier/s should have the following minimum qualifications:

- a. Should be an established IT company with three (3) years of experience in supply, delivery of data centers, servers, networking, security and forensic equipment / software and peripherals. Must submit certification of authorized distributorship / dealership / resellership from the distributor / manufacturer of the product/s offered.
- b. Should submit copies of client's satisfactory certificates and/or certificate of completion and acceptance from at least three (3) clients for the last five (5) years, with similar contracts. Similar contracts refer but not limited to supply, delivery, installation and configuration of data centers, servers, networking, security and forensic equipment / software and peripherals.
- c. Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives.
- d. Mayor's/Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas. In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit.
- e. Tax clearance per E.O. 398, s. 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR).

## VI. Technical Specifications

Serial No.	Requirement Summary	Technical Requirement Description	
<b>Lot 2</b>	Supply, delivery, installation and configuration of Mobile Forensic Equipment, cables and other peripherals, including connectors for mobile devices connections; Provision of related software for extraction and analysis of mobile device digital related information and materials, including basic introductory training on the operation of the equipment and software.	<b>MOBILE FORENSIC SOLUTION</b> The equipment provided shall support a minimum of the following:	
		<b>Item</b>	<b>Minimum Requirement</b>
		<b>2.1 Mobile Forensic Equipment</b>	One (1) set of mobile forensic equipment, cables and other peripherals
			Must include connectors for mobile devices connections (e.g. Micro-USB, Type C, Lightning and non-standard connector, etc.)
			Compatible with at least Android version 4 and iOS version 2; Blackberry OS, Windows Phone OS, etc.
			Must support mobile brand but not limited to Nokia, Ericson, Samsung, Huawei, Oppo, Vivo, Mi, iPhone, One Plus, Asus, etc.
			File format must be secured with full audit trail and protection from extraction to analysis
			Must include sim cloner, memory card reader, USB expansion kit, briefcase and cable organizer
			Must have passcode and bypass features
Must support at least three (3) simultaneous extractions			



			<p>Must have the following software capabilities:</p> <ol style="list-style-type: none"> <li>a. Logical extraction to access and recover live and file system data and must support sim card reading, live mobile device and common mobile application;</li> <li>b. Physical extraction to bypass the operating system and dump all raw data to access system data, protected and deleted data and bypass certain security and encryption on devices;</li> <li>c. With capability to extract data from non-standard mobile devices that can automatically detect pin layout (includes adapter kit, power cables, and adaptor);</li> <li>d. Must support extracting of iPhone devices iPhone exploit (checkm8);</li> <li>e. Capable to recover data from cloud connected storage from the mobile device such as Facebook, Google, iCloud, Twitter, Viber, WhatsApp, Telegram, etc.;</li> <li>f. Must have a simplified analysis tool to open, view, analyze and/or report on mobile device data;</li> <li>g. Can filter content category, time, phone number, etc.;</li> <li>h. Must have AI based content recognition and manual preferred filter configuration;</li> <li>i. Export must support the following file format: PDF, XML, HTML, Word, Excel, GPX, Google Earth, VICS.</li> <li>j. Built-in viewer for Plist and SQLite Files;</li> <li>k. Must have advance data reconstruction for fragmented data;</li> <li>l. Must have capability to view data in geographic, chat, timeline and connection view</li> </ol>
			<p>Warranty: One (1) year, onsite, parts and service</p>
			<p>Provide all materials, equipment and peripherals, and other scope of works not mentioned in this Terms of Reference but needed in the completion of the project.</p>
<p>Supply, delivery, installation and configuration of one laptop with storage capacity of 256GB M.2 PCIe NVMe SSD + 1TB 5400 RPM 2.5" SATA Drive; Minimum 16GB DDR4 2666MHZ or latest compatible</p>	<p><b>2.2 Laptop</b></p>		<p>One (1) unit</p> <p>Storage: 256GB M.2 PCIe NVMe SSD + 1TB 5400 RPM 2.5" SATA Drive</p> <p>Commercial type processor, latest generation, with the following minimum specifications:</p> <ul style="list-style-type: none"> <li>• Lithography: 14nm</li> <li>• Processor frequency: 1.80 Ghz up to 4.90Ghz</li> <li>• Number of cores: 4</li> <li>• Number of threads: 8</li> <li>• Cache: 8MB</li> <li>• Bus speed: 4GT/s</li> </ul>

			At least 16GB DDR4 2666MHZ or latest compatible
			Operating System (OS) must be compatible with the current OS version of PCC (e.g. Windows 10 pro 64, Window Server 2016 and 2019)
			Monitor at least 14" Full HD with Anti-Glare, non-touch
			3 cell battery or better
			With dedicated Graphic Adapter at least 4GB memory
			Must have the following peripherals and ports but not limited to: <ul style="list-style-type: none"> <li>• Webcam</li> <li>• Wireless LAN Connectivity</li> <li>• Bluetooth Connectivity</li> <li>• Microphone/Headset jack and speakers</li> <li>• Ethernet Connectivity</li> <li>• At least 3 USB Port</li> <li>• HDMI Port</li> <li>• Card Reader</li> <li>• Power adapter</li> </ul>
			Warranty: One (1) year, onsite, parts and service
			Provide all materials, equipment and peripherals, and other scope of works not mentioned in this Terms of Reference but needed in the completion of the project
	Supply, delivery, installation and configuration of Intelligent Book Scanner with CMOS sensor, 18 megapixels resolution, at least 4896 X 3672 DPI, software compatibility with Windows 10, etc.	<b>2.3 Intelligent Book Scanner</b>	Sensor: CMOS
			Pixel: 18 megapixels
			Resolution: At least 4896 X 3672
			DPI: At least 275
			Scanning paper size: Up to A3
			Image format: JPG
			Export format: JPG, PDF, Searchable PDF, Word, Excel, TIFF
			Interface: USB 2.0 or higher
			Light Source: Built-in Top and Side Lights
			Focus Mode: Fixed focus
			Laser-assisted: 3 laser rays
			OCR: Must support OCR for most common languages

