

# *BANTAY ESKUWELA* **PUBLIC BIDDING CHECKLIST** for Infrastructure Projects



Bantay Eskuwela Volunteer Monitoring Toolkit

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# BANTAY ESKUWELA VOLUNTEER MONITORING TOOL KIT



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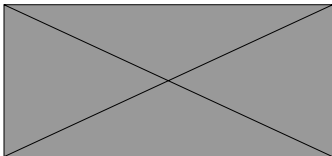
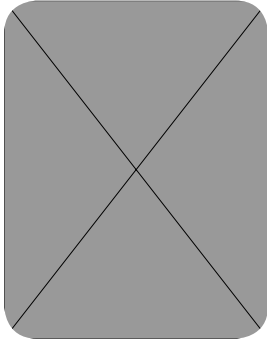
# Acknowledgement

To be drafted





# Foreword from the President





# Public Bidding Checklist for Infrastructure



PROCEDURE	CRITERIA	OBSERVATION
<p><b>Pre-Procurement Conference (IRR Section 20)</b></p> <p>Note to Observers:</p> <p>The pre-procurement conference is an internal meeting of the procuring entity.</p> <p>However, the observer may opt to request to review the Annual Procurement Plan (APP) to check the alignment of the procuring entity's procurement to its procurement plans.</p>	<p><b>For Approved Budget for the Contract (ABC) costing more than two million pesos:</b></p> <ul style="list-style-type: none"> <li>• Did the Bids and Awards Committee (BAC), through the BAC Secretariat, call for a pre-procurement conference? YES / NO</li> <li>• Was the pre-procurement conference done prior to the Invitation to Bid? (Note: for infrastructure projects costing Php 5 Million and above) YES / NO</li> <li>• Was the pre-procurement conference attended by the end-user's representatives? YES / NO</li> <li>• Was the pre-procurement attended by the unit/officials who prepared the bidding documents and the draft Invitation to Bid? YES / NO</li> <li>• Is the procurement in accordance with the project and annual procurement plan? YES / NO</li> <li>• Was the detailed engineering completed according to prescribed standards as per the following documents: <ul style="list-style-type: none"> <li>• Program of Works and Detailed Estimates (see Annex 1) YES / NO</li> <li>• Survey results YES / NO</li> <li>• Bill of Quantities YES / NO</li> <li>• Technical Specifications YES / NO</li> <li>• Detailed Plans / Drawings YES / NO</li> <li>• S-Curve / Bar Chart YES / NO</li> </ul> </li> </ul>	

PROCEDURE	CRITERIA	OBSERVATION
<b>Pre-Procurement Conference (IRR Section 20)</b>	<ul style="list-style-type: none"> <li>Is the procurement ready in terms of the following</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>Availability of appropriation and programmed budget for the contract</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>Completeness of bidding documents,</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>Confirmation of the availability of the ROW and ownership of affected properties?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>Did the BAC finalize and approve the criteria for evaluating bids?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>Did the BAC finalize and approve the schedule for the different procurement activities, procurement and project timelines?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>Did the BAC reiterate and emphasize the importance of confidentiality during the bid evaluation process, and the applicable sanctions and penalties, as well as agree on measures to ensure compliance therewith?<sup>1</sup></li> </ul>	YES / NO

<sup>1</sup> The participation of observers during this stage is encouraged but not mandatory under the GPRA.

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Advertising and Contents of the Invitation to bid/ Request for Expression of Interest (IRR Section 21)</b></p> <p>Note to Observers:</p> <p>Posting and Advertisement is a mandatory activity undertaken by the procuring entity.</p> <p>Validate completeness and dates of advertisement vis-à-vis PHILGEPS posting.</p>	<ul style="list-style-type: none"> <li>• Was the invitation to bid advertised at least once in a newspaper of general nationwide circulation?<sup>2</sup></li> <li>• Check completeness of advertisement for the following:<sup>4</sup> <ol style="list-style-type: none"> <li>1. Name of contract to be bid and brief description</li> <li>2. General statement on the criteria for eligibility check, examination and evaluation of bids, and post-qualification and award</li> <li>3. Date, time, and place of the deadline for the submission and receipt of eligibility requirements, the pre-bid conference, the submission and receipt of bids, and the opening of bids</li> <li>4. The Approved Budget for the Contract (ABC)</li> <li>5. Source of funding</li> <li>6. Period of availability of bidding documents, place where they may be secured, website where they may be secured and price of bidding documents, where applicable</li> <li>7. Contract duration and delivery schedule</li> </ol> </li> </ul>	<p>YES / NO</p> <p>List deficiencies, if any.</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO If yes, indicate date, time, and place.</p> <p>YES / NO If yes, indicate amount.</p> <p>YES / NO If yes, indicate source of funds.</p> <p>YES / NO If yes, indicate period, place, and price.</p> <p>YES / NO If yes, indicate schedule.</p>

2 Definition of General Nationwide Circulation as per IRR of GPRA Section 22.2.1, means that the newspaper should be in operation and have regularly published at least 2 years prior to the date of the Invitation to Bid/ Request for expression of interest.

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Advertising and Contents of the Invitation to bid/ Request for Expression of Interest (IRR Section 21)</b></p>	<p>8. Name, address, telephone number, fax number, e-mail, and website of concerned procuring entity as well as designated contact persons;</p> <p><i>Posting Requirements for the Invitation to Bid:</i></p> <ul style="list-style-type: none"> <li>• <i>Was the advertisement continuously posted for seven (7) calendar days starting on date of advertisement in the following:</i> <ol style="list-style-type: none"> <li>1. Phil-GEPS</li> <li>2. Website of procuring entity concerned, if available;</li> <li>3. Website prescribed by the foreign government/international financing institution, if applicable; and</li> <li>4. Conspicuous place reserved for this purpose in the premises of the procuring entity, as certified by the Head of the BAC Secretariat of the procuring entity concerned.</li> </ol> </li> </ul> <p><i>Note: For projects costing five (5) million and above, was the advertisement published at least once in one (1) newspaper of general nationwide circulation</i></p>	<p>YES / NO If yes, indicate name, telephone number, fax, email, and website.</p> <p>YES / NO If yes, indicate date of posting.</p> <p>YES / NO If yes, indicate date of posting.</p> <p>YES / NO If yes, indicate date of posting.</p> <p>YES / NO If yes, indicate date of posting.</p> <p>YES / NO If yes, indicate date of posting.</p> <p>YES / NO If yes, indicate date of publication.</p>

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Pre-bid Conference (IRR Section 22)</b></p> <p>Note to Observers:</p> <p>The pre-bid conference is an avenue to clarify procedure, technical specifications as it pertains to the procurement rules of the game.</p> <p>Verify consistency of procedure and technical specifications stated in bid documents to the provisions of RA 9184.</p>	<ul style="list-style-type: none"> <li>• Did the procuring entity hold at least one (1) pre-bid conference for the contract with an ABC of one million pesos or more?</li> </ul> <p>(IF NOT APPLICABLE PLEASE PROCEED TO THE NEXT STAGE)</p> <ul style="list-style-type: none"> <li>• Was the pre-bid conference held at least twelve (12) calendar days before the deadline for the submission and receipt of bids?<sup>5</sup></li> <li>• Did the BAC clarify or explain any of the requirements, terms and conditions, and specifications as stipulated in the bidding documents?</li> <li>• Were there any prospective bidders who attended/participated in the pre-bid conference?</li> <li>• Did the BAC discuss, among others, the technical and financial component of the contract to be bid and eligibility requirements?</li> <li>• Did the BAC use its option that only those who have purchased the Bidding Documents shall be allowed to participate in the pre-bid conference and raise or submit written queries or clarifications?</li> <li>• Were there issues raised by the prospective bidders regarding the technical specifications? Eligibility requirements?</li> </ul>	<p>YES / NO If yes, indicate amount.</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO If yes, indicate date.</p> <p>YES / NO</p> <p>YES / NO If Yes, indicate the issues raised and mention the name of the prospective bidder.</p>



PROCEDURE	CRITERIA	OBSERVATION
<b>Pre-bid Conference (IRR Section 22)</b>	<ul style="list-style-type: none"> <li>• <i>Were there any modifications on the terms of the bidding documents?</i></li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>• If the answer above is YES, was there a Supplemental/Bid Bulletin issued by the procuring entity at least within 7 calendar days before the deadline of submission and receipt of bids?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>• Was the supplemental bid bulletin made available to those who secured the bidding documents?</li> </ul>	YES / NO If yes, indicate date.
	<ul style="list-style-type: none"> <li>• <i>Did a prospective bidder submit a written request for an interpretation or clarification to the BAC after the pre-bid?</i></li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>• If the answer above is YES, was it submitted at least ten (10) calendar days before the deadline set for the submission and receipt of bids?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>• Did the BAC respond through a Supplemental/Bid Bulletin issued at least seven (7) calendar days before the deadline for the submission and receipt of bids?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>• Were the Supplemental/Bid Bulletins posted in the website of the procuring entity or at the Phil-GEPS? (IRR Section 22.5.3)</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>• Were the minutes of the pre-bid conference recorded and made available to all participants not later than three (3) calendar days after the pre-bid conference?</li> </ul>	YES / NO

3 These italicized questions could have an answer of “yes or no” but does not mean they are red flags. In this case, observers should investigate further before these are considered as red flags.

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Eligibility Requirements for the Procurement of Infrastructure (IRR, Section 23)</b></p> <p>Note to Observers:</p> <p>In the provisions of the previous IRR of RA 9184, eligibility requirements were contained in a separate envelope marked "Eligibility Envelope."</p> <p>Under the new IRR, the eligibility requirements were condensed and is now contained in the technical envelope.</p>	<ul style="list-style-type: none"> <li>• Did prospective bidders submit their mother envelope technical envelope (containing eligibility requirements) and separately, the financial envelope sealed and duly marked on or before the deadline and at the place specified in the Instructions to Bidders?</li> <li>• <i>Were there any prospective bidders that submitted their eligibility and bid envelopes after the deadline?</i></li> <li>• If the answer above is YES, did the BAC reject the bid proposal?</li> <li>• Did the BAC use standard eligibility forms/checklist as prescribed by the Government Procurement Policy Board (GPPB)? (IRR Sec.17.1)</li> <li>• Were the eligibility and technical requirements submitted to the BAC in the form prescribed in the IRR Section 25.2.a and 25.3 as reflected on the Instruction to Bidders?</li> </ul> <p><b>Infrastructure (Section 23.5.1.1):</b></p> <ul style="list-style-type: none"> <li>• As stipulated under Section 23.5.1, are the participating bidders of 75% Filipino-owned?<sup>4</sup></li> <li>• For the persons/entities enumerated under Section 23.5.2.1 of this IRR, were such issued a PCAB license to engage or act as a contractor?</li> <li>• If the answer above is NO, were foreign suppliers, manufacturers and/or distributors allowed participation in the public bidding? (IRR Section 23.5.2.2)</li> </ul>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>

<sup>4</sup> Section 23.5.1 Filipino ownership must be 75% for corporations, partnerships, sole proprietorships, JV, CDAs, etc.

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Eligibility Requirements for the Procurement of Infrastructure (IRR, Section 23)</b></p>	<ul style="list-style-type: none"> <li>• Is the Contractor’s Performance Evaluation Summary (CPES) and/or certificate of completion and owner’s acceptance of the contract rating satisfactory?</li>   <li>• Is the value of the prospective bidder’s largest single contract, for the last ten (10) years adjusted to current prices, using the wholesale consumer price index, at least fifty percent (50%) of the ABC and similar to the contract to be bid?</li>   <li>• Did the prospective bidder present any of the following:               <ol style="list-style-type: none"> <li>1. Net Financial Contracting Capacity (NFCC), which must at least be equal to the ABC</li> <li>2. A Credit Line Certificate. The CLC must be at least equal to ten percent (10%) of the ABC to be bid.<sup>5</sup></li> </ol> </li> </ul>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>
<p><b>Submission and Receipt of Bid (IRR Section 25)</b></p> <p>Note to Observers:</p> <p>All bids should be received on or before specific time and date as stated in the bidding documents.</p>	<ul style="list-style-type: none"> <li>• Did prospective bidders simultaneously submit their technical bid (including the eligibility requirements under Section 25.1) and financial bid on separate sealed envelopes through their authorized representatives specified in the Instructions to Bidders?</li>   <li>• Were the bids received by the BAC on the date, time, and place specified in the Invitation to Bid following periods from the last day of posting of the Invitation to Bid up to the submission and receipt of bids? (Section 25.4)</li> </ul>	<p>YES / NO</p> <p>YES / NO</p>

<sup>5</sup> If the CLC is issued by a foreign Universal or Commercial Bank, it shall be confirmed or authenticated by a Universal or Commercial Bank. For biddings conducted by LGUs, the prospective bidder may also submit CLC from other banks certified by the BSP as authorized to issue such financial instrument.

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Submission and Receipt of Bid (IRR Section 25)</b></p>	<ul style="list-style-type: none"> <li>• For infrastructure projects, the following maximum periods:               <ul style="list-style-type: none"> <li>• Fifty (50) million and below 50 calendar days</li> <li>• Above fifty (50) million 65 calendar days</li> </ul> </li> <li>• Were there any late bids accepted by the BAC? (IRR Section 25.5)</li> </ul>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>
<p><b>Modification and Withdrawal of Bids (IRR Section 26)</b></p> <p>Note to Observers:</p> <p>Modification and withdrawal of bids are allowed provided a written notice is given to the BAC by the prospective bidder stating the reason for non-participation.</p>	<ul style="list-style-type: none"> <li>• In case a bidder modified its bid, was the modification done before the deadline for the submission and receipt of bids?</li> <li>• <i>In case a bidder modified its bid, did the BAC allow the bidder to retrieve its original bid?</i></li> <li>• In case a bidder modified its bid, was the bid envelope marked “modification” to distinguish it from its original bid?</li> <li>• In case a bidder withdrew its bid, was the letter of withdrawal submitted before the deadline for the submission and receipt of bids?</li> <li>• In case the bidder withdrew its bid, did the BAC ensure that the bidder did not submit the same bid, directly or indirectly for the same contract?</li> <li>• In case a bidder did not submit a bid, was such expressed in writing before the deadline for the receipt of bids?</li> </ul>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Bid Opening (IRR Section 29)</b></p> <p>Note to Observers:</p> <p>Check the completeness of the required documents submitted by the bidder in both the technical and financial envelopes.</p>	<p><b>Opening of the Technical Envelope</b></p> <ul style="list-style-type: none"> <li>• Did the BAC open the technical envelope (containing the eligibility requirements) at the date, time, and place specified in the Invitation to Bid and as stated in the Bidding Documents in public for the purpose of determining the bidder's compliance with the requisites thereof?</li> <li>• Did the bids include a bid security in the form prescribed by the BAC as stated in bidding documents?</li> <li>• If the answer above is YES, is the amount of the bid security at least equal to the specified amount as stated in bidding documents? (IRR Sec. 27)</li> <li>• Were the bids and bid securities valid for a maximum period of 120 calendar days from the opening of bids?</li> <li>• In case of failure to enclose the required bid security, was the bidder automatically disqualified?<sup>6</sup></li> <li>• In case one or more of the required eligibility and technical documents of a bidder is missing, incomplete or patently insufficient, did the BAC rate the bid as failed and immediately return to the bidder concerned its financial envelope unopened?</li> <li>• Did the bidder verbally request for a motion for reconsideration and through a written request to the BAC within three (3) calendar days?</li> </ul>	<p>YES / NO If yes, indicate date, time, and place.</p> <p>YES / NO If yes, indicate form.</p> <p>YES / NO If yes, indicate amount.</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO If yes, indicate names of bidders who submitted the motion.</p>

<sup>6</sup> See Section 25.2 of the IRR for the minimum documents required to be present in the technical envelope

