

Bids and Awards Committee for Infrastructure (BAC-I)

**SAN FERNANDO LA UNION PORT EXPANSION PROJECT - CONSTRUCTION OF
FERRY PORT TERMINAL**

At Poro Point Freeport Zone San Fernando City, La Union

**RESOLUTION NO. 26
(Declaration of LCRB)**

The BASES CONVERSION AND DEVELOPMENT AUTHORITY (BCDA), through its 2020 Corporate Budget downloaded from the Department of Transportation (DOTr), has put on bid the **Contract for the San Fernando La Union Port Expansion Project – Construction of Ferry Port Terminal located at Poro Point Freeport Zone San Fernando City, La Union** with an Approved Budget for the Contract (ABC) in the sum of **Pesos: Thirty-Nine Million Seven Hundred Sixty-Two Thousand Four Hundred Twenty-Nine and 09/100 (PhP39,762,429.09)**, inclusive of all applicable taxes and fees.

WHEREAS, the BAC for Infrastructure, through its Secretariat, advertised the Invitation to Bid on 13 October 2020 in newspaper of nationwide circulation, and on 13-20 October 2020 in the following:

- a. DBM Philippine Government Electronic Procurement System (PhilGEPS);
- b. BCDA Website; and
- c. In a conspicuous place reserved for the purpose in the premises of BCDA.

WHEREAS, in response to the said advertisements, fourteen (14) interested bidders bought the bidding documents and subsequently submitted their bids for the project on time or prior to the set deadline of the submission of bids on 25 November 2020;

WHEREAS, on 25 November 2020, the first envelopes which contained the Eligibility and Technical Requirements of the aforementioned 14 bidders were opened and subjected to a preliminary examination by determining the presence or absence of the required documents using “pass/fail” criterion;

WHEREAS, during the said preliminary examination and after checking the sufficiency of the required documents as regards its presence or absence, only ten (10) bidders were rated “passed” for the Eligibility and Technical Requirements;

WHEREAS, the second envelopes which contained the financial proposals of the 10 bidders, who were rated “passed” for the preliminary examination of the eligibility/technical requirements, were opened and were likewise subjected to a preliminary examination. During the said preliminary examination of the financial proposals, and after checking the sufficiency of the required documents as regards its presence or absence, the BAC-I declared the bids of the 10 bidders as “passed” and were considered for the detailed evaluation and comparison of financial bids. Table below shows the ranking and bid amounts of the 10 bidders (as read):

BIDDERS	BID AMOUNT (AS READ)	RANKING
MY Builders and Construction	28,773,744.34	1
A.P.B. Construction	33,276,024.10	2
Hi-Tone Construction & Development Corporation / A-	33,560,776.66	3

Plus Development & Construction Corporation (Joint Venture)		
R.A. Fanglayan (RAF) General Construction, Inc.	33,870,785.57	4
F.B. Bantales Engineering Construction / BLC Construction and Aggregates (Joint Venture)	33,935,156.83	5
Tarlac 3-G Construction & Development Corporation	34,038,775.71	6
Precious Construction	34,564,690.70	7
Marlon Andal Construction Corporation (MACC) Philippines / BLACPrime Construction, Inc. (Joint Venture)	34,917,189.89	8
3K Rock Engineering / Tagel Corporation (Joint Venture)	37,790,211.94	9
P.E.R.R.C. Construction & Development Corporation	38,592,638.48	10

WHEREAS, on 26 November to 03 December 2020, the BAC-I Technical Working Group (TWG) conducted the detailed evaluation and verification of the bids of the aforementioned 10 bidders whose Eligibility/Technical and Financial Proposals were rated “passed” during the preliminary examination, to determine the bidder with the Lowest Calculated Bid (LCB) in accordance with Section 32 of the Revised Implementing Rules and Regulations (RIRR) of R.A. 9184 and Clause 27.2 of the ITB. After the said detailed bid evaluation, only the bids of seven (7) bidders were rated “passed” and were ranked in ascending order based on their financial bids or total bid price as calculated, evaluated, and or corrected for computational errors, and other bid modifications to determine the bidder with the LCB who shall undergo the post-qualification. Table below shows the bid amounts of the 7 bidders (as calculated):

