

# NEGOTIATED PROCUREMENT: TWO-FAILED BIDDINGS

## Overview

This mode of procurement may be adopted in cases of Two Failed Biddings, where there have been two (2) failures of bidding under Competitive Bidding, Limited Source Bidding, or Competitive Dialogue, as provided in Section 64 of the Implementing Rules and Regulations (IRR) of RA 12009.



## Process

Under this mode of procurement, the following shall be observed:

- a) The BAC shall conduct mandatory review of the terms, conditions, specifications, and cost estimates. Thereafter, the BAC, based on its findings, as assisted by its Secretariat, TWG and End-User or Implementing Unit may revise and agree on the technical, legal, and financial eligibility requirements and technical specifications or terms of reference, and if necessary, adjust the ABC, subject to the required approvals. However, the ABC cannot be increased by more than twenty percent (20%) of the ABC for the last failed bidding. In case no revision of the eligibility document covered by Section 52 of this IRR is found necessary by the BAC after the conduct of the mandatory review, the submission of the PhilGEPS Certificate of Registration and Membership in accordance with Section 52 of this IRR shall likewise be mandatory;
- b) The BAC shall invite at least three (3) suppliers, contractors or consultants, including those disqualified in previous biddings for the project, for negotiations to ensure effective competition. This, notwithstanding, those who responded through any of the required postings shall be allowed to participate. Even if only one (1) bidder responds to such invitation or posting, the BAC shall proceed with the negotiation subject to the rules prescribed hereunder;
- c) Any requirements, guidelines, documents, clarifications, or other information relative to the negotiations that are communicated by the BAC to a supplier, contractor, or consultant shall be communicated on an equal basis to all other suppliers, contractors, or consultants engaging in negotiations with the BAC relative to the procurement. The prospective bidders shall be given equal time and opportunity to negotiate and discuss the technical and financial requirements of the project to be able to submit a responsive quotation or proposal;
- d) Following completion of the negotiations, the BAC shall request all suppliers, contractors, or consultants in the proceedings to submit, on a specified date, a best offer based on the final technical and financial requirements; and
- e) The BAC shall recommend the award of contract to the HoPE in favor of the supplier, contractor or consultant determined to have the Single or Lowest Calculated and Responsive Bid (S/LCRB) or Most Economically Advantageous and Responsive Quotation (MEARQ) for Goods and Infrastructure Projects or Single or Highest Rated and Responsive Proposal (S/HRRP) for Consulting Services. The award of contract shall be made in accordance with Section 66 of this IRR.