

# NEGOTIATED PROCUREMENT: TAKE-OVER OF CONTRACTS

## Overview

This mode of procurement may be adopted in cases of Take-Over of Contracts, which have been rescinded or terminated for causes provided in the contract and existing laws, where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities, and other public utilities.



## Conditions

This mode of Negotiated Procurement may be resorted to in any of the following instances:

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awarded through Competitive Bidding, Competitive Dialogue, Limited Source Bidding, or Small Value Procurement has been rescinded or terminated for causes provided for in the contract and existing laws; and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

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## Process

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

- a) The BAC shall post-qualify and negotiate with the second Lowest Calculated (LC)/Most Economically Advantageous (MEA)/Highest Rated (HR)/Most Advantageous (MA) Bidder for the project under consideration at the said bidder's own original bid price, applicable to the remaining works to be done. Authority to negotiate contracts for projects under the foregoing exceptional cases shall be subject to prior approval by the HoPE concerned.
- b) If negotiation fails, then the BAC shall post-qualify and negotiate with the next LC or MEA or HR or MAB at the said bidder's own original bid price.
- c) If the negotiation fails another time, the process is repeated until all the bidders from the previous bidding have been considered.
- d) If the negotiation fails and there is no bidder left from the previous bidding or if the original awardee is a Single Calculated Responsive Bidder (SCRB) or Single Rated Responsive Bidder (SRRB), the Procuring Entity may opt to take over the contract by Administration or conduct another negotiation by inviting at least three (3) suppliers, contractors or consultants to submit their bids, or resort to any other appropriate mode of procurement.
- e) In case of successful post-qualification and negotiation, the BAC shall recommend to the HoPE the award of contract with the said supplier, contractor or consultant. The award of contract shall be made in accordance with Section 66 of this IRR.