BIDDERS	BID AMOUNT (AS CALCULATED)	RANKING
A.P.B. Construction	33,276,005.26	1
Hi-Tone Construction & Development Corporation / A-Plus Development & Construction Corporation (Joint Venture)	33,560,647.70	2
F.B. Bantales Engineering Construction / BLC Construction and Aggregates (Joint Venture)	33,935,256.64	3
Tarlac 3-G Construction & Development Corporation	34,038,665.53	4
Precious Construction	34,564,690.70	5
Marlon Andal Construction Corporation (MACC) Philippines / BLACPrime Construction, Inc. (Joint Venture)	34,917,266.14	6
3K Rock Engineering / Tagel Corporation (Joint Venture)	37,790,138.98	7

WHEREAS, consequent to the above results of the detailed bid evaluation, A.P.B. Construction was declared the bidder with LCB for the Project in BAC Resolution No. 14 dated 04 December 2020, and was subjected to post-qualification on 07 to 14 December 2020. However, the BAC-I, in its BAC Resolution No. 18 dated 17 December 2020, declared **A.P.B. Construction** as post-disqualified for the Project due to its non-submission of the required document or non-compliance with the requirements provided under the bidding documents for the project, to wit:

REQUIREMENT	NON-COMPLIANCE
Clause 12.1(b)(ii.3) of the Instructions to Bidders (ITB), project requirements shall	Failed to show/present during post-qualification the actual “water truck” nominated in its bid submission,

include, among others, the list of contractor's major equipment units, which are owned, leased, and/or under purchase agreements, supported by proof of ownership, certification of availability of equipment from the equipment lessor/vendor for the duration of the project, as the case may be, which must meet the minimum requirements for the contract set in the BDS.

The same clause under BDS provides the List of Minimum Equipment Requirement; to wit:

1 Back hoe (Excavator) – 0.8 cu. m.
1 Dump Truck – 10 cu. m.
1 Water Truck – 1000 gallons

If owned, the above equipment should be supported by proof of ownership and certification by the bidder of availability of equipment for the duration of the project.

If leased, supported by contract to lease and certification of availability of equipment from the equipment lessor for the duration of the project.

If under purchase agreement, supported by agreement to purchase and certification of availability of equipment from the equipment vendor and the bidder for the duration of the project.

[in violation of Clause 12.1(b)(ii.3) of the Instructions to Bidders (ITB) and Bid Data Sheet (BDS)].

Ms. Julie Ronquillo, the representative of the equipment Lessor AKN Construction Corporation, initially advised the BAC-I TWG on 11 December 2020 that the nominated "water truck" is in Ilocos, Sur. However, she advised again at a later time that the said equipment is in Rizal. On 16 December 2020, the supposed schedule of actual inspection of the said equipment in Rizal, the BAC-I TWG was advised that the said equipment was deployed in Quezon Province. On the same date, immediately after the Lessor advised that the nominated "water truck" is in Quezon Province, the BAC-I TWG requested photos of the said equipment in Quezon Province but the Lessor did not provide the requested photos.

It must be noted that the Notice of Post-Qualification was sent to the bidder on 08 December 2020 through its official email and the bidder was also verbally advised by the BAC-I TWG regarding the said Notice on the same date. The BAC cannot wait until the Lessor or the bidder can show/present the actual nominated "water truck" because the bidder, whose bid has been declared as the Lowest Calculated Bid, is only given five (5) calendar days from receipt of notice to submit the post-qualification requirements. Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the bidder for award, (Section 34 of 2016 RIRR of R.A. 9184).