		<p>Software features:</p> <ul style="list-style-type: none"> <li>• Flattening Curve</li> <li>• Smart paging</li> <li>• Tilt correction</li> <li>• Auto cropping and trimming</li> <li>• Screen recording</li> <li>• Video recording</li> </ul> <p>Optical features:</p> <ul style="list-style-type: none"> <li>• Element – 3G2P+IR</li> <li>• Sensor – 1/2.3”</li> <li>• EFL – 4.5mm</li> <li>• BFL – &gt;3.4mm</li> <li>• F/NO – 4.5</li> <li>• IR Cut – 650</li> <li>• Field of view – 82</li> <li>• Distortion &lt;0.5%</li> </ul> <p>Software Compatibility: Windows 10</p> <p>Warranty: One (1) year, parts and service</p> <p>With USB Cable</p>
	<p>Supply, delivery, installation and configuration of Portable All-in-One Printer, Thermal or Inkjet or CIS Print Technology and with Print Speed up to 9ppm on battery (Black) and up to 6ppm on battery (Colored)</p>	<p><b>2.4 Portable All-in-One Printer</b></p> <p>Print Technology: Thermal or Inkjet or CIS</p> <p>Print Speed: Black up to 9ppm on battery; Colored up to 6ppm on battery</p> <p>Form Factor: Small form factor</p> <p>Paper size: Legal, Letter, A4, B5, A5, A6, 8.27X14”</p> <p>Interface: USB 2.0 or better; Wi-Fi, Wi-Fi Direct</p> <p>Scanner: With Built-in-Scanner</p> <p>Control Panel: LCD Screen</p> <p>Software Compatibility: Windows 10</p> <p>Weight: Must be from 2Kg to 3Kg</p> <p>Warranty: One (1) year, parts and service</p> <p>With Battery (Built-on or removable)</p> <p>With USB cable</p> <p>With three (3) sets of additional ink cartridges (Black, Cyan, Magenta, Yellow)</p>
	<p>Supply, delivery, installation and configuration of</p>	<p><b>2.5 Portable Printer</b></p> <p>Print Technology: Thermal or Inkjet or CIS</p> <p>Print Speed: Black up to 9ppm on battery; Colored up to 6ppm on battery</p>

Portable Printer, Thermal or Inkjet or CIS Print Technology and with Print Speed up to 9ppm on battery (Black) and up to 6ppm on battery (Colored)		Form Factor: Small form factor
		Paper size: Legal, Letter, A4, B5, A5, A6, 8.27X14"
		Interface: USB 2.0 or better; Wi-Fi, Wi-Fi Direct
		Control Panel: LCD Screen
		Software Compatibility: Windows 10
		Weight: Must be from 1.5Kg to 2Kg
		Warranty: One (1) year, parts and service
		With Battery (Built-on or removable)
		With USB cable
		With three (3) sets of additional ink cartridges (Black, Cyan, Magenta, Yellow)
Supply, delivery, installation and configuration of Solid State Device (SSD) Portable Drive with storage capacity: 1 TB; Interface: SATA 6Gb/s	<b>2.6 SSD Portable Drive, 1 TB</b>	Capacity: 1TB
		Interface: SATA 6Gb/s
		Form Factor: 2.5" or M.2 must include cable
		Flash Memory: NAND
		Performance: At least 540 MB/s sequential read At least 520 MB/s sequential write
		Data Security: Capable of AES 256-bit Full Disk Encryption
		Warranty: One (1) year, parts and service
Supply, delivery, installation and configuration of Solid State Device (SSD) Portable Drive with storage capacity: 2 TB; Interface: SATA 6Gb/s	<b>2.7 SSD Portable Drive, 2TB</b>	Capacity: 2TB
		Interface: SATA 6Gb/s
		Form Factor: 2.5" or M.2 must include cable
		Flash Memory: NAND
		Performance: At least 540 MB/s sequential read At least 520 MB/s sequential write
		Data Security: Capable of AES 256-bit Full Disk Encryption
		Warranty: One (1) year, parts and service

**LOT 3: DIGITAL FORENSIC DISCOVERY, EXTRACTION AND ANALYSIS SOFTWARE**

- 3.1. Digital Forensic Discovery, Extraction and Analysis Software – License for main software
- 3.2. Digital Forensic Discovery, Extraction and Analysis Software – License for reviewer

**TECHNICAL DESCRIPTION, SPECIFICATIONS, AND STANDARDS:****I. Rationale**

Section 12(g) of the Philippine Competition Act (PCA) empowers the Philippine Competition Commission (PCC) to undertake inspections of premises as part of its investigative tools. In September 2019, the Supreme Court issued the Rule on Administrative Search and Inspection under the Philippine Competition Act (“Rule”) which provides the legal and procedural framework for the conduct of inspections.

In order to effectively carry out its functions, PCC shall procure a digital forensic discovery, extraction and analysis software to aid inspections under the Rule and conduct investigations using forensic tools.

**II. Objective**

1. To support the PCC in the conduct of Administrative Search and Inspection with the use of software for discovery, extraction and analysis;
2. To operationalize the digital forensic capability of the Competition Enforcement Office and Information and Communication Technology Division;
3. To acquire, process, analyze and store any electronically stored information and any digital related materials in any format that can be part of the investigation conducted by the PCC and may be used as evidence.

**III. Scope of Works**

The supplier shall perform the following tasks:

1. Subscription period is twelve (12) months;
2. Supply, deliver, install and configure the software;
3. Provide related software for extraction and analysis, if any;
4. Provide basic introductory training on the operation of equipment and software;
5. In the event of error in the license, software, etc., the supplier must replace it within three (3) days upon detection. If it is not available with the time period, a service unit may be accepted, given that any damage/s to other peripherals due to the service unit will be replaced by the supplier at no cost to PCC;
6. Provide all materials, equipment and peripherals, and other scope of works not mentioned in this Terms of Reference but needed in the completion of the project;
7. Service Level Agreement.
  - i. Provide a single point of contact for technical and customer support, either by phone or electronic mail;
  - ii. Provide 8X7 call and onsite technical support with three (3) hours response time for technical problem that requires on-site services, including weekend and holidays.