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Bid Opening (IRR Section 29)</b></p>	<ul style="list-style-type: none"> <li>Upon receipt of the motion for reconsideration, did the BAC resolve the matter within seven (7) calendar days from receipt thereof?</li> </ul>	<p>YES / NO State reason for BAC consideration.</p>
	<ul style="list-style-type: none"> <li>Did the BAC issue a resolution in response to the bidder's motion for reconsideration?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>In case a bidder failed to comply with any of the requirements for the technical envelope and filed a motion for reconsideration, did the BAC hold its second bid envelope sealed and unopened until such time the matter is resolved?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>In case one or more of the required eligibility/technical documents of a prospective bidder is missing, incomplete or patently insufficient, and there was no motion for reconsideration filed; did the BAC declare the prospective bidder as ineligible and immediately return to him the financial bid envelope unopened?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>Did the BAC inform the ineligible/non-complying bidder of the grounds for their disqualification through a written notice or, in the presence of the bidder, a verbal notification?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>Did the bidder submit in writing a motion for reconsideration to the BAC within three (3) calendar days?</li> </ul>	<p>YES / NO</p>
	<p><b>Opening of the Financial Envelope</b></p> <ul style="list-style-type: none"> <li>In case there are complying bidders whose requirements for the technical envelope are complete, did the BAC rate said bids as passed and immediately</li> </ul>	<p>YES / NO</p>

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Bid Opening (IRR Section 29)</b></p>	<p>opened their financial envelopes in public to determine their compliance with requirements against a prepared checklist?</p>	
	<ul style="list-style-type: none"> <li>In case one or more of the requirements in the financial envelope is missing, incomplete or patently insufficient and/ or if the submitted total bid price exceeds the ABC, did the BAC rate the bid concerned as failed?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>In case there are complying bidders whose requirements for the financial envelope are complete and the submitted bid price does not exceed the ABC, did the BAC rate the bid concerned as passed?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>In case a non-complying bidder wishes to file a request for reconsideration with the BAC, did the bidder submit in writing a motion for reconsideration to the BAC within three (3) calendar days?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>If the answer is YES, did the BAC consider the request for reconsideration?</li> </ul>	<p>YES / NO State reason for BAC consideration.</p>
<ul style="list-style-type: none"> <li>Upon receipt of the request for reconsideration, did the BAC resolve the matter within seven (7) calendar days from receipt thereof?</li> </ul>	<p>YES / NO</p>	

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Bid Evaluation for the Procurement of Goods (IRR Section 32)</b></p> <p>Note to Observers:</p> <p>Bid Evaluation is a procurement stage wherein the BAC should check for mathematical errors and rank bids from lowest to highest.</p>	<p><i>The procuring entity determines the Lowest Calculated Bid (LCB) through the following 2-step procedure:</i></p> <ul style="list-style-type: none"> <li>• Did the BAC conduct a detailed evaluation of the financial component of the bids to establish the correct calculated prices of the bids?</li> <li>• Did the BAC check for arithmetic corrections?</li> <li>• Was the ranking of the total bid prices calculated from the lowest to the highest in order to determine the LCB?</li> <li>• Was the evaluation of bids completed no later than seven (7) calendar days from the deadline of the receipt of the proposals (IRR Sec.32.3)</li> <li>• Did the BAC prepare the corresponding Abstract of Bids as calculated, which contains the following: <ul style="list-style-type: none"> <li>1. Name of the contract and its location, if applicable;</li> <li>2. Time, date and place of bid opening; and</li> <li>3. Names of bidders and their corresponding calculated bid prices, arranged from lowest to highest, the amount of bid security and the name of the issuing entity. (IRR Section 32.3)</li> </ul> </li> <li>• Was the Abstract of Bids signed by all BAC members present?</li> </ul> <p><i>The entire evaluation process for the procurement of goods and infrastructure projects shall be completed within seven (7)</i></p>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>



PROCEDURE	CRITERIA	OBSERVATION
	<p><i>calendar days from the deadline for receipt of proposals.</i></p> <p><i>However, for infrastructure projects costing Fifty Million Pesos (P50,000,000) and below, the entire evaluation process shall be completed in not more than five (5) calendar days from the deadline for receipt of proposals.” (a) (IRR Section 32.4)</i></p>	
<p><b>Post-Qualification (IRR Section 34)</b></p> <p>Note to Observers:</p> <p>Post-Qualification is a vital stage to verify all documents submitted by bidders.</p> <p>This is usually done by calling and verifying with the concerned agency (i.e. SEC office, commercial bank) whether or not the submitted document exists and is authentic.</p>	<ul style="list-style-type: none"> <li>• Through post-qualification, did the BAC verify, validate and ascertain, within seven (7) calendar days from the determination of the LCB, whether the bidder with the LCB complies with and is responsive to all requirements and conditions for eligibility, technical specifications and the bidding contract as specified in the bidding documents?<sup>6</sup></li> <li>• Did the bidder, upon receipt of the notice of being the LCB from the BAC, submit within 3 calendar days the following documents: <ol style="list-style-type: none"> <li>1. Tax Clearance Certificate</li> <li>2. Latest income and business tax returns</li> <li>3. Certificate of PHILGEPS registration</li> <li>4. Other appropriate licenses and permits required by law and stated in the bidding documents</li> </ol> </li> </ul>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>

<sup>6</sup> See Section 25.2 of the IRR for the minimum documents required to be present in the technical envelope

PROCEDURE	CRITERIA	OBSERVATION
<b>Post- Qualification (IRR Section 34)</b>	<ul style="list-style-type: none"> <li>Should the procurement fall under an exceptional case (procurement of goods requiring elaborate testing), did the HOPE extend the conduct the post-qualification? (IRR Sec.34.8)</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>If the answer to the above question is YES, did the extension period exceed thirty (30) calendar days? (IRR Sec. 34.1)</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>With respect to the legal requirements, did the BAC verify, validate, and ascertain the licenses and agreements, among others, submitted by the bidder with the LCB?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>Did the BAC also verify, validate and ascertain that the bidder with the LCB is not included in any Government blacklist?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>With respect to the technical requirements, did the BAC verify, validate and ascertain the following:</li> </ul>	YES / NO
	<ol style="list-style-type: none"> <li>Bidder's stated competence and experience and the competence and experience of the bidder's key personnel to be assigned to the project;</li> </ol>	YES / NO
	<ol style="list-style-type: none"> <li>Verification of availability and commitment, and/or inspection and testing for the required capacities and operating conditions, of equipment units to be owned/ leased/under purchase by the bidder for use in the contract under bidding;</li> </ol>	YES / NO
<ol style="list-style-type: none"> <li>Performance of the bidder in its ongoing government and private contracts (if any of these on-going contracts show a reported negative slippage of at least fifteen percent (15%), or substandard quality of</li> </ol>	YES / NO	

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Post-Qualification (IRR Section 34)</b></p>	<p>work as per contract plans and specifications, or unsatisfactory performance of the contractor's obligations as per contract terms and conditions); and</p>	
	<p>4. Ascertain sufficiency of the bid security as to type, form, amount, wording and validity period.</p>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>• With respect to the financial requirements, did the BAC verify, validate, and ascertain the following:</li> </ul>	
	<ul style="list-style-type: none"> <li>1. Bid price proposal;</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>2. Bank commitment to provide credit line to the bidder, if applicable; and</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>3. Bidders NFCC, whenever applicable.</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>• Did the bidder with the LCB pass all of the post-qualification criteria and requirements?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>• If the answer above is YES, did the BAC declare him post-qualified with the Lowest Calculated Responsive Bid (LCRB)?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>• If the bidder with the LCB failed any of the post-qualification criteria/ requirements, did the BAC declare him post-disqualified?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>• If the answer above is YES, did the BAC immediately notify him in writing that he is post-disqualified and inform him in the same notice of the grounds for his post-disqualification?</li> </ul>	<p>YES / NO</p>
<ul style="list-style-type: none"> <li>• In case of post-disqualification, was the post-disqualified bidder given three (3) calendar days from receipt of the notice</li> </ul>	<p>YES / NO</p>	

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Post-Qualification (IRR Section 34)</b></p>	<p>of post-disqualification to request for a reconsideration of the decision from the BAC? (IRR Sec.55.1)</p> <ul style="list-style-type: none"> <li>• In case of any such request for reconsideration, did the BAC evaluate the request using the same non-discretionary criteria?</li> <li>• If the answer above is YES, did the BAC issue its final determination of the said request within seven (7) calendar days from receipt thereof?</li> <li>• After the BAC notified the first bidder that was post disqualified, notwithstanding any pending request for reconsideration, did the BAC initiate and complete post-qualification on the second bidder with the lowest calculated bid?</li> <li>• Did the second bidder with the lowest calculated bid pass post-qualification?</li> <li>• If the answer above is YES, did the BAC declare the post-qualified bidder as the Lowest Calculated and Responsive Bid (LCRB)?</li> <li>• In case the second bidder failed post-qualification, did the BAC repeat the procedure for post-qualification with the next lowest calculated bid and so on, until the LCRB is determined?</li> </ul>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Notice and Execution of Award (IRR Section 37)</b></p> <p>Notice to Observers:</p> <p>Notice of Award should be given to the LCRB.</p> <p>Check consistency of outcome vis-à-vis the abstract of bid, Bid Evaluation Summary Report and the Post-Qualification Report.</p>	<ul style="list-style-type: none"> <li>• Was the award of contract made using the submitted bid price of the bidder with the LCRB or the calculated bid price, whichever is lower?</li> <li>• Was the Award of Contract based on the BAC recommendation to the HOPE supported by the following documentation:               <ul style="list-style-type: none"> <li>• BAC resolution etc (<i>tony enumerate this based from 37.1.1 as this is VERY IMPORTANT</i>)</li> </ul> </li> <li>• In the case of a Single Calculated Responsive Bid as provided in IRR Section 36, was the bidder with the Single Calculated Responsive Bid awarded the contract?</li> <li>• Was the decision of the HOPE whether or not to award the contract made within seven (7) calendar days (for projects costing Php 50M above) or within 4 calendar days (for projects costing Php 50M below) from the determination and declaration by the BAC of the LCRB/ SCRB? (IRR Sec.37.1.2)</li> <li>• Within the same period, did the BAC notify all losing bidders of their decision in writing?</li> <li>• Did the winning bidder submitted a valid joint venture agreement if applicable? (Sec.37.1.4.a)</li> </ul>	<p>YES / NO If yes, indicate contract price.</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO If yes, indicate name of winning bidder.</p>

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Notice and Execution of Award (IRR Section 37)</b></p>	<ul style="list-style-type: none"> <li>• For foreign bidders, did it submit a valid PCAB license and registration for the type and cost of the contract to be bid, within thirty (30) calendar days from receipt of the notice of award from the BAC, when the Treaty or International or Executive Agreement expressly allows submission of the PCAB license and registration for the type and cost of the contract to be as a precondition to the Notice of Award? (Sec.37.1.4.a)</li>   <li>• Was the contract awarded within the bid validity period?</li>   <li>• Did it become necessary to extend the validity of bids?</li>   <li>• Did the winning bidder or its duly authorized representative enter into contract with the procuring entity within ten (10) calendar days from receipt of the notice of award? (IRR Sec. 37.2.1)</li>   <li>• Did the winning bidder comply with all the remaining documentary requirements, if any, prior to formally entering into contract with the procuring entity concerned within ten (10) calendar days from receipt of the Notice of Award? (IRR Sec.37.2.3)</li>   <li>• Did the contract awardee post a performance security, in the form and amount prescribed in the bidding documents?</li>   <li>1. Cash, cashier's/manager's check, bank draft/guarantee confirmed by a universal or commercial bank 10% of the contract price;</li> </ul>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO If yes, indicate the reason for extension.</p> <p>YES / NO</p> <p>YES / NO If yes, indicate name of winning bidder.</p> <p>YES / NO If yes, indicate form and amount.</p> <p>YES / NO</p>

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Notice and Execution of Award (IRR Section 37)</b></p>	<p>2. Irrevocable letter of credit issued by a universal or commercial bank provided however, that it shall be confirmed or authenticated by a universal or commercial bank, if issued by a foreign bank 10% of the contract price;</p>	<p>YES / NO</p>
	<p>3. Surety bond callable upon demand issued by a surety or insurance company duly certified by the insurance commission as authorized to issue such security 30% of the contract price; or</p>	<p>YES / NO</p>
	<p>4. Any combination of the foregoing proportionate to share of form with respect to total amount of security.</p>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>• Did the procuring entity return the bid security of the winning bidder after the performance security was given?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>• Did the procuring entity return the bid security of the winning bidder after the performance security was given?</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>• Did the procuring entity issue the Notice to Proceed together with the copy of the approved contract to the successful bidder, within three (3) calendar days (for 50M and above) or two (2) calendar days (for 50M and below) from the date of approval of the contract (IRR Sec.37.4.1)</li> </ul>	<p>YES / NO</p>
	<ul style="list-style-type: none"> <li>• Is the effectivity date, not exceeding seven (7) calendar days from issuance, provided in the Notice to Proceed by the procuring entity concerned? (IRR Sec.37.4.1)</li> </ul>	<p>YES / NO</p>

PROCEDURE	CRITERIA	OBSERVATION
<b>Notice and Execution of Award (IRR Section 37)</b>	<ul style="list-style-type: none"> <li>Was the Notice of Award immediately posted in a conspicuous place, in the Phil-GEPS and agency website within three (3) calendar days from receipt of NOA? (IRR Sec. 8.2.1)</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>In the event of refusal, failure or inability of the bidder with the LCRB to enter into contract with the procuring entity and/or post the required performance security within the time provided, did the BAC impose the appropriate sanctions provided for under revised IRR Sections 39.3 and 69.1.d?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>In case of refusal, failure or inability of the bidder with the LCRB to enter into contract with the Government and/or post the required performance security within the time provided therefore, did the procuring entity exercise its option to consider for award the bidder with the second LCRB at his submitted bid if the same does not exceed the ABC awarded?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>In case of a subsequent refusal, failure or inability, was the same procedure above followed by the BAC until an award was made?</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>Did the BAC review the qualifications of the bidder at any stage of the procurement process and find any grounds for misrepresentation or change in the prospective bidder's capability to undertake the project? (IRR Sec.23.4)</li> </ul>	YES / NO
	<ul style="list-style-type: none"> <li>If the answer above is YES, did it result to the bidder's ineligibility/disqualification from submitting a bid or obtaining an award? (IRR Sec.69.1-69.4)</li> </ul>	YES / NO



PROCEDURE	CRITERIA	OBSERVATION
<p><b>Notice and Execution of Award (IRR Section 37)</b></p>	<ul style="list-style-type: none"> <li>Was Notice to Proceed (NTP) issued three (3) days from the approval of the contract?</li> <li>Did the procurement process from opening of bids up to the award of contract not to exceed three (3) months? (IRR Section 38.1)</li> </ul>	<p>YES / NO</p> <p>YES / NO</p>
<p><b>Protest on Decisions of the BAC (IRR Section 55)</b></p> <p>Note to Observers:</p> <p>While the GPRA provides for an appeal mechanism, the observer should check whether or not the bidder followed proper procedure in filing an appeal:  a) motion for reconsideration,  b) filing protest,  and c) court action.</p>	<ul style="list-style-type: none"> <li>Was there a protest on the decisions of the BAC with respect to the conduct of the bidding?</li> <li>Was there any prior motion for reconsideration filed by the bidder within the reglementary period and is the same been resolved?</li> <li>Was the protest filed within seven (7) calendar days from receipt by the bidder of the resolution of the BAC denying its motion for reconsideration?</li> <li>Was the protest in the form of a verified position paper and filed to the head of the procuring entity together with a non-refundable protest fee in an amount equivalent to no less than one percent (1%) of the ABC?</li> <li>Was the protest resolved by the HOPE within seven (7) calendar days from receipt thereof?</li> </ul>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO  If yes, indicate issue(s) and amount.</p> <p>YES / NO</p>

PROCEDURE	CRITERIA	OBSERVATION
<p><b>Failure of Bidding (IRR Section 35)</b></p> <p>Note to Observers:</p> <p>Observers should pay attention to the reasons why the bidding resulted in a failure.</p>	<ul style="list-style-type: none"> <li>• Did the BAC declare the bidding a failure in any of the following conditions:               <ol style="list-style-type: none"> <li>1. No bids were received;</li> <li>2. All prospective bidders were declared ineligible;</li> <li>3. All bids fail to comply with all the bid requirements or failed post-qualification; or</li> <li>4. The bidder with the LCRB refuses, without justifiable cause, to accept the award of contract and no award is made in accordance with IRR Section 40.</li> </ol> </li> <li>• Did the procuring entity declare a failure of bidding invoking the reservation clause? (IRR Sec.41)</li> <li>• In case of a failure of bidding, did the BAC modify the terms, conditions, and specifications stated in the first bidding documents in order to adjust the procuring entity's cost estimates and specifications?</li> <li>• In case of a re-bid, were bidders who initially responded to the ITB and declared eligible during the first bidding allowed to submit new bids?</li> <li>• Did the BAC observe the same process and set new procurement periods in accordance with the GPRA?</li> <li>• Was there as second failure of bidding?</li> <li>• If the answer is YES, did the procuring entity enter into negotiated procurement?</li> </ul>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>





# Code of Conduct for Observers and Monitors

The Code of Conduct (CoC) for Observers and Monitors was developed by Procurement Watch, Inc. for *Bantay Eskuwela*, a school-based procurement watch project supported by the Australian Agency for International Development.