The Revised IRR of R.A. 9184, Rule X on Post-qualification, specifically provides the following:

Section 34.3 (b) (ii)

b) Technical Requirements. To determine compliance of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including, where applicable:

i) xxx xxx xxx

ii) Verification of availability and commitment, and/or inspection and testing for the required capacities and operating conditions, of equipment units to be

	<p><u>owned/leased/under purchase by the bidder for use in the contract under bidding, xxx.</u>" (emphasis supplied)</p> <p>Clearly, the bidder failed to produce during post-qualification the equipment listed in its bid submission and was not able to prove tenurial arrangement with the Lessor on the nominated "water truck", and thus <u>failed to prove that the nominated equipment is available for the duration of the project.</u></p>
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WHEREAS, in the said BAC Resolution No. 18, **Hi-Tone Construction & Development Corporation/A-Plus Development & Construction Corporation Joint Venture** was declared the bidder with the **next/second LCB**, and was subjected to post-qualification pursuant to Section 34.6 of the RIRR of R.A. 9184. However, the BAC-I, in its BAC Resolution No. 19 dated 07 January 2021, declared the Joint Venture as post-disqualified due to its non-submission of the required documents or non-compliance with the requirements provided under the bidding documents for the project, and RIRR of R.A. 9184, to wit:

REQUIREMENT	NON-COMPLIANCE
<p>Technical Requirements under Section 34.3(b)(ii) of R.A. 9184.</p>	<p>Hi-Tone Construction & Development Corporation incurred negative slippage of more than fifteen percent (15%) of its ongoing projects, to wit:</p> <ul style="list-style-type: none"> • Project with DPWH Region V – Bicol entitled, "Organizational Outcome 1: Ensure Safe and Reliable National Road System Asset Preservation Program Construction/Upgrading/Rehabilitation of drainage along National Road-Primary Roads Daang Maharlika Pili, Camarines Sur". <p style="text-align: center;">Slippage: 23.31%</p> <ul style="list-style-type: none"> • Project with DPWH Region III – Olongapo, entitled, "Widening of Jose Abad Santos Avenue (JASA), Olongapo City" <p style="text-align: center;">Slippage: 31.27%</p> <ul style="list-style-type: none"> • Project with DPWH Quezon City 2nd District Office entitled, "Renovation of University Health Service, UP Diliman, Quezon City" <p style="text-align: center;">Slippage: 36.26%</p> <p>The Revised IRR of R.A. 9184 specifically provides the following:</p> <p>Section 34.3 (b) (ii)</p> <p>"b. <u>Technical Requirements</u>. To determine compliance</p>

	<p>of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including, where applicable:</p> <p>i) Xxx xxx xxx;</p> <p>ii) 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, as well as <u>checking the performance of the bidder in its ongoing government and private contracts, if any of these ongoing contracts shows:</u></p> <p>a. <u>Negative slippage of at least fifteen percent (15%) in any one project or a negative slippage of at least ten percent (10%) in each of two (2) or more contracts;</u></p> <p>Xxx xxx xxx;</p> <p><u>If the BAC verifies any of these deficiencies to be due to the contractor's fault or negligence, the agency shall disqualify the contractor from the award, for the procurement of Infrastructure Projects." (emphasis supplied)</u></p>
<p>Statement of all its ongoing government and private contracts including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid.</p>	<p>Hi-Tone Construction & Development Corporation failed to declare fifteen (15) ongoing projects with different Department of Public Works and Highways (DPWH) offices, to wit:</p> <ol style="list-style-type: none"> <u>DPWH - NCR</u> "Construction of Five (5) Storey Multi-purpose building, Rizal Technological University, Mandaluyong City" (Contract Cost: 67,541,789.51) <u>DPWH - Quezon City 2nd District Office</u> "Renovation of University Health Service, UP Diliman, Quezon City" (Contract Cost: 121,231,002.20) <p><u>DPWH Region III - Bataan</u></p> <ol style="list-style-type: none"> "Asset Preservation Program - Rehabilitation/Reconstruction/Upgrading of Damaged Paved Roads - Secondary Road, Roman Expressway - Bataan 2nd District" (Contract Cost: 82,420,589.14) "Asset Preservation Program - Rehabilitation/Reconstruction/Upgrading of Damaged Paved Roads - Secondary Road,