**IV. Information Security and Non-Disclosure Agreement**

To ensure protection of PCC assets, Supplier/s are expected to observe and abide by the established PCC Information Security Management System (PCC ISMS) and shall agree to sign a non-disclosure agreement.

All data, documents, records, configuration files and metadata (collectively "Information") to be provided to the Supplier/s for purposes of delivering the Services are considered confidential information and shall remain the sole property of PCC. The Supplier/s shall acknowledge the importance of maintaining security and confidentiality of the Information and agree to prevent unauthorized transfer, disclosure, or use of these Information by any third person or entity. Supplier/s shall not use the Information for any purpose other than in connection with the Services. Supplier/s shall ensure that it will not retain, after completion of the Services with which the Information was provided, all or any portion of the Information, in any manner whatsoever.

Upon completion of the supply, delivery, configuration and testing, any and all Information shall be deleted by PCC. The Supplier/s shall not keep any copy of the Information in either digital or physical format, including, but not limited to notes, documents, memoranda, and other writing, electronic records, communications, and the like.

## V. Qualifications of the Supplier

The Supplier/s should have the following minimum qualifications:

- a. Should be an established IT company with three (3) years of experience in supply, delivery of data centers, servers, networking, security and forensic equipment / software and peripherals. Must submit certification of authorized distributorship / dealership / resellership from the distributor / manufacturer of the product/s offered.
- b. Should submit copies of client's satisfactory certificates and/or certificate of completion and acceptance from at least three (3) clients for the last five (5) years, with similar contracts. Similar contracts refer but not limited to supply, delivery, installation and configuration of data centers, servers, networking, security and forensic equipment / software and peripherals.
- c. Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives.
- d. Mayor's/Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas. In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit.
- e. Tax clearance per E.O. 398, s. 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR).

## VI. Technical Specifications

Serial No.	Requirement Summary	Technical Requirement Description	
Lot 3	Supply, delivery, installation and configuration of Digital Forensic Discovery, Extraction and Analysis Software for extraction and analysis;	<b>DIGITAL FORENSIC DISCOVERY, EXTRACTION AND ANALYSIS SOFTWARE</b> The software provided shall support a minimum of the following:	
		<b>Item</b>	<b>Minimum Requirement</b>
		<b>Digital Forensic Discovery, Extraction</b>	1. Subscription period: Twelve (12) months
2. Must include one (1) license for main software and five (5) licenses for reviewer			

	<p>Software subscription period of 12 months, including basic introductory training on the operation of the equipment and software; License for main software</p>	<p><b>and Analysis Software</b></p>	<p>3. Software Features:</p> <p><b>Processing:</b></p> <p>a. Data and file type support:</p> <ul style="list-style-type: none"> <li>i) Email, databases, documents, images</li> <li>ii) Digital and mobile forensic data</li> <li>iii) Network data</li> <li>iv) User data</li> <li>v) Real-time feeds</li> <li>vi) Enterprise and cloud repositories</li> <li>vii) Communication data</li> <li>viii) Multimedia data</li> <li>ix) Log data</li> <li>x) Structured data</li> </ul> <p>b. Must have its own OCR Software;</p> <p>c. Text Mining capabilities:</p> <ul style="list-style-type: none"> <li>i) Extract, create and identify named entities</li> <li>ii) Generate summaries</li> <li>iii) Detect languages</li> </ul> <p>d. Support for hashing and deduplication using but not limited to the following: MD5, SHA1, SHA256, SSDEEP, PhotoDNA</p> <p>e. Supports email threading</p> <p>f. Capable to export metadata to external database</p> <p>g. Can decrypt items with supplied passwords</p> <p>h. Can run side scripts</p> <p><b>Searching:</b></p> <p>a. Search and tag</p> <p>b. Advance searches such as Boolean, wildcard, phrase, regular expressions, range, location, etc.</p> <p>c. Can create filters such as file source, languages, multimedia, etc.</p> <p>d. Capable of machine learning</p> <p>e. With data visualization</p> <p><b>Production and Review:</b></p> <p>a. Search and tag</p> <p>b. Advance searches such as Boolean, wildcard, phrase, regular expressions, range, location, etc.</p>
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			<p>c. Can create filters such as file source, languages, multimedia, etc.</p>
			<p>d. Can organize items</p>
			<p>e. Must support the following exports:</p> <ul style="list-style-type: none"> <li>i) Native formats.</li> <li>ii) PDF, JPEG, TIFF</li> <li>iii) Text layers</li> <li>iv) EML, HTML, MIME/HTML, MBOX, MSG, PST, NSF</li> <li>v) Legal load files for Concordance, Discovery Radar, DocuMatrix, EDRM XML, EDRM XML/ZIP, Everlaw, iCONNECT, InControl, IPRO, Nuix Discover, Summation, Relativity</li> </ul>
			<p><b>Workflow:</b></p>
			<p>a. Language support: at least 300 kind of language encoded documents based on Java encoding support</p>
			<p>b. Scripting: Can execute ECMA Scripts, Python, Ruby</p>
			<p>c. Create profiles with the following but not limited to the sharing settings:</p> <ul style="list-style-type: none"> <li>i) Imaging – printed images of items</li> <li>ii) Metadata</li> <li>iii) Structures and semi-structured data</li> <li>iv) OCR</li> <li>v) Production</li> <li>vi) Processing</li> <li>vii) Configuration</li> </ul>
			<p>4. Software assurance for twelve (12) months on product updates, firmware update, etc.</p>
			<p>5. Software Compatibility: Must be compatible with the current PCC windows operating systems (Windows 10, Server 2016)</p>
			<p>6. Provide all materials, equipment and peripherals, and other scope of works not mentioned in this Terms of Reference but needed in the completion of the project.</p>



## 4. Drawings

None.