# PART I

## THE ROLE OF BIDS AND AWARDS COMMITTEE OBSERVERS

### Background

In 2002, the Department of Budget and Management (DBM) reported that Php 22 Billion annually was lost to graft and corruption in public procurement of locally funded projects alone<sup>1</sup>. In response, the Philippine Government enacted the Government Procurement Reform Act (GPRA), which paved the way for to the institutionalization of observers and monitors in public procurement.

Below is a compendium of legal basis by which the prospective observers/monitors could exercise in fulfillment of its role as a pro-active and independent observer:

#### *The Philippine Constitution*

Article II, Section 23 of the Philippine Constitution states that “the State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation.” As stakeholders, CSOs play an important part in promoting national welfare. This is best done by advocating for transparency, good governance and provision of basic services for all.

#### *RA 9184*

The Government Procurement Reform Act (GPRA) also known as Republic Act 9184 enabled CSOs to be involved in observing the conduct of public procurement as procurement observers<sup>2</sup>. The GPRA was signed into law on January 26, 2003.

In September 3, 2009, the government released the revised Implementing Rules and Regulations (IRR) that reflected changes in CSO participation in public procurement. This enabled CSOs and private organizations to participate in public procurement processes as observers, and ensure that transparency and accountability are upheld when government contracts are awarded. The GPRA also provided a mechanism for civil society to monitor contract implementation and delivery of goods procured by the government<sup>3</sup>. In essence, the GPRA promotes competition, reduces connivance between and among bidders, and increases transparency to ensure that policies are strictly followed.

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1 [http://www.ippa.ws/IPPC1/BOOK/Chapter\\_3.pdf](http://www.ippa.ws/IPPC1/BOOK/Chapter_3.pdf)

2 Pursuant to Section 13.1 of the GPRA 9184, it states “To enhance the transparency of the process, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the COA, at least two (2) observers to sit in its proceedings”. Observers are therefore mandated to be part of public procurement all throughout the conduct of public procurement.

3 Section 3.e of the law, provides “Public monitoring of the procurement process and the implementation of awarded contracts with the end in view of guaranteeing that these contracts are awarded pursuant to the provisions of this Act and its implementing rules and regulations, and that all these contracts are performed strictly according to specifications”

## *Executive Provision*

E.O. 376, signed by President Corazon Aquino in 1989, paved the way to establish the Regional Project Monitoring and Evaluation System (RPMES) which provides for the extensive participation of non-government organizations (NGOs) and grassroots community organizations to be involved in the planning and monitoring of development projects. NGOs authorized and trained by the Department of Budget and Management-National Economic Development Agency (DBM-NEDA) RPMES, in cooperation with the Project Monitoring Committee (PMC), are to act as government partners in ensuring transparency particularly during the implementation stage by identifying implementation problems and gaps and submitting such findings through project reports.

## *Department of Education Department Order 59*

The Department of Education (DepEd) issued Department Order (DO) 59 on August 29, 2007 that institutionalized the participation of CSOs in the conduct of its procurement and contract implementation processes. It states that *“The Department of Education shall tap individuals that have expressed their intent to volunteer as official observers.”*<sup>4</sup> This initiative from the DepEd was a pioneering effort for a National Government Agency (NGA) to institutionalize and recognize CSO participation as an integral part in ensuring transparency and accountability in all their procurement activities, which will foster stakeholder initiative and volunteerism.

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<sup>4</sup> DepED Order #59, Section F.2, p.5



# PART II

## BANTAY ESKUWELA

### **What is *Bantay Eskuwela InfraWatch*?**

On June 17, 2010, in response to DepED's call to promote transparency and CSO participation in monitoring its "Repair and Rehabilitation Program" for schools damaged by Typhoon Ondoy. PWI, with support from the Australian Agency for International Development (AusAID) launched the *Bantay Eskuwela InfraWatch* Project, an offshoot of the PWI and DepED's partnership under the *Bantay Eskuwela School Furniture Watch* project.

The *Bantay Eskuwela InfraWatch*, through its volunteers monitored the procurement and contract implementation of the repair and rehabilitation of identified schools within the National Capital Region. The project employed the active participation of citizens and organized community members, particularly members of Parents-Teachers Associations (PTAs) and other stakeholders.

### **Who can be *Bantay Eskuwela* Observers and Monitors?**

There are several ways to participate in the *Bantay Eskuwela* project. You can join as an observer, monitor, or even both.

*As a Bantay Eskuwela observer, you need to have the following qualifications:*

- Have knowledge or expertise on the procurement law by attending trainings (especially those conducted by PWI) to know how and what to observe during the conduct of the procurement.
- Be a member of an organization registered by the Securities and Exchange Commission (SEC) or the Cooperative Development Authority (CDA).
- For individuals not belonging to any SEC or CDA registered organizations, they can be unofficial observers by expressing their intent and registering with the DepEd regional, division, or central office.

*As a Bantay Eskuwela monitor, you need to:*

- Sign the PWI pledge of commitment and submit an accomplished volunteer information sheet (VIS).
- Attend a training or orientation provided by PWI and the Concerned Citizens of Abra for Good Government (CCAGG) on monitoring infrastructure/works using the DepEd technical specifications to understand how and what to monitor and accomplish during the contract implementation stage.
- At least know how to read, write, and use the carpenter's measuring tape.
- Write reports.

Anyone can be a BE monitor regardless of age, gender, civil and economic status as long as the volunteer fits the requirements above. In fact, the BE program has enlisted children as volunteer monitors including the Boys and Girls Scouts of the Philippines. If children are able to volunteer, then there is no reason for anyone not to volunteer as monitors.

*For observers, the following are the legal requirements to be complied with as BE observers:*

*Under the GPRA*

- From a duly recognized private group in a sector or discipline relevant to the procurement at hand and another from a non-government organization with knowledge, experience, or expertise in the procurement at hand.
- The organization should be registered with the SEC and the CDA.

*Under DepEd Order #59*

- Any individual who is registered under the DepEd school, district, division, or region of the procurement<sup>5</sup> at hand. With this, whether SEC registered or not, given the passion to contribute one's self toward the betterment of all, especially in the education sector, there is no stopping anyone to become a volunteer!

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<sup>5</sup> *ibid*, Section F.3, p.5 (as unofficial observers where you can still provide written observations related to contract implementation to the Head of the Department of Education, BAC Chair, Head of the DepED Procurement Service or to the Ombudsman.)

# PART III

## OBSERVERS AND MONITORS' CODE OF CONDUCT

### How to be an Effective Observer/Monitor

As CSO observers and monitors, we should be exemplars of good work ethic in carrying out our duties. As with other vocations, competence is very important if we expect to be taken seriously. Similarly, it is important for observers who participate in public bidding and monitors involved in contract implementation to conduct themselves properly. Observers and monitors must always bear in mind that they represent both their organization and public's interest therefore it is imperative to follow a code of conduct to be effective.

### Key Ethical Values

PWI observers and monitors are expected to adhere and demonstrate the following key values when monitoring an activity or observing a public bidding. These serve as pillars by which observers and monitors should consider in the conduct of their duties. The following are the set of beliefs and ideals that PWI advocates:

- **Truth and Honesty:** Always adheres to facts and is against any form of cheating or fraud.
- **Integrity:** Moral soundness in executing volunteer duties.
- **Accountability:** Volunteers are responsible for their actions and are accountable to PWI and their respective organization's sanctions in case of policy violations.
- **Service to Common Good:** A sense of nationalism putting the betterment of others first before than one's self.
- **Adherence to the Rule of Law:** Doing what is right as stated in the law above despite one's own opinion or bias.

## Key Principles

These key principles are a set of rules or standards which govern PWI volunteers. The following principles serve as a guide for observers and monitors alike during the course of their engagement as volunteers. It is best that volunteers know, understand, and practice these principles as follows:

- **Declare any potential, perceived and/or actual conflict of interest.** By doing so, the integrity of the observer and monitor is preserved and demonstrates a sense of accountability. The volunteer shall declare conflict of interest before observing any procurement activity or monitoring contract implementation/delivery of goods.
- **Adhere to facts when providing Diagnostic Reports.** All acts of the Bids and Awards Committee (BAC) that is not in compliance with the law should be included in the diagnostic report. The report shall also appraise the BAC if they conducted the procurement in compliance with the law.
- **Always refer to the GPRA** in providing concrete feedback and recommendations regarding the BAC's compliance to the bidding process.
- **Know the Bidding Documents and be familiar with its salient provisions** on the bidding and contract implementation/delivery phase.
- **Always be punctual.** The observers should be at the meeting venue at least 30 minutes before the activity convenes. This allows the observers to obtain pertinent documents through the BAC Secretariat (i.e. attendance sheets, PhilGEPS transmittal form, Invitation to Bid, etc.).
- **Observe proper grooming and always bring the volunteer toolkit** containing the GPRA Handbook, Public Bidding Checklist, Operational Guidelines, and the Memorandum of Agreement between DepEd and PWI.
- **Be polite** when asking intelligent questions and provide sensible feedback.

## Code of Conduct:

Observers and monitors must maintain their integrity to be able to stand up to public scrutiny. Thus, observers and monitors are expected to abide to the following:

1. The observer or monitor should notify the Area Group Head (AGH) and the PWI Project Officer (PO) in advance if s/he:
  - Is related to the bidder or any member of the BAC, BAC Secretariat, and Technical Working Group (TWG) up to the 3<sup>rd</sup> civil degree of affinity or consanguinity, or

- Has direct pecuniary interest to procurement at hand.

*If faced with this situation, the monitor or observer must abstain from participating in the activity. Examples of these would be:*

- The observer realizes that the bidding activity he/she is attending is the same project that his /her spouses's or close relative's company is also bidding for.
- The monitor is informed that the contractor for the repair and rehabilitation of school classrooms is a close relative or a close friend.

2. Observers and monitors are prohibited from receiving any form of gratuity from bidders and contractors. By doing so, the observer/monitor may be beholden to the supplier/bidder, which could affect the formers independent judgment. An example of this would be sharing a ride with suppliers, dining with suppliers, or accepting gifts or favors from any contractor or bidder involved in the project at hand.
3. The observer or monitor should carefully accomplish the diagnostic or monitoring report based on facts obtained through pertinent documents and occurrences witnessed first-hand during the conduct of procurement or contract implementation stage and submit it to the AGH or the PO in charge. For example, an observer may note that the secretariat has accepted bids beyond the deadline despite calling the attention of the BAC. If the violation was not immediately rectified, the observer should include it in his diagnostic report.
4. Observers are prohibited from discussing relevant information related to the bidding activity to anyone as embodied in the confidentiality agreement between the procuring entity and the observer. Observers shall not jeopardize the information with any of the bidders from bid opening until the issuance of the Notice of Award. For example, observers are prohibited to divulge in advance results of the BAC evaluation.
5. Observers should be knowledgeable of the provisions of the GPRA and its Implementing Rules and Regulations, and the bidding documents because, more often than not, the BAC treats them as experts. In the same manner, monitors should also be familiar with the bidding documents and contract implementation provisions.
6. Observers/monitors should not be late. PWI-BE volunteers should arrive the venue at least 30 minutes before the start of the activity. The observer or monitor could use the extra time familiarizing yourself with the "rules of the game" or the bidding documents, obtain relevant copies of documents such as Invitation to Bid, Phil-GEPS transmittal form, attendance sheets, etc.

Volunteers should always be equipped with their volunteer tool kit, pen and paper.

7. Observers and Monitors attending a bidding activity should dress appropriately and wear their BE shirt. No short shorts, no slippers, no caps, and no sando are allowed as they are not considered proper and appropriate attire. Organizational sensitivity must be practiced by all volunteers because they carry the name of their organization.
8. Proactively participate in bidding activities in an orderly and courteous manner. The observers and monitors are highly encouraged to actively participate during the bidding and contract implementation stage. They must observe the proper procedure and signal or approach the BAC Secretariat to inform them that there is a matter that you wish to call the BAC Chairman's attention, or raise your hand and wait to be recognized before providing observations.
9. Observers and monitors should advise the AGH in case he/she is not able to attend the night before the scheduled activity in order for the AGH to deploy other available volunteers to attend the activity.

## **Volunteers Responsibility**

*Bantay Eskuwela* volunteers are also expected to exemplify the following the following values and philosophy:

1. To perform duties to the best of one's ability and advocate for transparency and accountability in a positive and supportive manner.
2. To support the advocacy of "Transparency and Accountability" in the procurement process and contract implementation/delivery.
3. To support and adhere to PWI's rules, policies, and procedures.
4. To meet time and duty commitments, or to provide adequate notice so that alternate arrangements can be made (e.g. attending local meetings, trainings, monitoring the delivery of school furniture, etc.).
5. To agree with and adopt the PWI "Code of Conduct and Ethics."
6. To observe parliamentary procedures during meetings and be respectful of others.
7. To support, in a positive manner, all actions taken by PWI.

8. To assist in the development and growth of the program by seeking out volunteer opportunities and providing membership referrals.
9. Holding fast to these principles, the observer is likely to develop good relations with the DepEd where he/she is observing and monitoring. Moreover, this will foster an enabling environment that will encourage constructive and critical criticism.

## **Administrative Actions**

In case the AGH or volunteers are found to have violated the above-mentioned provisions, with due consultation, the following actions shall be implemented:

### *Termination of Engagement:*

1. Non-performing/gross negligence of duties
2. Violation of policies
3. Engaging in corrupt practices

For items number 1 and 2, PWI will follow the 3-strike policy for corrective/remedial measures as enumerated below:

### *Procedure for the 3-Strike Policy:*

1. Verbal and written warning shall be issued first to the volunteer that violates items 1 and 2.
2. If the volunteer fails to correct untoward behavior in spite receipt of the verbal and written warning, suspension shall be applied as determined by the head of the volunteer's organization, the AGH and the PWI steering committee composed of PWI Project Officers .
3. If the volunteer persists and fails to correct untoward behavior, suspension for 1 year shall be applied which may lead to end-of-engagement in BE community project initiative.