# Section 7: General Conditions of Contract

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**Definitions**

- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) “Contract” means the Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendixes, and all documents incorporated by reference therein.
  - (b) “Contract Documents” means the documents listed in the Agreement, including any amendments thereto.
  - (c) “Contract Price” means the price payable to the Supplier as specified in the Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
  - (d) “Day” means calendar day.
  - (e) “Delivery” means the transfer of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in the Contract.
  - (f) “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
  - (g) “Eligible Countries” means the countries and territories eligible as listed in Section 5.
  - (h) “GCC” means the General Conditions of Contract.
  - (i) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
  - (j) “Purchaser’s Country” is the country specified in the Special Conditions of Contract (SCC).
  - (k) “Purchaser” means the entity purchasing the Goods and Related Services, as specified in the SCC.
  - (l) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract.
  - (m) “SCC” means the Special Conditions of Contract.
  - (n) “Subcontractor” means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.

- (o) “Supplier” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Supplier.
- (p) “ADB” is the Asian Development Bank.
- (q) “The Site,” where applicable, means the place named in the SCC.

**Contract Documents**

- 1.2 Subject to the order of precedence set forth in the Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory.

**Fraud and Corruption**

- 1.3 ADB’s Anticorruption Policy (1998, as amended to date) requires Borrowers (including beneficiaries of ADB-financed activity), as well as Bidders, Suppliers, and Contractors under ADB-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, ADB

defines, for the purposes of this provision, the terms set forth below as follows:

- (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
- (v) “abuse” means theft, waste, or improper use of assets related to ADB-related activity, either committed intentionally or through reckless disregard;
- (vi) “conflict of interest” means any situation in which a party has interests that could improperly influence that party’s performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations;
- (vii) “obstructive practice” means (a) deliberately destroying, falsifying, altering, or concealing of evidence material to an ADB investigation, or deliberately making false statements to investigators, with the intent to impede an ADB investigation; (b) threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to a Bank investigation or from pursuing

the investigation; or (c) deliberate acts intended to impede the exercise of ADB's contractual rights of audit or inspection or access to information; and

- (viii) "integrity violation" is any act, as defined under ADB's Integrity Principles and Guidelines (2015, as amended from time to time), which violates ADB's Anticorruption Policy, including (i) to (vii) above and the following: violations of ADB sanctions, retaliation against whistleblowers or witnesses, and other violations of ADB's Anticorruption Policy, including failure to adhere to the highest ethical standard.

will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract;

will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or of a beneficiary of ADB-financing engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations during the procurement or the execution of that contract, without the borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation;

will impose remedial actions on a firm or an individual, at any time, in accordance with ADB's Anticorruption Policy and Integrity Principles and Guidelines, including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB-financed, -administered, or -supported activities or to benefit from an ADB-financed, -administered, or -supported contract, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations; and

- 1.4 All Bidders, consultants, contractors, suppliers and other third parties engaged or involved in ADB-related activities have a duty to cooperate fully in any screening or investigation when requested by ADB to do so. Such cooperation includes, but is not limited to, the following:

being available to be interviewed and replying fully and truthfully to all questions asked;

providing ADB with any items requested that are within the party's control including, but not limited to, documents and other physical objects;

upon written request by ADB, authorizing other related entities to release directly to ADB such information that is specifically and materially related, directly or indirectly, to the said entities or issues which are the subject of the investigation;

cooperating with all reasonable requests to search or physically inspect their person and/or work areas, including files, electronic databases, and personal property used on ADB activities, or that

utilizes ADB's Information and Communications Technology (ICT) resources or systems (including mobile phones, personal electronic devices, and electronic storage devices such as external disk drives);

cooperating in any testing requested by ADB, including but not limited to, fingerprint identification, handwriting analysis, and physical examination and analysis; and

preserving and protecting confidentiality of all information discussed with, and as required by, ADB.

- 1.5 All Bidders, consultants, contractors and suppliers shall ensure that, in its contract with its sub-consultants, Subcontractors and other third parties engaged or involved in ADB-related activities, such sub-consultants, Subcontractors and other third parties similarly undertake the foregoing duty to cooperate fully in any screening or investigation when requested by ADB to do so.
- 1.6 The Supplier shall permit ADB to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by ADB, if so required by ADB.

## **Interpretation**

- 1.7 If the context so requires it, singular means plural and vice versa.

- 1.8 Incoterms

The meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.

EXW, CIF, CIP, and other similar terms, shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce at the date of the Invitation for Bids or as specified in the SCC.

- 1.9 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations, and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

- 1.10 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

- 1.11 Nonwaiver

- (a) Subject to GCC Subclause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate

as waiver of any subsequent or continuing breach of Contract.

- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

#### 1.12 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity, or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

### Language

1.13 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be written in the language specified in the SCC. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the SCC, in which case, for purposes of interpretation of the Contract, this translation shall govern.

1.14 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.

### Joint Venture

1.15 If the Supplier is a Joint Venture all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the Joint Venture. The composition or the constitution of the Joint Venture shall not be altered without the prior consent of the Purchaser.

### Eligibility

1.16 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.

1.17 All Goods and Related Services to be supplied under the Contract and financed by ADB shall have their origin in Eligible Countries. For the purpose of this clause, "country of origin" means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its imported components.

### Notices

1.18 Any Notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term "in writing" means communicated in written form with proof of receipt.

1.19 A Notice shall be effective when delivered or on the Notice's effective date, whichever is later.

- Governing Law** 1.20 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser's country, unless otherwise specified in the SCC.
- Settlement of Disputes** 1.21 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 1.22 If the parties fail to resolve such a dispute or difference by mutual consultation within 28 days from the commencement of such consultation, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.
- Scope of Supply** 1.23 Subject to the SCC, the Goods and Related Services to be supplied shall be as specified in Section 6 (Schedule of Supply).
- 1.24 Unless otherwise stipulated in the Contract, the Scope of Supply shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Delivery and Completion of the Goods and Related Services as if such items were expressly mentioned in the Contract.
- Delivery** 1.25 Subject to GCC Subclause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Section 6 (Schedule of Supply). The details of shipping and other documents to be furnished by the Supplier are specified in the SCC.
- Supplier's Responsibilities** 1.26 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 11, and the Delivery and Completion Schedule, as per GCC Clause 12.
- Purchaser's Responsibilities** 1.27 Whenever the supply of Goods and Related Services requires that the Supplier obtain permits, approvals, and import and other licenses from local public authorities, the Purchaser shall, if so required by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 1.28 The Purchaser shall pay all costs involved in the performance of its responsibilities, in accordance with GCC Subclause 14.1.
- Contract Price** 1.29 The Contract Price shall be as specified in the Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to the Contract.
- 1.30 Prices charged by the Supplier for the Goods delivered and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments authorized in the SCC.
- Terms of Payment** 1.31 The Contract Price shall be paid as specified in the SCC.
- 1.32 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the



Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 12 and upon fulfillment of all the obligations stipulated in the Contract.

1.33 Payments shall be made promptly by the Purchaser, no later than 60 days after submission of an invoice or request for payment by the Supplier, and the Purchaser has accepted it.

1.34 The currency or currencies in which payments shall be made to the Supplier under this Contract shall be specified in the SCC.

**Taxes and Duties**

1.35 For goods supplied from outside the Purchaser's country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's country.

1.36 For goods supplied from within the Purchaser's country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

1.37 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

**Performance Security**

1.38 The Supplier shall, within 28 days of the notification of Contract award, provide a Performance Security for the due performance of the Contract in the amounts and currencies specified in the SCC.

1.39 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

1.40 The Performance Security shall be denominated in the currencies of the Contract, or in a freely convertible currency acceptable to the Purchaser, and shall be in one of the forms stipulated by the Purchaser in the SCC, or in another form acceptable to the Purchaser.

1.41 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than 28 days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the SCC.

**Copyright**

1.42 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.

**Confidential Information**

1.43 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its

Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.

1.44 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the Contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the design, procurement, or other work and services required for the performance of the Contract.

1.45 The obligation of a party under GCC Subclauses 20.1 and 20.2 above, however, shall not apply to information that

- (a) the Purchaser or Supplier needs to share with ADB or other institutions participating in the financing of the Contract;
- (b) now or hereafter enters the public domain through no fault of that party;
- (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
- (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

1.46 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

1.47 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

#### **Subcontracting**

1.48 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the Bid. Subcontracting shall in no event relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

1.49 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

#### **Specifications and Standards**

1.50 Technical Specifications and Drawings

- (a) The Supplier shall ensure that the Goods and Related Services comply with the technical specifications and other provisions of the Contract.
- (b) The Supplier shall be entitled to disclaim responsibility for any

design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.

- (c) The Goods and Related Services supplied under this Contract shall conform to the standards mentioned in Section 6 (Schedule of Supply) and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the country of origin of the Goods.

1.51 Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Section 6 (Schedule of Supply). During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 33.

**Packing and Documents**

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

1.53 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC, and in any other instructions ordered by the Purchaser.

**Insurance**

1.54 Unless otherwise specified in the SCC, the Goods supplied under the Contract shall be fully insured, in a freely convertible currency from an eligible country, against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the SCC.

**Transportation**

1.55 Unless otherwise specified in the SCC, obligations for transportation of the Goods shall be in accordance with the Incoterms specified in Section 6 (Schedule of Supply).

**Inspections and Tests**

1.56 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in Section 6 (Schedule of Supply).

1.57 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the final destination of the Goods, or in another place in the Purchaser's country as specified in the SCC. Subject to GCC Subclause 26.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to

the Purchaser.

- 1.58 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Subclause 26.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 1.59 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 1.60 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications, codes, and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 1.61 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 1.62 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Subclause 26.4.
- 1.63 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Subclause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

**Liquidated  
Damages**

- 1.64 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the Contract Price for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 35.

**Warranty**

- 1.65 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in

the Contract.

- 1.66 Subject to GCC Subclause 22.1, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 1.67 Unless otherwise specified in the SCC, the warranty shall remain valid for 12 months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the SCC, or for 18 months after the date of shipment or loading in the country of origin, whichever period concludes earlier.
- 1.68 The Purchaser shall give Notice to the Supplier, stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 1.69 Upon receipt of such Notice, the Supplier shall, within the period specified in the SCC, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 1.70 If having been notified, the Supplier fails to remedy the defect within the period specified in the SCC, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

#### **Patent Indemnity**

- 1.71 The Supplier shall, subject to the Purchaser's compliance with GCC Subclause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of
  - (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and
  - (b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

- 1.72 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Subclause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 1.73 If the Supplier fails to notify the Purchaser within 28 days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 1.74 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 1.75 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

**Limitation of Liability**

- 30.1 Except in cases of gross negligence or willful misconduct,
- (a) neither party shall be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and
- (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort, or otherwise, shall not exceed the amount specified in the SCC, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Supplier to indemnify the Purchaser with respect to patent infringement.

**Change in Laws and Regulations**

- 1.76 Unless otherwise specified in the Contract, if after the date of the Invitation for Bids, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already

been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

**Force Majeure**

- 1.77 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 1.78 For purposes of this clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 1.79 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

**Change Orders and  
Contract  
Amendments**

- 1.80 The Purchaser may at any time order the Supplier through Notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
  - (b) the method of shipment or packing;
  - (c) the place of delivery; and
  - (d) the Related Services to be provided by the Supplier.
- 1.81 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery and Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within 28 days from the date of the Supplier's receipt of the Purchaser's change order.
- 1.82 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

**Extensions of Time**

- 1.83 If at any time during performance of the Contract, the Supplier or its Subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC

Clause 12, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

- 1.84 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 27, unless an extension of time is agreed upon, pursuant to GCC Subclause 34.1.

## Termination

### 1.85 Termination for Default

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by Notice of default sent to the Supplier, may terminate the Contract in whole or in part,
- (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 34; or
  - (ii) if the Supplier fails to perform any other obligation under the Contract.
  - (iii) if the Supplier, in the judgment of the Purchaser has engaged in integrity violations, as defined in GCC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

### 1.86 Termination for Insolvency

The Purchaser may at any time terminate the Contract by giving Notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser.