# **Procurement Diagnostic Report**



# Procurement Diagnostic Report

## I. The Diagnostic Report

The Diagnostic Report (DR) Template was developed by Procurement Watch, Incorporated (PWI), and was published in 2006 as an annex to Operational Guidelines of the Feedback and Complaints Handling Mechanism of the Office of the Ombudsman (OMB). This was supported by the United States Agency for International Development (USAID) through The Asia Foundation (TAF).

The DR is a simple tool for procurement observers to be able to draft and submit reports to the procuring entity. It assesses the conduct of their Bids and Awards Committee's (BAC) procurement in accordance with the Government Procurement Reform Act (GPRA), or Republic Act 9184.

The development of the DR is in response to the need for observers to submit reports in an orderly manner that is simple and concise. It contains all the pertinent information related to the procurement being observed. It also provides a venue for observers to briefly narrate what took place during the bidding and indicate any deviation or violation noted by the observer.

## II. Importance of the Diagnostic Report

The DR submitted by observers serve as the primary document which assesses whether or not the BAC of the procuring entity complied with the provisions of the law and its IRR.

In fact, it is the responsibility of the procurement observer to execute and submit a report to the head of the procuring entity (HOPE) and the BAC chairman for purposes of evaluation. This is done in order for the procuring entity to improve or rectify lapses in conduct of procurement proceedings.

In case there are no deviations or violations committed, observers are encouraged to submit their DRs as a way to commend the BAC for conducting the procurement in compliance with the law. These reports can serve as basis of the HOPE to extend or renew the terms of the BAC members evidencing their procurement competency.

Aside from submitting the report to the HOPE and its BAC chairman, it is also the observer's responsibility to submit their DRs to the Office of the Ombudsman and the Government Procurement Policy Board-Technical Support Office (GPPB-TSO) for monitoring purposes.

If observers fail to submit DRs that contain violations observed during the bidding process, then according to law, *“it is understood that the bidding activity conducted by the BAC followed the correct procedure.”* Therefore it is imperative that any observer that attends any procurement activity execute and submit a DR.

### **III. How to Accomplish the Diagnostic Report**

The DR is divided into two sections.

The General Information Section contains the basic information about the observers organization, name of the procuring entity, its head of office, the BAC Chairs name, project title and the source funding.

The second section is dedicated to the bidding procedure. This includes the procurement type, type of bidding, details of the procurement and section which the observer provides a brief narrative of the deviations/violation observed if any.

The observer should appropriately fill the information required in the Diagnostic Report. To have a better grasp on how to accomplish the report, here are the steps in filling out the DR.

#### ***On the General Information***

- On the upper portion of the DR, indicate the name and address of your organization.
- Indicate the name of the procuring entity (government agency) where you have observed.
- Indicate the name of the Head Of the Procuring Entity (HOPE) and the BAC Chairman.
- Write the name of the project/procurement at hand or its I.D. number.
- Indicate the source of funding and the Approved Budget for the Contract (ABC).

#### ***On the Bidding Procedure***

- On Roman Numeral I, Item A, identify the procurement type used as determined by the procuring entity.
- On Item B, indicate the type of bidding used, whether competitive bidding, alternative mode or other mode of procurement (World Bank Guidelines, Principal-Led Procurement, etc.).

- On Roman Numeral II, indicate the details of the procurement attended by the observer. The information is usually included on the invitation to the observer (date, time, place and procurement stage) and the deviations/violations if any and the corresponding citation on the GPRA.
- On Roman Numeral III, the observer should provide a brief narrative on the deviations/violations (if any) committed by the BAC. The observer should narrate how the violation was committed by the BAC and provide citations based on the law explaining why the act committed is considered a violation/deviation.
- On the last part of the DR, the observer/s should indicate his/her name, organization represented and designation including the date the DR was filed. The DR can be individually or jointly submitted.

*Note: In case, there are no deviations/violations observed, observers still need to submit the DR, and commend the BAC in case the procurement was done in an orderly manner and in accordance with the GPRA. In addition, the Diagnostic Report can also be a basis of the HOPE extending the term of the BAC.*

### ***Where to Submit the Report?***

After accomplishing the report, observers are expected to submit these report to the HOPE of the procuring entity copy furnish the BAC Chairman. The report assesses the extent of the BAC's compliance with the provisions of the GPRA and areas of improvement in the BAC's proceedings. The observer will also submit a copy of the report to Office of the Resident Ombudsman or the Nearest Office of the Ombudsman (i.e. OMB Central Office, OMB Luzon, OMB Visayas, OMB Mindanao).

## **IV. The Diagnostic Report Template**

The next page illustrates the template used by PWI.

**Name of Organization:** \_\_\_\_\_

**Address:** \_\_\_\_\_

### DIAGNOSTIC REPORT

#### Section I: General Information

Procuring Entity: [Name of Agency/LGU]  
[Complete Address of Procuring Entity]

Head of the Procuring Entity: [Complete Name of Head of Procuring Entity]

BAC Chairman: [Complete Name of BAC Chairman]

Project/ID No.: [Project Name/ID No.]

Funding: Funded under [Source of Funding] Funds with an Approved Budget of the Contract of Php [Amount]

#### Section II. Bidding Procedures:

I. Please check appropriate box:

A. *Procurement Type*

Goods                       Infrastructure                       Consulting Services

B. *Type of Bidding*

Competitive Public Bidding

Alternative Mode of procurement

Please specify, type of Alternative Method: \_\_\_\_\_

II. Details of Procurement Stage Attended and Observations Made

Type of Document and Attachment No.	Date	Time	Place	Procurement Stage	Were there any deviations observed? (Y/N)	GPRA/IRR Provision Violated (If Any)

III. Please provide a brief narrative of deviation/s observed, if any:

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IV. Despite a formal letter of request to the BAC Secretariat, below is a list of other required documents that were not provided by the agency:

1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_
  4. \_\_\_\_\_
  5. \_\_\_\_\_
- N. A.

Respectfully submitted by:

[Name and Signature of Observer]  
[Title/Designation]  
[Organization]

Cc: Resident Ombudsman/Office of the Ombudsman  
Head of Procuring Entity  
BAC Chairman

*Note:* All pages should be paginated.





# **Feedback and Complaints Handling Mechanism Operational Guidelines**

The Feedback and Complaints Handling Mechanism was developed by Procurement Watch, Inc. with support from the United States Agency for International Development through The Asia Foundation in 2006.



# MESSAGE



As the sole repository of all Bids and Awards Committee (BAC) Observers' Reports, pursuant to the mandate of Republic Act No. 9184 otherwise known as the Government Procurement Reform Act of 2003, the Office of the Ombudsman (OMB), in partnership with Procurement Watch, Inc. (PWI) and with funding support from The Asia Foundation (TAF), issued Office Order No. 66 on July 7, 2006 detailing the operational guidelines in processing the BAC Observers' Report.

The said Order was published in the Official Gazette on September 25, 2006.

This primer is the fruit of the OMB-PWI-TAF collaboration to further enhance the implementation of the Office Order. It is our fervent hope that this primer will serve as a guide for BAC Observers and Resident Ombudsmen (whether organic or non-organic to OMB) to proactively perform their strategic roles in safeguarding the integrity of the public procurement process.

The OMB believes that the formulation of the primer would help minimize, if not eradicate, corruption in the procurement of goods, consultancy and infrastructure, thus saving millions, if not billions of pesos that can be used for the greater good.

What we can save in curbing corruption in the procurement process can be used in building schools, bridges, roads and livelihood projects towards national recovery and progress. The savings can also be used to facilitate the modernization of our education and health care systems.

If these aspirations will be met at the soonest time, the OMB and PWI may have the consolation of thinking that their humble efforts contributed to a better Philippines.

Lastly, we would like to express our heartfelt thanks to The Asia Foundation for its passionate advocacy for good governance, being one with the aim of safeguarding the integrity of the public procurement process.

MERCEDITAS N. GUTIERREZ  
Tanodbayan

# MESSAGE

Continuously for the past three years, Procurement Watch, Inc. has been monitoring, and training other CSOs for monitoring public bidding activities. However, having the requisite number of Observers is only half the battle. Observers attend bidding activities not only for their own personal enlightenment, but do so as the eyes and ears of the Filipino people. There would be no point in our witnessing an anomalous procurement, if we kept the knowledge to ourselves. What we need is a simple and sensible procedure allowing Observers' Diagnostic Reports to bear fruit as tools of transparency and accountability.



In partnership with the Ombudsman, and with generous support from The Asia Foundation, Procurement Watch has created a standard Feedback and Complaints Handling Procedure for all CSO Observers and Resident Ombudsmen to use. We hope that Observers throughout the country will take advantage of the simplicity of the procedure and be very diligent in writing and filing Diagnostic Reports. After all, our job as Observers doesn't end after we attend a bidding activity. It is our feedback that rounds out our work and makes it significant.

A handwritten signature in black ink, appearing to read 'Jm. Esguerra'.

MS JOSEFINA U. ESGUERRA  
President and CEO  
Procurement Watch, Inc.

# MESSAGE



On behalf of The Asia Foundation, I would like to congratulate the Procurement Watch Inc. and Office of the Ombudsman for developing the Primer on the Operational Guidelines on Handling Feedback and Complaints Submitted by Bids and Awards Committee (BAC) Observers.

In 2005, The Asia Foundation through its Transparent Accountable Governance (TAG) project, with funding support from the United States Agency for International Development (USAID), supported the development of a mechanism for receiving procurement monitoring reports submitted by BAC observers through the Operational Guidelines on Handling Feedback and Complaints submitted by Bids and Awards Committee (BAC) Observers, a joint project of the Office of the Ombudsman and the Procurement Watch Inc. One of the highlights of this initiative was the signing of the guidelines by Tanodbayan Merceditas Gutierrez on July 7, 2006. The signing of the guidelines is part of OMB Office Order 66 (series of 2006) to institutionalize a mechanism to handle feedback and complaints through objective, well-defined, and transparent procedures.

This specific mechanism will further strengthen a main feature of the Government Procurement Reform Act of 2003, which enables civil society participation as Bids and Awards Committee (BAC) observers in the government procurement process. We hope that through the information in this Primer, ordinary citizens will be more empowered to exact accountability from government through intensified citizens' monitoring of government transactions. Overall, the Operational Guidelines on Handling Feedback and Complaints can be a very powerful tool in enhancing transparency and accountability in government, for it puts in place necessary safeguards in government procedures and empowers citizens to participate in governance.

Once again, congratulations to the Procurement Watch and the Office of the Ombudsman. As key players in promoting transparent and accountable governance, we wish you good luck and keep up the good work in your fight against corruption.

A handwritten signature in black ink that reads "Steven Rood". The signature is fluid and cursive, with the first name "Steven" being more prominent than the last name "Rood".

STEVEN ROOD, Ph.D.  
Country Representative  
The Asia Foundation



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# PART I

## PROCEDURE FOR FILING FEEDBACK AND COMPLAINTS

### Step 1: Prepare the Diagnostic Report

After attending a bidding activity, the BAC Observer should write a Diagnostic Report (DR), using the template in Appendix B. The Observer should make sure to fill out the DR completely. For instance, he/she should indicate the full name of the Head of Procuring Entity and of the BAC Chair, and the exact address of the Procuring Entity.

Copies of the following documents pertinent to the bidding activity should be included as attachments to the DR:

1. Attendance Sheet
2. Advertisement (or a Certificate of Advertisement)
3. Phil-GEPS Transmittal Report
4. Instructions to Bidders
5. List of Bidders who secured Bidding Documents
6. List of Bidders who submitted Bids
7. Checklists used for checking completeness of Eligibility Documents, Technical Proposals, and Financial Proposals

*Best Practice:* Observers are advised to take detailed notes during the bidding activity, and write the DR very soon after. In this way they can ensure more accurate and detailed reports, than if they write the reports from memory alone, or after some time has elapsed. It is also best to secure copies of the documents listed above immediately after the bidding activity.

The Observer should state explicitly in the DR if he/she is unable to secure a copy of any of the documents listed above.

### Step 2: Submit the Report

#### *Option A: Submit the DR and Its Attachments*

If no deviations in the procurement process has occurred, the Observer should simply submit the DR with its accompanying documents to the Resident Ombudsman (RO) of the Procuring Entity.

If deviations in the procurement process have been observed, then the Observer may still choose to simply submit the DR with its accompanying documents to the RO. The process of evaluating the DR, and of filing a case against the relevant procurement officials, then becomes the job of the Office of the Ombudsman and its various sub-offices.

*Note:* If the RO eventually decides that a case is worth filing on the basis of the Observer's DR, he/she may invite the Observer to be the Complainant. The Observer has the right to accept or decline. Being the Complainant may require more time and work for the Observer, and may be attended with more risks. If the Observer declines, the Office of the Ombudsman will become the nominal Complainant, and the case will still be filed.

When deviations have been observed, the Observer may also choose to file a sworn criminal or administrative complaint him/herself. See Step 2. Option B: File a Sworn Complaint.

#### *Option B: File a Sworn Complaint with the DR and Supporting Documents*

A sworn complaint is a complaint made under oath. To get the complaint notarized, the Observer swears to the truth of the complaint in the presence of a person authorized to administer oaths, such as a notary public (who will charge a fee), or the Legal Officer of the government agency concerned or any public administering officer (who will do it for free).

The Observer will need the expertise of a lawyer to determine whether he/she is filing a criminal or administrative complaint or both, and to prepare the sworn complaint itself.

For this purpose, the Observer may consult either the RO or the Action Officer either of the Bureau of Resident Ombudsman (BRO) at the Central Office or the appropriate Area/Sectoral/Regional Office of the Office of the Ombudsman.

The sworn complaint, along with the DR and supporting documents, should then be submitted to the proper authorities.

##### *i. In the National Capital Region (NCR)*

If the procuring entity is in the NCR, the Observer may file a sworn criminal complaint with:

- The RO of the procuring entity;
- The Assistant Ombudsman (AO) of the Public Assistance and Corruption Prevention Office (PACPO), through the Director of the Bureau of Resident Ombudsman. These offices are found at the Central Office of the Office of the Ombudsman; or

- The Prosecutor's (Fiscal's) Office of the city or municipality where the procuring entity is located.

The Observer may file an administrative complaint with:

- The RO of the procuring entity;
- The Assistant Ombudsman (AO) of the Public Assistance and Corruption Prevention Office (PACPO), through the Director of the Bureau of Resident Ombudsman. These offices are found at the Central Office of the Office of the Ombudsman; or
- An appropriate Administrative Tribunal, such as the Legal Department of the procuring entity, the Civil Service Commission (CSC) Central or Field Office, the Presidential Anti- Graft Commission (PAGC) for presidential appointees, and the Department of the Interior and Local Government (DILG) for Local Government Units (LGUs).

*ii. Outside the NCR*

For procuring entities outside NCR, the Observer may file a sworn criminal complaint with:

- The RO of the procuring entity;
- The appropriate sectoral/area/regional office of the Office of the Ombudsman (for e.g., OMB-Luzon, OMB-Visayas, OMB-Mindanao, OMB for Military and Other Law Enforcement Offices, etc.); or
- The Provincial or City Prosecutor's (Fiscal's) Office of the province or city where the procuring entity is located.

The Observer may file a sworn administrative complaint with:

- The RO of the procuring entity;
- The appropriate sectoral/area/regional office of the Office of the Ombudsman;
- The Field Office of the Civil Service Commission where the procuring entity is located; or
- An appropriate Administrative Tribunal, such as the Legal Department of the procuring entity, PAGC (for presidential appointees), and the DILG (for LGUs).

### Step 3: Confirm the Substance of the DR, If Necessary

Whether the Observer acts as the Complainant in a case, or is simply the source of the DR on which a complaint is built by the Ombudsman, he/she must make himself/herself available to appear before any investigative body to verify or confirm the substance of his/her DR, if called upon to do so.