### 1.87 Termination for Convenience

- (a) The Purchaser, by Notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The Notice of termination shall specify that termination is for the



Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

- (b) The Goods that are complete and ready for shipment within 28 days after the Supplier's receipt of the Notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect
  - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
  - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

**Assignment**

- 1.88 Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

**Respectful Work Environment**

- 1.89 The Contractor shall ensure that its employees and Subcontractors observe the highest ethical standards and refrain from any form of bullying, discrimination, misconduct and harassment, including sexual harassment and shall, at all times, behave in a manner that creates an environment free of unethical behavior, bullying, misconduct and harassment, including sexual harassment. The Contractor shall take appropriate action against any employees or Subcontractors, including suspension or termination of employment or sub-contract, if any form of unethical or inappropriate behavior is identified.
- 1.90 The Contractor shall conduct training programs for its employees and Subcontractors to raise awareness on and prevent any form of bullying, discrimination, misconduct, and harassment including sexual harassment, and to promote a respectful work environment. The Contractor shall keep an up to date record of its employees and subcontractors who have attended and completed such training programs and provide such records to the Purchaser at their first written request.

## Section 8: Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

<b>GCC 1.1(j)</b>	The Purchaser's country is: <b>Republic of the Philippines</b>
<b>GCC 1.1(k)</b>	The Purchaser is: <b>Philippine Competition Commission</b>
<b>GCC 1.1 (q)</b>	The Site is: <b>North Avenue, 25/F Vertis North Corporate Center I, Quezon City 1105</b>
<b>GCC 4.2 (b)</b>	The version of Incoterms shall be: <b>Incoterms 2020</b>
<b>GCC 5.1</b>	The language shall be: <b>English</b>  The language for translation of supporting documents and printed literature is: <b>English.</b>
<b>GCC 8.1</b>	For <b>notices</b> , the Purchaser's address shall be:  <b>The Chairperson, PCC Bids and Awards Committee (PBAC)</b>  Street address: <b>North Avenue</b>  Floor/ Room number: <b>25/F Tower 1, Vertis North Corporate Center</b>  City: <b>Quezon City</b>  ZIP code: <b>1105</b>  Country: <b>Republic of the Philippines</b>  Attention: <b>Allan Roy Mordeno, IT Officer III</b>  Mobile: <b>+63 9081714609</b>  E-mail: <b>admordeno@phcc.gov.ph</b>
<b>GCC 9.1</b>	The governing law shall be: <b>Republic of the Philippines</b>
<b>GCC 10.2</b>	The formal mechanism for the resolution of disputes shall be:  <b>For a contract with a Foreign Supplier:</b> In the case of a dispute between the Purchaser and the Supplier, the dispute shall be settled by arbitration in accordance with the provisions of the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules.  Place of arbitration: <b>Singapore</b>

	<p><b>For a contract with a Local Supplier:</b> In the case of a dispute between the Purchaser and the Supplier, the dispute shall be settled by arbitration in accordance with the provisions of the local arbitration procedures in the Purchaser's country.</p> <p>Place of arbitration: <b>Republic of the Philippines</b></p>
<b>GCC 11.1</b>	The Scope of Supply shall be defined in <b>Section 6 (Schedule of Supply)</b> . At the time of awarding the contract, the Purchaser shall specify any change in the scope of supply with respect to Section 6 (Schedule of Supply) included in the Bidding Document.
<b>GCC 12.1</b>	<p>Details of shipping and documents to be furnished by the Supplier shall be:</p> <p><b>For Goods supplied from abroad as per Incoterms CIF:</b></p> <p>Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by telex or fax the full details of the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall send the following documents to the Purchaser, with a copy to the Insurance Company:</p> <ul style="list-style-type: none"> <li>(a) three (3) copies of the Supplier's invoice showing the description of the Goods, quantity, unit price, and total amount;</li> <li>(b) original and three (3) copies of the negotiable, clean, on-board bill of lading marked "freight prepaid" and three (3) copies of nonnegotiable bill of lading;</li> <li>(c) three (3) copies of the packing list identifying contents of each package;</li> <li>(d) insurance certificate;</li> <li>(e) Manufacturer's or Supplier's warranty certificate;</li> <li>(f) inspection certificate, issued by the nominated inspection agency, and the Supplier's factory inspection report; and</li> <li>(g) certificate of origin.</li> </ul> <p>The Purchaser shall receive the above documents at least 1 week before arrival of Goods at the port or place of arrival and, if not received, the Supplier will be responsible for any consequent expenses.</p>
<b>GCC 15.2</b>	The price adjustment shall be: <b>Not Applicable.</b>

<b>GCC 16.1</b>	<p>Payment of the Contract Price shall be made in the following manner:</p> <p><b>For Goods and Related Services supplied from outside the Purchaser's country:</b></p> <p>(a) Advance Payment: 10% of the Contract Price within 28 days of signing of the Contract. Payment shall be made provided the Supplier presents a request for payment accompanied by an Advance Payment Security in the form of a bank guarantee for an amount equal to the amount of the payment, and that shall be valid until the Goods are delivered. The security shall be in the form as specified in Section 9 (Contract Forms).</p> <p>(b) On Shipment: The Purchaser shall pay the Supplier 80% of the Contract Price of the Goods shipped through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country under the ADB commitment procedure, upon submission of documents specified in SCC Clause 12.1.</p> <p>(c) On Acceptance: 10% of the Contract Price of Goods received shall be paid within 28 days of receipt of the Goods upon submission of a claim supported by the acceptance certificate issued by the Purchaser.</p> <p><b>For Goods and Related Services supplied from within the Purchaser's country:</b></p> <p>(a) Advance Payment: 10% of the Contract Price within 28 days of signing of the Contract. Payment shall be made provided the Supplier presents a request for payment accompanied by an Advance Payment Security in the form of a bank guarantee for an amount equal to the amount of the payment, and that shall be valid until the Goods are delivered. The security shall be in the form as specified in Section 9 (Contract Forms).</p> <p>(b) On Delivery: The Purchaser shall pay the Supplier 80% of the Contract Price of the Goods shipped through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country under the ADB commitment procedure, upon submission of documents specified in SCC Clause 12.1.</p> <p>(c) On Acceptance: 10% of the Contract Price of Goods received shall be paid within 28 days of receipt of the Goods upon submission of a claim supported by the acceptance certificate issued by the Purchaser.</p>
<b>GCC 16.4</b>	The currencies for payments shall be: <b>Philippine Peso.</b>
<b>GCC 18.1</b>	The Supplier shall provide a Performance Security of five percent (5%) of the Contract Price. The Performance Security shall be denominated in proportion to the amounts and currencies of the contract price and can only be specified at the time of awarding the contract.