## PART II

### PROCEDURE FOR HANDLING OBSERVER FEEDBACK

**Step 1:** The RO assigns a reference number to the Diagnostic Report (DR)  
The RO receiving the Observer's DR should assign a reference number to the DR. The DR number should consist of the following:

1. Abbreviated name of the Procuring Entity
2. The RO/OMB office where the DR was filed
3. The year the DR was filed
4. The DR number
5. The month number when the DR was filed
6. The initials PW ("Procurement Watch") in parentheses, to indicate that it is a report on public procurement activities

For instance, if in August 2006 an Observer submits a DR on a bidding activity at the Department of Education to the OMB Central Office, and it is the first DR submitted, then the reference number looks like this: DepEd-CO-06-001-08(PW).

**Step 2:** The RO makes three (3) photocopies of the Observer's DR, one of which he/she keeps as file copy.

The other two (2) copies are attached to letter-notices for the Head of Procuring Entity (HOPE) and the BAC Chair. See Step 3.

**Step 3:** Within two (2) working days from receipt of the DR, the RO personally brings letter-notices with attached copies of the Observer's DR to the HOPE and the BAC Chair.

The RO should have the original DR and its attachments stamped received both by the HOPE and by the BAC Chair. The RO should be careful to keep this original DR and its attachments, as they will be needed for later use.

See Appendices E and F on pages 29-30 for Sample Letter-Notices to the HOPE and the BAC Chair for Procuring Entities located in NCR and outside NCR, respectively.

*Note:* OMB Sectoral/Area Offices are required to provide non-organic ROs with OMB official envelopes with control numbers for use in transmitting letter-notices to the HOPE and to the BAC Chair.

**Step 4:** The RO prepares and transmits an Evaluation Report (ER) to the Assistant Ombudsman (AO) of the Public Assistance and Corruption Prevention Office (PACPO) or to the Director of the PACPO in the Area/Sectoral Office with jurisdiction over the procuring entity.

Within five (5) working days of receipt of the Observer's DR, the RO should prepare and transmit an ER to the AO of PACPO through the Bureau of Resident Ombudsman Director (in the NCR), or to the Director of the PACPO in the Area/Sectoral Office with jurisdiction over the procuring entity (outside NCR).

The ER should contain any of the following recommendations:

- Criminal and/or administrative proceedings;
- Further fact-finding; or
- Closure and termination.

With the ER, the RO should also send the following documents:

1. The original DR and its attachments, stamped received by the HOPE and the BAC Chair; and
2. An Affidavit of Service attesting that the Action Officer has personally served copies of the Observer's DR to the HOPE and to the BAC Chair (see Appendix D on page 28 for a sample Affidavit of Service).

**Step 5:** The RO informs the Observer of the action taken on the Observer's DR. Within three (3) days of sending the ER to PACPO, the RO should send a letter to the Observer informing him/her of the actions taken on the DR.

**Step 6:** Upon receipt of the ER with its attachments, the AO of PACPO or the PACPO Director of the Area/Sectoral Office concerned makes three (3) photocopies of the Observer's DR, one of which he/she keeps as file copy.

The other two (2) copies are attached to letter-notices for the HOPE and the BAC Chair.

**Step 7:** The AO of PACPO or the PACPO Director of the Area/Sectoral Office concerned sends letter-notices with attached copies of the Observer's DR to the HOPE and the BAC Chair.

Within three (3) calendar days of receipt of the Action Officer's ER together with the Observer's DR and supporting documents, the AO of PACPO or the Director of the PACPO in the Area/Sectoral Office with jurisdiction over the procuring entity should send letter-notices with attached copies of the Observer's DR to the HOPE and the BAC Chair of the procuring entity concerned.

This act prevents the HOPE and the BAC from later raising the defense of good faith and using the refuge provided by the “Arias Doctrine”.

**S**tep 8: The appropriate Office acts on the ER.

*Option A:*

If the ER recommends criminal and/or administrative proceedings, then the rules of procedure for preliminary investigation and/or administrative adjudication should be followed.

The RO shall ask the Observer who filed the DR if he/she is willing to act as the Complainant when the case is filed. If the Observer is unwilling, then the case is indorsed to the Field Investigating Office or the Fact-Finding Bureau of the OMB Area/Sectoral Office for the purpose of having a nominal complainant.

*Note:* In this case, the original stamped received DR will form part of the record of the Procurement Watch case. A copy of it should also be kept in the files of the PACPO with jurisdiction over the procuring entity.

*Option B:*

If the ER recommends further fact-finding, then the OMB Field Investigation Office (if in the NCR) or the Fact-Finding Bureau/PACPO of the OMB Area/Sectoral Office (if outside NCR) conducts a fact-finding investigation.

This fact-finding investigation should be completed within 30 calendar days from receipt of the ER. Within five calendar days of the completion of the investigation, an Investigation Report should be submitted, copy furnished the Director of BRO (if in the NCR) and the Observer who filed the DR.

If, after the fact-finding investigation, a case has been built up, then the rules of procedure for preliminary investigation and/or administrative adjudication should be followed (see Option A).

If, after the fact-finding investigation, a case has not been built up, then it should be closed and terminated (see Option C).

*Note:* In Option B, as with Option A, the original stamped received DR will form part of the record of the Procurement Watch case. A copy of it should also be kept in the files of the PACPO with jurisdiction over the procuring entity.

*Option C:*

If the ER recommends closure and termination, the original stamped received DR should be kept in the official files of the Office/Bureau concerned for future reference.

Chart 1: BAC Observer Feedback Handling (NCR)

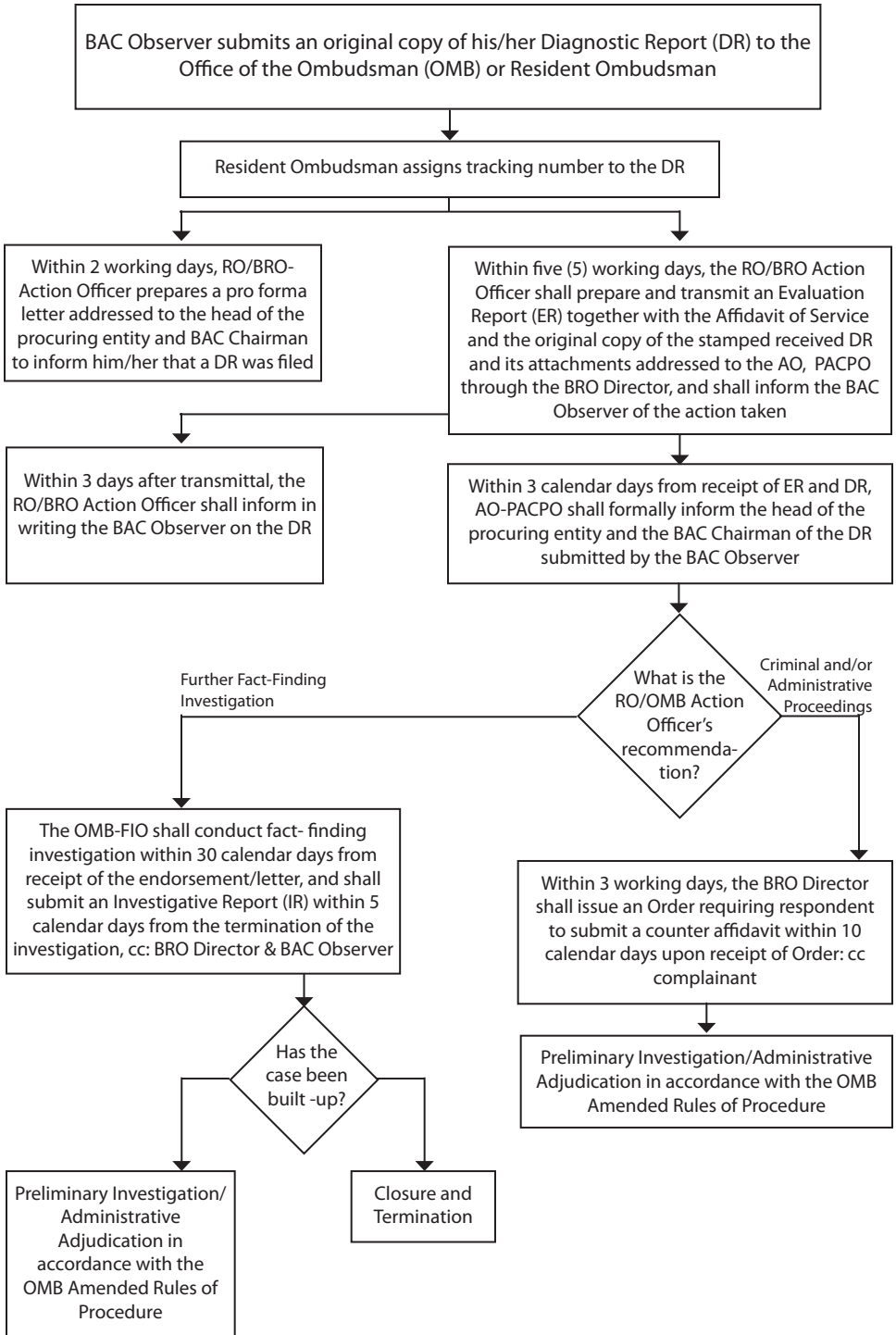
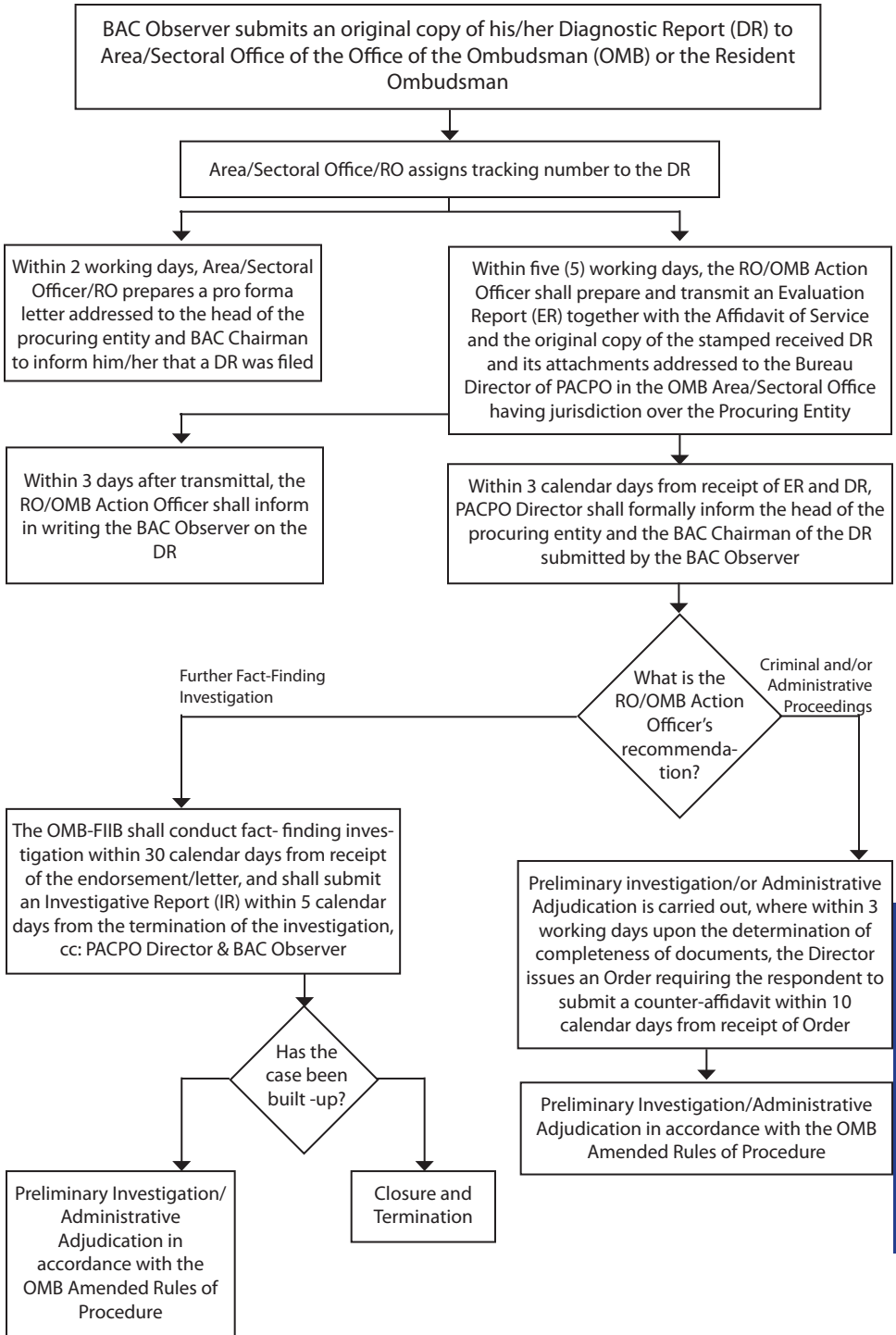




Chart 2: BAC Observer Feedback Handling (Area/Sectoral Office)



# **PART III**

## **PROCEDURE FOR HANDLING OBSERVER COMPLAINTS**

**S**tep 1: The RO receives the sworn complaint from the Observer and acts on it in an appropriate way.

### *Option A:*

If the Resident Ombudsman is non-organic to the Office of the Ombudsman, he/she is required to transmit the complaint within three (3) working days to the Director of the Bureau of Resident Ombudsman or Director of Public Assistance and Corruption Prevention Office of OMB Area/Sectoral Office. Within three (3) working days from transmittal, the RO will inform the observer of the action taken on his or her complaint.

### *Option B:*

If the RO is organic to the Office of the Resident Ombudsman, he/she shall evaluate the complaint whether it is sufficient in form and in substance. If the complaint is sufficient in form and substance, the RO should prepare and transmit an ER to the BRO Director or Director of PACPO of OMB Area/Sectoral Office, recommending the criminal and/or administrative docketing of the complaint, within two working days from receipt of the complaint.

Proceed to Step 2.

### *Option C:*

If the complaint is not sufficient in form and substance, the RO/Action Officer should assist the complainant-Observer in building up the case by giving proper advice and direction or indorse the case to the Director of the BRO or to the Director of PACPO of the OMB Area/Sectoral Office.

If the direction/advice results in a built-up case, meaning the observer is willing to be the complainant, the Resident Ombudsman then proceeds to Option B above.

However, if the observer is not willing to be the complainant then the RO/Action Officer shall prepare an Evaluation Report recommending referral of the complaint to the OMB-Field Investigation Office/Fact-Finding Investigation Bureau of OMB Area/Sectoral Office for the purpose of validating the evidence and having a nominal complainant. After the conduct of Fact-Finding Investigation, the FIO/FFIB will then submit an investigation report recommending either the commencement of criminal and or administrative proceedings, if there is sufficient evidence to support a case or the closure and termination of the case if the complaint is still insufficient in substance.

In the event that even after earnest efforts have been exerted the complaint is still insufficient in substance, or if the evidence gathered does not warrant the taking of further action, then the Resident Ombudsman/BRO Action Officer may recommend the closure and termination of the complaint or the conduct of fact-finding investigation by FIO/FFIB.

**S***tep 2:* The RO/Action Officer drafts an Order for the BRO/PACPO Director's signature within two (2) days of the receipt of the complaint.

This Order directs the person/s complained of to file a counter-affidavit within 10 calendar days of receipt of the Order.

**S***tep 3:* The Director of the BRO/PACPO of the OMB Area/Sectoral Office indorses the complaint to the Records Division/Section for docketing, and signs the Order drafted by the RO, within two (2) working days of receipt of the complaint.

**S***tep 4:* The Records Division/Section assigns a docket number to the case, and only then releases the signed Order to be sent to the person/s complained of

**S***tep 5:* The Office of the Ombudsman conducts the preliminary investigation/administrative adjudication in accordance with its Amended Rules of Procedure.

Chart 3: BAC Observer Complaint Handling (NCR) For Organic ROs

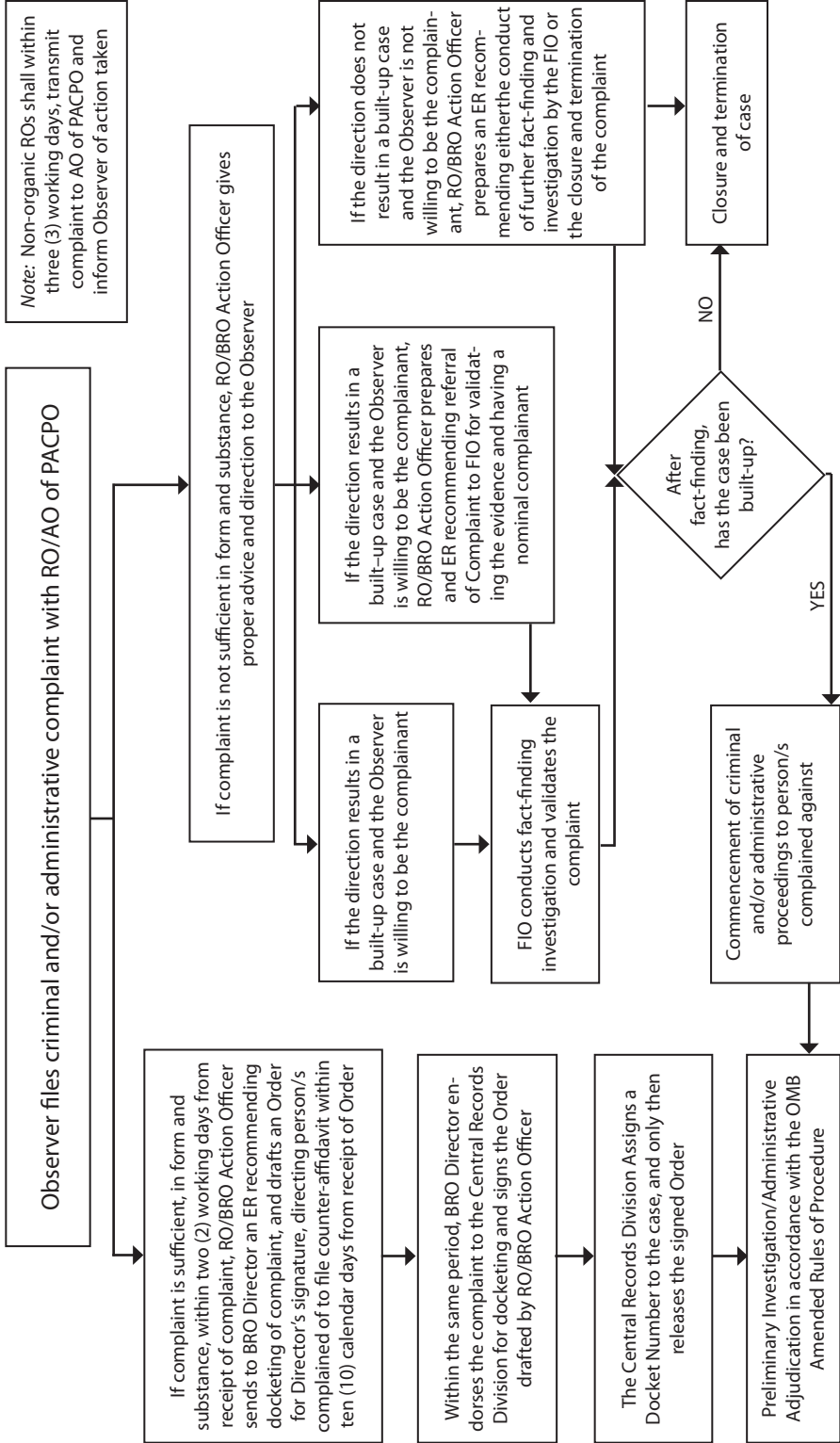
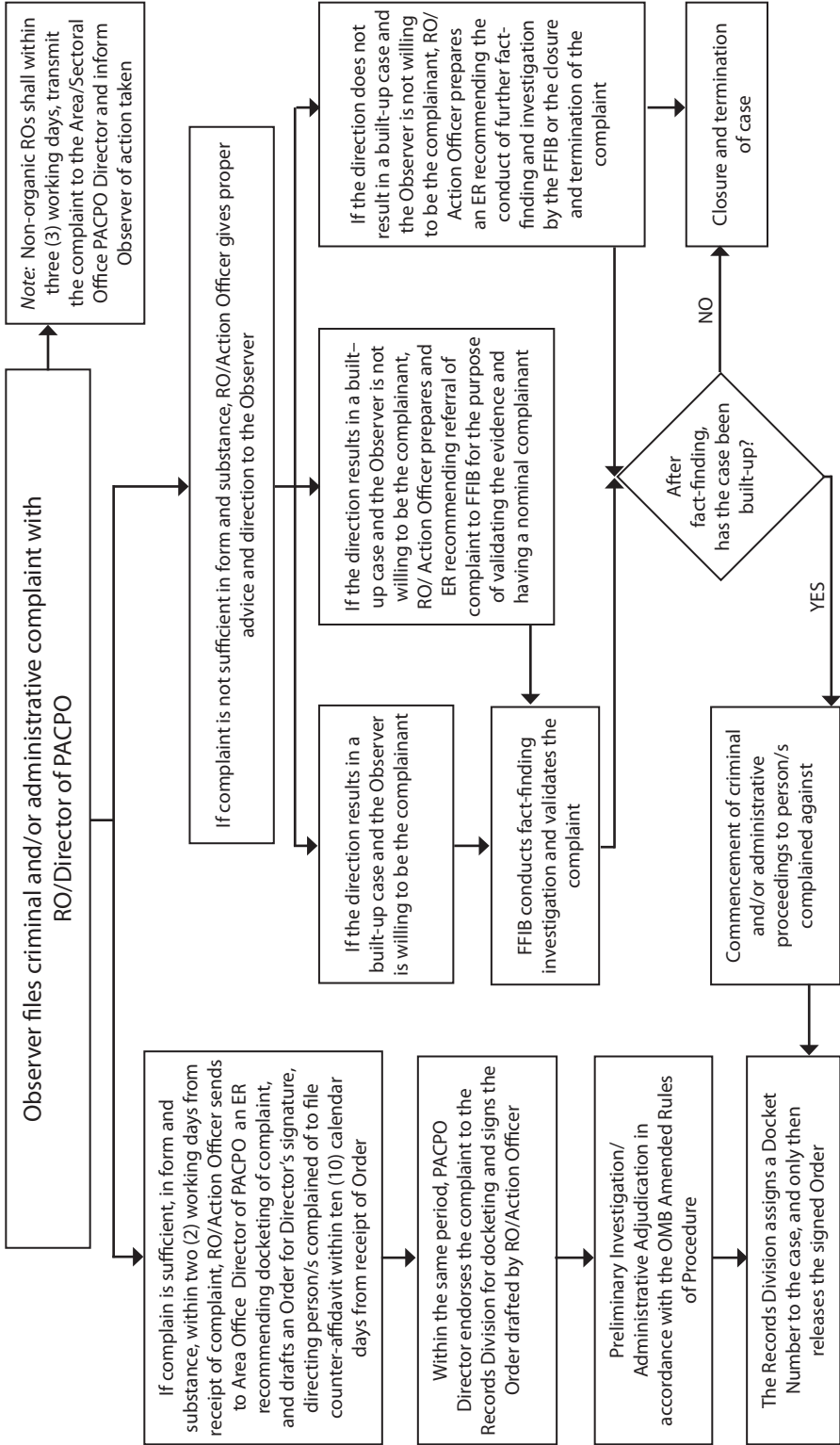


Chart 4: BAC Observer Complaint Handling (Area/Sectoral Office) For Organic ROs



# APPENDICES

## Annex A: Office Order No. 66 (As published in the Official Gazette)

### Office of the Ombudsman

REPUBLIC OF THE PHILIPPINES  
OFFICE OF THE OMBUDSMAN  
AGHAM ROAD, DILIMAN, QUEZON CITY

OFFICE ORDER NO. 66

SERIES OF 2006

TO : RESIDENT OMBUDSMEN (ORGANIC AND NON-ORGANIC),  
CONCERNED OMBUDSMAN OFFICIALS AND EMPLOYEES AND BIDS  
AND AWARDS COMMITTEE (BAC) OBSERVERS

SUBJECT: OPERATIONAL GUIDELINES ON HANDLING FEEDBACK AND  
COMPLAINTS SUBMITTED BY BIDS AND AWARDS COMMITTEE (BAC)  
OBSERVERS

DATE : 07 JULY 2006

#### I. PURPOSE

Procurement processes in all public service provide one of the major avenues for corruption. Irregularities in public procurement affect all Filipinos and are serious threats to national economic recovery and effective governance. Therefore, a procurement-focused strategy for combating graft and corruption can achieve a substantial impact on the economy.

Thus, R.A. No. 9184, also known as the Government Procurement reform Act, which lays the general groundwork for overhauling the whole public procurement process, was enacted into law and approved on 10 January 2003. Its Implementing Rules and Regulation (IRR) took effect on 08 October 2003.

Under Section 13.4 (1) of the IRR of R.A. 9184, the Bids and Awards Committee (BAC) Observers “may also give a copy of their report to the office of the Ombudsman/ Resident Ombudsman if the BAC is found to have failed in following the prescribed bidding procedures or for any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the Government as defined in this IRR-A”.

Since the enactment of R.A. No. 9184 and the effectivity of the IRR, there has been no clear mechanism for handling BAC Observer's feedback and procurement-related complaints. Hence, to address this concern, there is an imperative need to issue this Office Order to provide the operational guidelines on handling BAC observer feedback and complaints.

## II. SCOPE

These guidelines shall apply to all officials/employees of the Office of the Ombudsman, all resident Ombudsmen, both organic and non-organic to the Office of the Ombudsman, as well as BAC Observers from various civil society organizations (CSOs) and professional associations.

## III. DUTIES AND RESPONSIBILITIES OF BIDS AND AWARDS COMMITTEE (BAC) OBSERVERS

In addition to the responsibilities of BAC observers enumerated in Section 13.4 of the IRR, they shall also perform the following duties:

SECTION 1. The BAC observer shall submit to the Office of the Ombudsman/ Resident Ombudsman a copy of his/her Diagnostic Report together with its attachments.

SECTION 2. As far as practicable, the BAC observer shall ensure that the Diagnostic Report is accompanied by the following documents:

- a) Copy of the Attendance Sheet (for the bidding activity)
- b) Copy of the Advertisement (Certificate of Advertisement)
- c) Copy of the G-EPS transmittal report (including the G-EPS reference number)
- d) Copy of the Instruction to Bidders
- e) Copy of the List of Bidders who submitted bids
- f) Copy of the checklist used (for: Eligibility, Technical and Financial)

In the event that the BAC observer fails to secure any of these foregoing documents, he/she shall indicate the same in the Diagnostic Report.

SECTION 3. The BAC observer shall indicate in his/her Diagnostic Report (DR) the exact address of the Procuring Entity and the names of its Head and BAC Chairman.

SECTION 4. In the event that deviations in the procurement process had been observed, the BAC observer may file a sworn criminal and/or administrative complaint against the head of the procuring entity, BAC chairman and/or any member thereof, subject to the following:

a) If the procuring entity is within the National Capital region (NCR), the BAC observer has the option of filing a sworn criminal and/or administrative complaint with supporting documents either with the Resident Ombudsman of the procuring entity or with the Assistant Ombudsman (AO) for Public Assistance and Corruption Prevention Office (PACPO) thru the Director of Bureau of Resident Ombudsman at the Central Office of the Office of the Ombudsman. The BAC observer also has the option of filing the sworn criminal and/or administrative complaint with the proper Prosecution (Fiscal's) Office and/or administrative tribunal. Complaints filed with the resident Ombudsman shall be endorsed within three (3) working days from receipt to the Assistant Ombudsman fro PACPO.

b) If the procuring entity is outside the NCR, the BAC observer may file his/her sworn complaint subject to the following:

(b.1) As to criminal complaints—the BAC observer has the option of filing sworn criminal complaint with any of the following offices:

(b.1.1) The appropriate sectoral/area/regional office of the Office of the Ombudsman (e.g. OMB-Luzon; OMB Visayas; OMB Mindanao);

(b.1.2) The appropriate Provincial/City Prosecution (Fiscal's) Officer; or

(b.1.3) The Resident Ombudsman Office of the procuring entity

In cases where the criminal complaint is filed with the Resident Ombudsman, he/she shall transmit the same within three (3) working days to the appropriate area office of the Office of the Ombudsman. The resident ombudsman shall likewise inform the BAC observer, in writing, of the action taken within three (3) working days from date of transmittal.

(b.2) As to administrative complaints—the BAC observer has the option of filing a sworn administrative complaint with any of the following offices:

(b.2.1) The appropriate sectoral/area/regional office of the Office of the Ombudsman

(b.2.2) The appropriate Field Office of the Civil Service Commission or any other appropriate administrative body or tribunal; or

(b.2.3) The resident Ombudsman Office of the procuring entity

In cases where the administrative complaint is filed with the resident Ombudsman, the same rule on transmittal of criminal complaints as provided in (b.1.3) shall likewise be observed.

SECTION 5. The BAC observer shall clearly and specifically narrate in the Diagnostic Report the details on how the procurement-related offense/s was/were committed. To substantiate said complaint, the BAC observer shall attach all supporting documentary evidence and/or sworn statements of witnesses, if any.



SECTION 6. In the event that the complaint is not sufficient in substance, the BAC observer may seek the assistance of the Resident Ombudsman/ Bureau of resident Ombudsman (BRO)-OMB Central Office for proper advice and direction needed.

SECTION 7. In case the BAC observer is not willing to act as complainant, he/she shall expressly manifest such option to the resident Ombudsman/BRO-OMB action officer. However, the BAC observer shall make himself/herself available if summoned to appear before any investigative body for verification/confirmation of his/her Diagnostic Report (DR).

#### IV. RULES OF PROCEDURE ON HANDLING OF BAC OBSERVER'S FEEDBACK

SECTION 1. In case the BAC observer's Diagnostic report (DR) is forwarded to the BRO-Ombudsman Central Office or to the appropriate sectoral/area office of the Ombudsman (OMB) or the Resident Ombudsman of the procuring entity, the proper action officer concerned shall cause it to be assigned a reference number, indicating therein the abbreviated name of the procuring entity, the Resident Ombudsman (RO) Office/OMB Office where the DR was filed, and the initials PWI (Procurement Watch) in parenthesis to indicate that the same involves a procurement report and to distinguish it from the general mill of investigation reports filed with the Office of the Ombudsman (e.g. DepED-CO-05-001[PWI]).

SECTION 2. Within two (2) working days from the receipt of the BAC observer's DR, the RO/appropriate action officer concerned shall prepare a letter-notice addressed to the head of the procuring entity and BAC chairman, and transmit the same by personal service, together with the duplicate and triplicate copies of the BAC observer's DR to said two officials and cause the original copy of the DR together with the attachments submitted by the BAC observer, to be stamped received both by the head of the procuring entity and BAC chairman concerned, which copy shall be kept as the RO/OMB action officer file.

SECTION 3. To save the non-organic ROs from the undue burden of travel/ mailing expenses, the Sectoral/Area Offices shall provide non-organic ROs OMB official envelopes with corresponding control numbers to facilitate the transmittal of the letters-notices with DRs to the head of the procuring entity and BAC chairman concerned, as well as to the OMB area/sectoral office concerned in case of the transmittals of stamped received DRs/registry return receipts and Evaluation Reports.