<b>GCC 18.3</b>	<p>The forms of acceptable Performance Security are:</p> <ul style="list-style-type: none"> <li>(a) a bank guarantee issued by a reputable bank located in the Purchaser's country or abroad, acceptable to the Purchaser, in the format included in Section 9 (Contract Forms), or</li> <li>(b) a cashier's or certified check, or cash.</li> </ul> <p>If the institution issuing the performance security is located outside the country of the Purchaser, it shall have a correspondent financial institution located in the country of the Purchaser to make it enforceable.</p>
<b>GCC 18.4</b>	<p>Discharge of the Performance Security shall take place:</p> <p>Pursuant to GCC Subclause 18.4, after delivery and acceptance of the Goods, the performance security shall be reduced to five percent (5%) percent of the Contract to cover the Supplier's warranty obligations in accordance with GCC Clause 28.3.</p>

<b>GCC 23.2</b>	<p>The packing, marking, and documentation within and outside the packages shall be as follows:</p> <p>Shipping marks shall be printed on two (2) long- and the topside of each package. Shipping marks shall include the following information:</p> <ol style="list-style-type: none"> <li>i. Consignee</li> <li>ii. Contract No.</li> <li>iii. Supplier</li> <li>iv. Packing List No.</li> <li>v. Equipment</li> <li>vi. Weight Net (kg)</li> <li>vii. Weight Gross (kg)</li> <li>viii. Outer Dimensions (cm) LxWxH</li> <li>ix. Package No. and Total</li> <li>x. Port of Destination (If required)</li> </ol> <ol style="list-style-type: none"> <li>a. All packages shall be clearly and properly marked in English language. If possible, marks shall be in minimum A4 size (21x29.7cm), and on larger packages A3 size (42x29.7cm).</li> <li>b. The texts shall be printed by means of stamps, stencil-plates or electronically. The use of stickers is not allowed, unless securely covered by plastic.</li> <li>c. The position of sling or chain shall be indicated on the packing case for facilitating the use of crane, if necessary. Bundles and loose items shall be supplied with at least two metal labels bearing the shipping marks and placed on each side of the package.</li> <li>d. Wherever necessary the packages shall be marked with special markings such as “TOP”, “BOTTOM”, “DO NOT OVERTURN”, “FRAGILE”, “HANDLE WITH CARE”, “KEEP DRY”, etc. as well as a special symbol indicating the top. The relevant international symbols for handling, transport and storage shall be used. The symbols must be placed at visible spots. One shall not use more symbols than strictly necessary.</li> <li>e. In case equipment and/or material requires to be stored under special storage conditions such conditions shall be clearly marked on the package and the Purchaser will have to be advised in writing by the Supplier accordingly prior to shipment.</li> </ol> <p>In case no notice of special storage conditions is given by the Supplier to the Purchaser, no special precautions will be taken during storage by the Purchaser. The Supplier will be held responsible for any and all damages which may occur due to the failure of the Supplier to provide the Purchaser in time with the relevant special storage conditions.</p>
<b>GCC 24.1</b>	<p>The insurance coverage shall be in accordance with Pursuant to GCC, Subclause 24.1. The Supplier must insure the Goods in an amount equal to 110% of the CIF price of the Goods from “Warehouse” to “Warehouse” on “All Risks” basis, including War Risks and Strikes.</p>
<b>GCC 25.1</b>	<p>Obligations for transportation of the Goods shall be in accordance with Incoterms 2020.</p>

<b>GCC 26.2</b>	<p>Tests and Inspections specified in Section 6 (Schedule of Supply), shall be carried out at the following times or milestones, and places:</p> <p>Place of Testing: <b>25/F Tower 1, Vertis North Corporate Center, Quezon City</b></p> <p>Date and Time: <b>One (1) week after complete delivery of equipment and peripherals. 9AM – 4PM</b></p> <p>Contact Person: <b>Alvin U. Bosque, Information Technology Officer I</b></p>
<b>GCC 27.1</b>	<p>The applicable rate for liquidated damages for delay shall be: <b>0.5% of the Contract Price per week or part thereof:</b></p> <p>The maximum amount of liquidated damages shall be <b>10% of the Contract Price.</b></p>
<b>GCC 28.3</b>	<p>The period of validity of the Warranty shall be: <b>12 months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the SCC, or for 18 months after the date of shipment or loading in the country of origin, whichever period concludes earlier.</b></p> <p>The place of final destination shall <b>be at the Purchaser’s address:</b>  <b>The Chairperson, PCC Bids and Awards Committee (PBAC)</b></p> <p>Street address: <b>North Avenue</b></p> <p>Floor/ Room number: <b>25/F Tower 1, Vertis North Corporate Center</b></p> <p>City: <b>Quezon City</b></p> <p>ZIP code: <b>1105</b></p> <p>Country: <b>Republic of the Philippines</b></p> <p>Attention: <b>Allan Roy Mordeno, IT Officer III</b></p> <p>Mobile: <b>+63 9081714609</b></p>
<b>GCC 28.5</b>	<p>The Supplier shall correct any defects covered by the Warranty within <b>three (3)</b> days of being notified by the Purchaser of the occurrence of such defects.</p>
<b>GCC 30.1 (b)</b>	<p>The amount of aggregate liability shall be <b>100% of the Contract Price.</b></p>

<b>GCC 37</b>	<p>The Supplier shall ensure that its employees and Subcontractors observe the highest ethical standards and refrain from any form of bullying, discrimination, misconduct and harassment, including sexual harassment and shall, at all times, behave in a manner that creates an environment free of unethical behavior, bullying, misconduct and harassment, including sexual harassment. The Supplier shall take appropriate action against any employees or Subcontractors, including suspension or termination of employment or sub-contract, if any form of unethical or inappropriate behavior is identified.</p> <p>The Supplier shall conduct training programs for its employees and Subcontractors to raise awareness on and prevent any form of bullying, discrimination, misconduct, and harassment including sexual harassment, and to promote a respectful work environment. The Supplier shall keep an up to date record of its employees and subcontractors who have attended and completed such training programs and provide such records to the Purchaser at their first written request.</p>
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# Section 9: Contract Forms