SECTION 4. Simultaneously, within five (5) working days from receipt of the DR, the RO/BRO-OMB action officer shall prepare and transmit an Evaluation Report (ER), with appropriate recommendations, to the Assistant Ombudsman of the Public Assistance and Corruption Prevention Office (PACPO) thru the BRO Director (in the NCR), or to the Director of the Public Assistance and Corruption Prevention Office (PACPO) in the Area/Sectoral Office having jurisdiction over the procuring entity. The Evaluation Report (ER) shall state the action taken and/or recommendation made thereon.

SECTION 5. The RO/OMB action officer shall also prepare and execute an Affidavit of Service attesting to the fact that he/she has personally served copies of the BAC observer's DR to the head of the procuring entity and the BAC chairman. The RO/BRO-OMB action officer shall transmit the Affidavit of Service together with the original copy of the stamped received DR and its attachments to the Assistant Ombudsman of PACPO thru the BRO Director (in the NCR) or to the Director of PACPO in the Area/Sectoral Office having jurisdiction over the procuring entity.

SECTION 6. Within three calendar days from receipt of feedback evaluation reports and BAC observer DR (Diagnostic Report) from Resident Ombudsmen, the Assistant Ombudsman from PACPO or the PACPO Director of the Area/Sectoral Office concerned, shall formally inform the Head of the Procuring Entity as well as the BAC Chair of the DR submitted by the BAC Observer to prevent raising of the defense of good faith and obviate the refuge provided by the "Arias of Doctrine."

SECTION 7. If on the basis of the documents submitted by the BAC observer the RO/OMB action officer deems it proper to cause further fact finding or to commence a criminal and/or administrative proceedings, he/she shall so indicate it in the ER recommendation.

SECTION 8. If the ER recommends further fact finding or criminal and/or administrative docketing, the stamped received DR shall form part of the record of the procurement watch case. The Public Assistance and Corruption Prevention Office of the Area/Sectoral Office having jurisdiction over the procuring entity shall maintain a copy of the stamped received DR for its files; otherwise, if the ER recommends closure and termination, the original stamped received DR shall be kept in the official files of the Office/Bureau concerned for future reference. If the ER recommends further fact finding, the OMB Field Investigation Office (in the NCR) or the fact finding Bureau/PACPO of OMB Area/Sectoral Office shall conduct fact finding investigation within thirty (30) calendar days from receipt of the indorsement/letter and shall submit an Investigation Report within five (5) calendar days from the termination of the investigation, copy furnished the Director of the Bureau of the Resident Ombudsman (in cases within NCR) and the BAC observer concerned. If after fact-finding, a case had been built up, then the rules of procedure for preliminary investigation and/or administrative adjudication shall be observed. If the case had not been built up after fact-finding investigation, then the same shall be closed and terminated.

SECTION 9. The RO/OMB action officer shall inform in writing the BAC observer concerned of the action taken on the DR within three (3) days after its transmittal.

## V. RULES OF PROCEDURE ON HANDLING BAC OBSERVER'S COMPLAINT

SECTION 1. If the BAC Observer wishes to initiate a criminal and/or administrative complaint against the head of the procuring entity, the chairman and/or any BAC member of the procuring entity concerned for procurement-related offense, the provisions of Section 4, Part III of this Office Order shall be followed.

SECTION 2. As to complaints filed with BRO-OMB Central Office, Resident Ombudsmen organic to OMB and with the OMB sectoral/area offices – If the complaint is sufficient in form and substance, the RO/OMB action officer in the NCR or sectoral/area office shall, within two (2) working days from receipt thereof, prepare an Evaluation Report recommending the criminal and/or administrative docketing of the complaint.

The RO/OMB action officer shall, within the same period, also cause the preparation of an Order, to be signed by the Bureau Director concerned, directing the person/s complained of to file counter affidavit within ten (10) calendar days from receipt of the Order.

SECTION 3. The BRO/PACPO Director of the OMB area/sectoral office shall, within two (2) working days indorse to the Records Division/Section for docketing of the criminal/administrative complaint and thereafter cause the issuance of an order to submit counter affidavit addressed to the person/s complained of. The Records Division/Section shall then assign a docket number to the case before releasing the order to submit counter-affidavit.

SECTION 4. In the event that the complaint is insufficient in substance, the RO/BRO-OMB action officer shall assist the complainant-BAC observer in the case build-up by giving the proper advice and direction needed.

However, in the event that the complaint is still insufficient in substance despite the earnest effort exerted or if the evidence gathered does not warrant the taking of further action, the RO/BRO OMB action officer may recommend the closure and termination of the procurement watch complaint.

SECTION 5. In case the BAC observer is not willing to execute an affidavit-complaint, then the RO/BRO-OMB action officer shall prepare an ER indicating the recommendation that the case be indorsed, instead, to the Field Investigation Office/Fact-Finding Bureau of the OMB area-sectoral office either for further case build-up where there is no sufficient evidence to support a case, or for purposes of having a nominal complainant to commence the criminal and/or administrative proceedings, where there is sufficient evidence to support a case. The same procedure observed in treating ERs shall be followed.

SECTION 6. The Office of the Ombudsman shall conduct the preliminary investigation/administrative adjudication of procurement-related complaints in accordance with its Amended Rules of Procedure, and shall give preference to the speedy disposition thereof.

SECTION 7. As to complaint filed with the Resident Ombudsman non-organic to the Office of the Ombudsman – The same rules as that of handling complaints particularly Section 4 (b.1.3) and (b.2.3), Part III shall be observed.

SECTION 8. To avoid conflict of interest situations, the Resident Ombudsman shall not be allowed to simultaneously discharge his/her function as Resident Ombudsman and as member of the Bids and Awards Committee and/or the Technical Working Group.

## VI. EFFECTIVITY

This Office Order shall take effect after fifteen days following the completion of its publication in the Official Gazette and upon the filing with the University of the Philippines Law Center of Three (3) certified copies thereof.

For strict compliance

(Sgd.) Ma. Mercedes N. Gutierrez  
Tanod Bayan (Ombudsman)

# Annex B: Diagnostic Report Template

Name of Organization: \_\_\_\_\_

Address: \_\_\_\_\_

## DIAGNOSTIC REPORT

### Section I: General Information

Procuring Entity: [Name of Agency/LGU]  
 [Complete Address of Procuring Entity]

Head of the Procuring Entity: [Complete Name of Head of Procuring Entity]

BAC Chairman: [Complete Name of BAC Chairman]

Project/ID No.: [Project Name/ID No.]

Funding: Funded under [Source of Funding] Funds with an Approved Budget of the Contract of Php [Amount]

### Section II. Bidding Procedures:

I. Please check appropriate box:

#### A. Procurement Type

Goods                       Infrastructure                       Consulting Services

#### B. Type of Bidding

Competitive Public Bidding

Alternative Mode of procurement  
 Please specify, type of Alternative Method: \_\_\_\_\_

#### II. Details of Procurement Stage Attended and Observations Made

Type of Document and Attachment No.	Date	Time	Place	Procurement Stage	Were there any deviations observed? (Y/N)	GPRA/IRR Provision Violated (If Any)



# Annex C: Sample Sworn Complaint

**Republic of the Philippines**  
**OFFICE OF THE OMBUDSMAN**  
**Ombudsman Building, Agham Road, Diliman, Quezon City**

[Name of Complainant],  
Complainant,

-versus-

OMB Case No. \_\_\_\_\_

[Name of BAC Chairman]  
[Name of BAC Members],  
Respondents

x ----- x

### COMPLAINT-AFFIDAVIT

I, [Name of Complainant] of legal age, single, residing at [Address of Complainant], after being sworn in accordance with law, depose and state that:

1. I am a member of Procurement Watch, Inc., a non-government organization observing the bidding process in various government agencies;
2. On [Date] upon the invitation of the Bids and Awards Committee of [Name of Agency] , I acted as a Bids and Awards Committee (BAC) observer during the bidding conducted by the BAC for the supply and delivery of IT equipment with an approved budget for the contract amounting to [Amount of Contract] Pesos (Pxxxxxxx);
3. As a BAC observer, I noted that there are deviations committed by the BAC in violation of R.A. 9184 and its IRR, to wit:
  - a) That the invitation to apply for eligibility and to bid was not posted by the BAC in the DBM-Procurement Service website for two consecutive weeks ending on 29 June 2004 (G-EPS Reference No. 58170);
  - b) That Sec. 8.1.1 (a) under the heading “Legal Documents” of the Instructions to Bidders (ITB) provided by the BAC, states that: “Department of Trade and Industry (DTI) business name registration or SEC registration certificate, which ever may be appropriate under existing laws of the Philippines.” However, Company A which is one of the bidders is a corporation but it

submitted a DTI registration instead of a SEC registration which was nonetheless accepted by the BAC;

- c) That the eligibility documents submitted by another bidder, Company B which attested to the bidder's responsibility and the certification of authenticity of submitted documents were not notarized. However, BAC asked one of the members of the BAC secretariat to obtain the eligibility documents previously submitted by Company B for another bidding conducted, wherein it was awarded the contract last December 2003 and despite the missing notarization, the BAC ruled to accept Company's submission; and
  - d) That during the opening of the technical envelopes of all eleven (11) bidders and midway through the opening of the technical envelopes of the bidders, the BAC Chairman announced the simultaneous opening of the technical envelopes instead of opening said envelopes one after the other.
4. In view of the foregoing deviations, I am charging both administratively and criminally the Chairman and members of the BAC respectively for violations of RA 9184 and its IRR.

Quezon City, Philippines, November 9, 2004.

\_\_\_\_\_  
Signature of Complainant  
over Printed Name

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of November 2010  
at \_\_\_\_\_, Complainant exhibiting to me his CTC numbered  
\_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_  
Administering Officer



## Annex D: Affidavit of Service

REPUBLIC OF THE PHILIPPINES)  
\_\_\_\_\_ )S.S.

### AFFIDAVIT OF SERVICE

I, [Insert Name], a Resident Ombudsman/ Liaison Officer of the Office of the Resident Ombudsman of [Name of Agency/LGU] with postal and office address at [Insert Address], after having been duly sworn, depose and state:

That on [Insert Date], I have personally served a copy of the Diagnostic Report of [Insert Name of BAC Observer and the CSO/NGO he/she is affiliated] to the Head of the Procuring Entity, [State name]; and to the Chairman of the Bids and Awards Committee [State name], relative to the procurement of [State Project Name] conducted by the Bids and Awards Committee of [State Name of Procuring Entity] held on [Insert Date].

I am executing this affidavit to attest to the truth of the foregoing statements.

AFFIANT FURTHER SAYETH NAUGHT.

\_\_\_\_\_  
Affiant  
[Printed Name and Signature]

SUBSCRIBED AND SWORN to before me this \_\_\_ day of \_\_\_\_\_ 2010, affiant exhibiting to me his/her Community Tax Certificate No. \_\_\_\_\_ issued on \_\_\_\_\_, 2010 at \_\_\_\_\_, Philippines.

\_\_\_\_\_  
Administering Officer  
[Printed Name and Signature]

**Annex E: Sample Letter to the HOPE/BAC Chair  
Re: Diagnostic Report from Observer (For NCR)**

**Republic of the Philippines  
OFFICE OF THE OMBUDSMAN**

Ombudsman Building, Agham Road, Diliman, Quezon City  
Public Assistance and Corruption Prevention Office /  
Bureau of Resident Ombudsman  
Agham Road, Diliman, Quezon City

[Date]

[Name of the Head of the Procuring Entity]  
[Procuring Agency & Address]

Sir/Madam:

We are pleased to submit the attached Diagnostic Report dated [Insert Date] of BAC Observer [state name and the organization he/she is affiliated].

Based on the report of [Name of BAC Observer] he/she attended [state the bidding/procurement stage attended and the procurement project item].

For your information.

Very truly yours,

---

[Printed Name and Signature of Assistant Ombudsman (PACPO)/  
Resident Ombudsman/BRO Action Officer]

**Annex F: Sample Letter to the HOPE/BAC Chair  
Re: Diagnostic Report from Observer (For Area/Sectoral  
Offices: OMB-Luzon/Visayas/Mindanao/MOLEO)**

**Republic of the Philippines  
OFFICE OF THE OMBUDSMAN**  
(SECTORAL OFFICES: OMB LUZON/VISAYAS/  
MINDANAO/MOLEO)  
(ADDRESS)

[Date]

[Name of the Head of the Procuring Entity]  
[Procuring Agency & Address]

Sir/Madam:

We are pleased to submit the attached Diagnostic Report dated [Insert Date] of BAC Observer [state name and the organization he/she is affiliated].

Based on the report of [Name of BAC Observer] he/she attended [state the bidding/procurement stage attended and the procurement project item].

For your information.

Very truly yours,

\_\_\_\_\_  
[Printed Name and Signature of Resident Ombudsman/PACPO Area/  
Sectoral Director]

# Annex G: Sample Evaluation Report (NCR)

## MEMORANDUM

FOR : [Insert Name], Assistant Ombudsman, PACPO  
THRU : [Insert Name], Director, BRO  
FROM : [Insert Name of the Resident Ombudsman/BRO Action Officer]  
SUBJECT : RE: Diagnostic Report of BAC Observer  
Dated \_\_\_\_\_, Bidding at [Name of agency]  
DATE : [Insert Date]

X-----X

## EVALUATION REPORT

- I. Brief statement of the subject of the report
- II. Facts of the case as stated in the Diagnostic Report under evaluation
  - a. [Insert Name of the BAC Observer who prepared the Diagnostic Report, Insert of Name of Agency and Composition of the BAC who conducted the subject bidding]
  - b. [Indicate Procurement type, Type of Bidding, Project Name and Funding Source]
  - c. [State Details of the Procurement Stage Observed]
  - d. The alleged deviation/s observed and state the documents attached in the report including those that there were not provided by the agency
- III. Brief discussion on the merits of the Diagnostic Report and the specific provisions of Republic Act No. 9184 or its IRRs violated by the Bids and Awards Committee. State other laws violated, if any.
- IV. Recommendations: Either for further fact-finding or for docketing of the case for preliminary investigation and/or for administrative adjudication or other appropriate action.

Respectfully submitted.

[Insert Name of the Evaluator]  
Resident Ombudsman of \_\_\_\_\_

RECOMMENDING APPROVAL:

\_\_\_\_\_  
Director, BRO

APPROVED/DISAPPROVED

\_\_\_\_\_  
Assistant Ombudsman, PACPO

# Annex H: Sample Evaluation Report (Area/Sectoral Offices: OMB Luzon/Visayas/Mindanao/MOLEO)

## MEMORANDUM

FOR : [Insert Name], Assistant Ombudsman, PACPO  
THRU : [Insert Name], Director, BRO  
FROM : [Insert Name of the Resident Ombudsman/BRO Action Officer]  
SUBJECT: RE: Diagnostic Report of BAC Observer  
Dated \_\_\_\_\_, Bidding at [Name of agency]  
DATE : [Insert Date]

X-----X

## EVALUATION REPORT

- I. Brief statement of the subject of the report
- II. Facts of the case as stated in the Diagnostic Report under evaluation
  - a. [Insert Name of the BAC Observer who prepared the Diagnostic Report, Insert of Name of Agency and Composition of the BAC who conducted the subject bidding]
  - b. [Indicate Procurement type, Type of Bidding, Project Name and Funding Source]
  - c. [State Details of the Procurement Stage Observed]
  - d. The alleged deviation/s observed and state the documents attached in the report including those that there were not provided by the agency
- III. Brief discussion on the merits of the Diagnostic Report and the specific provisions of Republic Act No. 9184 or its IRRs violated by the Bids and Awards Committee. State other laws violated, if any.
- IV. Recommendations: Either for further fact-finding or for docketing of the case for preliminary investigation and/or for administrative adjudication or other appropriate action.

Respectfully submitted.