Section 9 of the Bidding Document contains forms for the Notification of Award, Contract Agreement, the Performance Security, and the Advance Payment Security. Bidders shall not submit these forms with their Bids. After notification of award, the Purchaser shall prepare the Contract Agreement using the Contract Agreement Form and send it to the successful Bidder. The successful Bidder shall sign the Contract Agreement and return it to the Purchaser together with the Performance Security and, if applicable, the Advance Payment Security, using the respective forms provided in Section 9. Bidders shall note that the Advance Payment Security is submitted only when the Contract specifies that there will be an advance payment.

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# Notification of Award

*[on letterhead of the Purchaser ----]*

## Letter of Acceptance

*[date]*

To: *[name and address of the supplier]*

Subject: Notification of Award Contract No. *[please specify]*

This is to notify you that your Bid dated *[date]* for execution of OCB/OPI/06: Procurement of Dawn Raid Toolkits and Other Tools for Investigation for the Accepted Contract Amount of the equivalent of *[amount in words and figures and name of currency]*, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract and any additional security required as a result of the evaluation of your bid, using for that purpose the Performance Security Form included in Section 9 (Contract Forms) of the Bidding Document.

Authorized Signature: .....

Name and Title of Signatory: .....

Name of Agency: .....

Attachment: Contract Agreement

## Contract Agreement

THIS AGREEMENT made on the *[insert date]* day of *[insert month]*, *[insert year]*, between Philippine Competition Commission of 25/F Vertis North Corporate Center I, North Avenue, Quezon City, Philippines (hereinafter “the Purchaser”), of the one part, and *[insert complete name of the supplier]* of *[insert complete address of the supplier]* (hereinafter “the Supplier”), of the other part:

WHEREAS the Purchaser invited Bids for certain Goods and Related Services, viz., *[insert brief description of the goods and related services]* and has accepted a Bid by the Supplier for the supply of those Goods and Related Services in the sum of *[insert currency or currencies and amount of contract price in words and figures]* (hereinafter “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) Letter of Acceptance;
  - (b) Bid Submission Sheet and the Price Schedules submitted by the Supplier;
  - (c) Special Conditions of Contract;
  - (d) List of Eligible Countries that was specified in Section 5 of the Bidding Document;
  - (e) General Conditions of Contract;
  - (f) Schedule of Supply; and
  - (g) any other documents shall be added here.

This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.

3. In consideration of the payments to be made by the Purchaser to the Supplier as indicated in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Related Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of *[indicated name of country]* on the day, month, and year indicated above.

Signed by *[insert authorized signature for the Purchaser]* (for the Purchaser)

Signed by *[insert authorized signature for the supplier]* (for the Supplier)

# Performance Security

[Bank's name, and address of issuing branch or office]

**Beneficiary:** ..... [Name and address of the Purchaser] .....

**Date:** ..... [Insert date (as day, month, and year)] .....

**Performance Guarantee No.:** .....

We have been informed that [name of the supplier] (hereinafter called "the Supplier") has entered into Contract No.: OCB/OPI/06 dated [date] with you, for the execution of Procurement of Dawn Raid Toolkits and Other Tools for Investigation (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Supplier, we [name of the bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [name of the currency and amount in words]<sup>1</sup> [amount in figures] such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Supplier is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the [date] day of [month], [year],<sup>2</sup> and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.<sup>3</sup>

.....  
[Signature(s) and seal of bank (where appropriate)]

**-- Note to Bidder --**

*If the institution issuing the performance security is located outside the country of the Purchaser, it shall have a correspondent financial institution located in the country of the Purchaser to make it enforceable.*

<sup>1</sup> The guarantor shall insert an amount representing the percentage of the contract price specified in the contract and denominated either in the currency(ies) of the contract or a freely convertible currency acceptable to the Purchaser.  
<sup>2</sup> Insert the date 28 days after the expected completion date. The Purchaser should note that in the event of an extension of the time for completion of the contract, the Purchaser would need to request an extension of this guarantee from the guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Purchaser might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Purchaser's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."  
<sup>3</sup> Or the same or similar to this clause specified in the Uniform Rules for Demand Guarantees, ICC Publication No. 758 where applicable.

## Advance Payment Security

[insert complete name and number of contract]

To: [insert complete name of the Purchaser]

In accordance with the payment provision included in the Contract, in relation to advance payments, [insert complete name of the supplier] (hereinafter called "the Supplier") shall deposit with the Purchaser a security consisting of [indicate type of security], to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of [insert currency and amount of guarantee in words and figures].

We, the undersigned [insert complete name of the guarantor], legally domiciled in [insert full address of the guarantor] (hereinafter "the Guarantor"), as instructed by the Supplier, agree unconditionally and irrevocably to guarantee as primary obligor and not as surety merely, the payment to the Purchaser on its first demand without whatsoever right of objection on our part and without its first claim to the Supplier, in the amount not exceeding [insert currency and amount of guarantee in words and figures].

This security shall remain valid and in full effect from the date of the advance payment being received by the Supplier under the Contract until [insert date (as day, month, year)].

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458 [or ICC Publication No. 758 as applicable].

Name: [insert complete name of person signing the Security]

In the capacity of [insert legal capacity of person signing the Security]

Signed: [insert signature of person whose name and capacity are shown above]

Duly authorized to sign the security for and on behalf of [insert seal (where appropriate) and complete name of the guarantor]

Date: [insert date of signing]

**-- Note to Bidder --**

If the institution issuing the advance payment security is located outside the country of the Purchaser, it shall have a correspondent financial institution located in the country of the Purchaser to make it enforceable.






# Bidding Document\_OCB OPI 06\_Aug1321

Final Audit Report

2021-08-15

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