[Insert Name of the Evaluator]  
Resident Ombudsman of \_\_\_\_\_

APPROVED/DISAPPROVED

\_\_\_\_\_  
(OMB-LUZON/VISAYAS/MINDANAO/MOLEO)

# Annex I: Sample Transmittal-Indorsement of Criminal/ Administrative Complaint Filed with Non-Organic Resident Ombudsman

**Republic of the Philippines**  
**DEPARTMENT OF \_\_\_\_\_**  
**OFFICE OF THE RESIDENT OMBUDSMAN**

1st Indorsement  
[Date]

Respectfully forwarded to the Honorable [Insert Name], Assistant Ombudsman, PACPO/Director, PACPO – Area/Sectoral Offices, [State Address], the attached Affidavit-Complaint of [State Name of BAC Observer/Complainant] and its attachments/annexes consisting of [state number of pages/ documents] against [Insert Name of the Head of the Procuring Entity and Chairman/Members of the Bids and Awards Committee] for [State the acts complained against. e.g. Grave Misconduct/Falsification of Public Documents /Violation of Republic Act No. 9184/R.A. No. 3019].

\_\_\_\_\_  
[Printed Name and Signature of Resident Ombudsman]

# Annex J: Sample Transmittal-Indorsement of Evaluation Reports, Diagnostic Reports, and Attachments and Affidavit of Service

**Republic of the Philippines**  
**DEPARTMENT OF \_\_\_\_\_**  
**OFFICE OF THE RESIDENT OMBUDSMAN**

1st Indorsement  
[Date]

Respectfully forwarded to the Honorable [Insert Name], Assistant Ombudsman, PACPO/Director, PACPO – Area/Sectoral Offices, [State Address], the attached Evaluation Report dated [Insert Date] and the Diagnostic Report of [State Name of BAC Observer] and its attachments/annexes consisting of [State Number of Pages/ Documents]. Also respectfully transmitted is the attached Affidavit of Service executed by [State Name of Affiant] on [State Date of Execution of Affidavit].

\_\_\_\_\_  
[Printed Name and Signature of Resident Ombudsman]

**Annex K: Sample Letter to the BAC Observer  
Re: Transmittal of Diagnostic Report to the OMB**

**Republic of the Philippines  
DEPARTMENT OF \_\_\_\_\_  
OFFICE OF THE RESIDENT OMBUDSMAN**

[Date]

[Name of the BAC Observer]  
[Name of Organization & Address]

Dear Sir/Madam:

We are pleased to inform you that we have personally sent letter-notices to [State Name of the Head of the Procuring Entity] on [State Date of Transmittal] as well as to [State Name of BAC Chairman] on [State Date of Transmittal] together with attached copies of your Diagnostic Report dated [State Date of DR], relative to [State the Bidding/Procurement Stage attended and the procurement project item].

We are likewise pleased to inform you that subject Diagnostic Report together with its attachments have been forwarded to [State the OMB Office Concerned] on [State Date of Transmittal].

Should you have questions, you may reach me at [State Phone Number and/or E-mail Address].

Very truly yours,

\_\_\_\_\_  
[Printed Name and Signature of Resident Ombudsman]



# Annex L: Sample Letter to the BAC Observer

## Re: Transmittal of Criminal/Administrative Complaint to the Office of the Ombudsman

Republic of the Philippines  
DEPARTMENT OF \_\_\_\_\_  
OFFICE OF THE RESIDENT OMBUDSMAN

[Date]

[Name of the BAC Observer]  
[Name of Organization & Address]

Dear Sir/Madam:

We are pleased to inform you that we have indorsed to [State OMB Office Concerned) on [State Date of Transmittal] your criminal/administrative complaint dated [State Date of Complaint] relative to [Briefly State Subject Matter of Complaint].

Should you have questions, you may reach me at [State Phone Number and/or E-mail Address).

Very truly yours,

\_\_\_\_\_  
[Printed Name and Signature of Resident Ombudsman]



# **Bantay Eskuwela InfraWatch Forms**

## Client Satisfaction Survey

Part and parcel of the BE is the conduct of a client satisfaction survey. It is done to assess the satisfaction and needs of neighboring schools and communities in the same pilot region where the BE initiative was undertaken.

It is important that before your organization conduct the survey, it is best to first get the approval of the relevant DepEd official which is usually the division superintendent or the school principal through a formal letter of request. Once approved, your organization can start the survey.

The data gathered from this survey is then processed and the results presented to relevant DepED office in order to further its services to the betterment as it pursues its principal mandate which is "To provide quality basic education that is equitably accessible to all".

## Client Satisfaction Survey (For Pilot Schools)

### Objective:

The survey aims to obtain feedback from key stakeholders on the quality and timeliness of the reconstruction and rehabilitation works on Typhoon Ondoy affected schools within Metro Manila.

### Target Interviewees:

Household/parents whose children go to affected schools; school administration; LGUs; students.

### Target Sample Group:

Saturate 15 to 20 households per random interview in two to three selected schools per target area.

Name of School: \_\_\_\_\_

Address of School: \_\_\_\_\_

Region: \_\_\_\_\_ Rate of Enrollment for current SY: \_\_\_\_\_

Name of principal: \_\_\_\_\_

**Filter Question:** Do you or any members of your household attend or have attended public school within the last year?

- Yes, then proceed asking survey questions
- No, then STOP and thank respondent for his/her time, move on to next house

1. Was there significant damage brought about by typhoon Ondoy in the school infrastructure? [*Malaki ba ang napinsala dulot ng bagyong Ondoy sa infrastructure ng eskuwelahan ninyo?*]

- Yes / Oo [Go to question #2]
- No / Hindi gaano
- Don't know / Hindi ko alam

2. Name the noticeable damage on the school infrastructure brought about by Ondoy. [*Anu-ano ang kapansin-pansin na pinsala ng Ondoy sa infrastructure ng eskuwelahan ninyo?*]

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

3. Were you informed that there was an Australian Government grant given to DepEd to repair and reconstruct school buildings and facilities affected by Ondoy? [*Napagbigay alam ba sa inyo na may grant na ibinigay ang Australian government para sa pagkumpuni at pag reconstruct ng mga school buildings at pasilidad?*]

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

4. Were you informed that there were community volunteers tasked to monitor the quality and timeliness of infrastructure repair and reconstruction? *[Napagbigay alam ba sa inyo na may mga community volunteer na nagmo-monitor sa kalikidad*

*at ayon sa construction time schedule ang pag repair and reconstruct ng mga school infrastructure?]*

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

5. In your opinion, did the community volunteers contribute to improving the quality of works and timeliness of the works of the contractor? Why or why not? *[Sa iyong palagay, nakatulong ba ang presensya ng mga community volunteers sa maayos at kalidad na pagpapagawa ng mga infrastructure works? Bakit?]*

- Yes / Oo
- No / Hindi
- \_\_\_\_\_
- \_\_\_\_\_

6. In your opinion, was the repair works done in a timely manner from the time the construction period started? *[Sa iyong palagay, matagal ba naayos ang school infrastructure magmula noong naumpisahan ang pagkukumpuni?]*

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

7. In your opinion, was the quality of the repair works of the contractor satisfactory? *[Sa iyong palagay, maganda at maayos ba ang kalidad ng repair works na ginawa ng contractor?]*

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

8. Carpentry works / doors and windows: Could the doors and windows be closed with ease? *[Lapat ba ang pagkaka-ayos ng mga pinto at bintana?]*

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

9. Masonry works: Were the masonry works done by the contractor satisfactory? *[Maayos ba ang pag sesemento ng mga pader at iba pang tiling works na ni-repair ng contractor?]*

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

10. Painting works: Were there two coats of paint applied by the contractor on the painting works done? *[May dalawa bang coating ng pintura ang isinagawa ng contractor sa mga gusali at ibang pasilidad na kinailangan ng pintura?]*

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

11. How long was the period of construction? *[Gaano katagal kinumpuni ng contractor ang mga infrastructure works sa eskuwelahan ninyo?]*

- Under one month/walang isang buwan
- 1 month to 1 ½ months/isa hanggang 1 ½ buwan
- more than 2 months/mahigit dalawang buwan

12. Did the school administration inform the parents, PTA, LGU and students (stakeholders) about the repair and reconstruction of the school works that was conducted? [*Ipinagbigay alam ba ng school administration ang natapos na repair sa mga magulang, PTA, LGU at mga bata?*]

- Yes / Oo
- No / Hindi
- Don't know/Hindi ko alam
- Parents and students only/Sa mga magulang at estudyante lang
- PTA only
- LGU only
- Selected stakeholders only, please name \_\_\_\_\_

13. Was safety in construction site observed by the contractors during the repair and reconstruction period? [*Isinang-alang-alang ba ng contractors ang safety ng mga mag-aaral habang nag re-repair and reconstruct sila ng school buildings and pasilidad?*]

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

14. Did the school administration send out a school bulletin informing the students about safety precaution during the repair and rehabilitation of school buildings and facilities? [*Naipag-bigay alam ba ng school administration sa mag-aaral ang safety precaution habang ang construction period ay isinasagawa?*]

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

15. Was the works conducted during class period? [*Isinagawa ba ang construction habang may klase?*]

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

16. Did the construction disrupt school activities? [*Nakaistorbo ba ang construction sa mga school activities?*]

- Yes / Oo
- No / Hindi
- Don't know / Hindi ko alam

###

Thank you for taking the time to answer these questions.

## **Program of Works and Monitoring Template**

To effectively monitor the contract implementation of any infrastructure project, it is very important for the volunteer monitor to be familiar of the Program of Works (including the approved agency estimates) and the monitoring template developed by Procurement Watch Inc.-Concerned Citizens of Abra for Good Government (PWI-CCAGG) which is also based on the approved POW.

Below is a sample of the POW and the monitoring template based on the works identified in the POW itself.

The content of the monitoring template is based on the items per works identified in the approved agency estimates as per POW. It specifies the required quantity and applied measurements per material which the winning bidder should deliver and install on the particular school building that is subject for repair and rehabilitation or for the construction of new buildings.

Detailed discussion on how to accomplish the monitoring template will be further discussed in the Bantay Eskuwela Operational Guidelines for InfraWatch.





REPUBLIC OF THE PHILIPPINES  
 DEPARTMENT OF EDUCATION  
 PHYSICAL FACILITIES AND SCHOOLS ENGINEERING DIVISION  
 DepEd Complex, Meralco Avenue  
 Pasig City



School:				Date:		
Region:				Budget Allocation:		
Division:				Approved Budget of Contract:		
Project Title:				Completion Period:		
REPAIR / REHABILITATION OF SCHOOL BUILDING				Minimum Required Manpower:		
				General Foreman	Painter	Helper
				Carpenter	Mason	Plumber
Plan:				Minimum Required Equipment:		
Location:						
Item I.D.	Item Description	% of Total	Unit	Quantity	Total Cost	Remarks
	I. DIRECT COST					
1	General Requirements					
2	Steel Works					
3	Painting Works					
4	Carpentry Works					
5	Masonry Works					
6	Concreting Works					
7	Roofing Works					
8	Electrical Works					
9	Sanitary Works					
10	Form Works/ Scaffoldings					
	Sub-Total					
	II. INDIRECT COST					
	Overhead Expenses (5%)					
	Contingencies (3%)					
	Miscellaneous (1%)					
	Contractor's Profit (12%)					
	Sub-Total					
	III. TAX 12% OF (I+II)					
	Sub-Total					
	IV. TOTAL CONSTRUCTION COST (I+II+III)					

Prepared by:

DepEd Project Engineer \_\_\_\_\_

School Principal \_\_\_\_\_

Physical Facilities Coordinator (PFC) \_\_\_\_\_

Checked: \_\_\_\_\_

Reviewed: \_\_\_\_\_

Approved by: \_\_\_\_\_

Area Supervisor \_\_\_\_\_

Cost and Assessment Supervisor \_\_\_\_\_

Chief, PFSED OPS \_\_\_\_\_

Head, PMU-PFSED \_\_\_\_\_



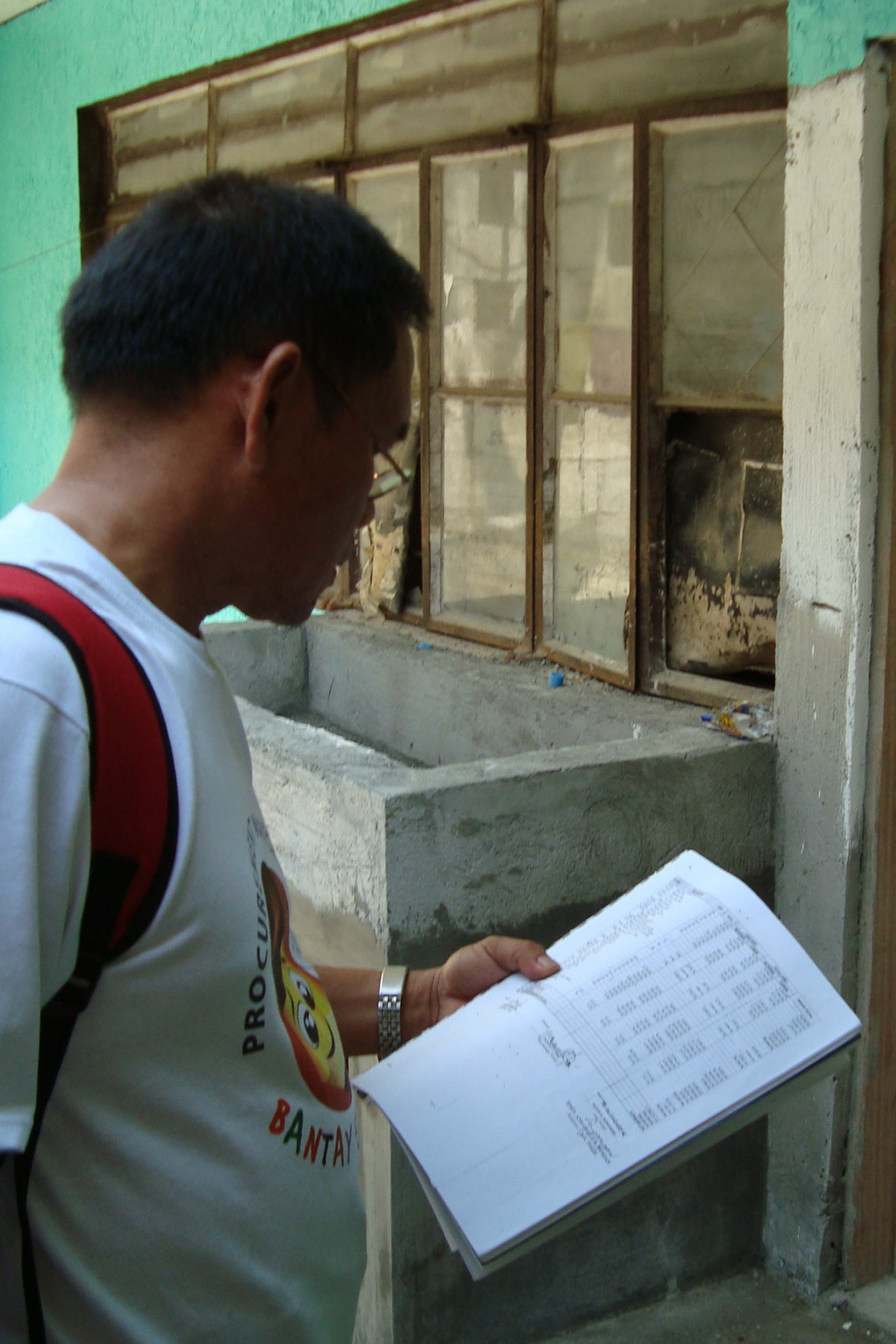












PROCUREMENT  
BANTAY

No.	Description	Quantity	Unit	Amount
01	...	...	...	...
02	...	...	...	...
03	...	...	...	...
04	...	...	...	...
05	...	...	...	...
06	...	...	...	...
07	...	...	...	...
08	...	...	...	...
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50	...	...	...	...