	<p>Mariveles – Talaga Bay RD” (Contract Cost: 29,280,193.58)</p> <p>5. “Network Development Program – Road Widening – Secondary Roads – Roman Expressway” (Contract Cost: 92,350,209.84)</p> <p><u>DPWH Region III – Olongapo</u></p> <p>6. “Widening of Jose Abad Santos Avenue (JASA), Olongapo City” (Contract Cost: 105,414,238.03)</p> <p><u>DPWH Region V – Bicol</u></p> <p>7. “Construction of Flood Control System along Libod River, Libod, Malinao, Albay” (Contract Cost: 23,760,000.00)</p> <p>8. “Cluster 45 – Concreting of Farm to Market Roads; Brgy. Alimsog – Brgy. Sula FMR, Sto. Domingo, Albay; and Brgy. Cararayan – Brgy. Libjo – Brgy. Bolo FMR, Tiwi, Albay” (Contract Cost: 47,219,574.06)</p> <p>9. “Local Infrastructure Program – Local Roads – Construction of Brgy. San Francisco, Brgy. Road from Purok IV to Purok V, San Francisco, Legazpi City, Albay” (Contract Cost: 65,317,547.13)</p> <p>10. “Local Program; Construction of Multi-purpose building and disaster risk reduction facility, Anislag National High School, Anislag, Daraga, Albay” (Contract Cost: 14,698,646.70)</p> <p>11. “Construction of Elementary & Secondary classrooms, Daraga National High school, Daraga, Locsin, Albay” (Contract Cost: 62,254,257.00)</p> <p>12. “Construction/Concreting of Cabasi – Bobonsuran – Tinampo Irrigation Service Road, Ligao City, Albay” (Contract Cost: 19,107,765.47)</p> <p>13. “Widening of Permanent Bridges – Cabangan Bridge along Daang Maharlika” (Contract Cost: 31,603,784.62)</p> <p>14. “Construction of Three (3) Storey DTI Regional Office V, Government Regional Center, Rawis, Legazpi City” (Contract Cost: 46,560,841.66)</p> <p>15. “Construction of Evacuation Centers including Site Development in Region V, Anislag Daraga, Albay” (Contract Cost: 34,276,889.84)</p> <p><u>The non-declaration of the ongoing projects is in violation of Clause 12.1(a)(ii) of the Instructions to Bidders [ITB]] and Section 23 of the RIRR of R.A. 9184. (emphasis supplied)</u></p>
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WHEREAS, in the said BAC Resolution No. 19, **F.B. Bantales Engineering Construction/BLC Construction and Aggregates Joint Venture** was declared the bidder with the **next/third LCB**, subject to post-qualification. Thereafter, the post-qualification on the said Joint Venture commenced on 12

January 2021. However, the BAC-I, in its BAC Resolution No. 21 dated 21 January 2021, declared the said Joint Venture as post-disqualified for the Project due to its non-submission of the required document or non-compliance with the requirements provided under the bidding documents for the project, and R.A. 9184, to wit:

REQUIREMENT	NON-COMPLIANCE
<p>Statement of all its ongoing government and private contracts including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid.</p>	<p>F.B. Bantales Engineering Construction failed to declare five (5) ongoing projects with different DPWH offices, to wit:</p> <ol style="list-style-type: none"> 1. <u>DPWH – Abra District Engineering Office</u> “18PA0118 Rehabilitation/Improvement of Ganao Liguis Road, La Paz, Abra” (Contract Cost: 48,979,985.73) 2. <u>DPWH – Benguet 2nd District Engineering Office</u> “19PF0020 Organizational outcome 2: Protect lives and properties against major flood, Construction of flood mitigation structure, and Construction of tublay central flood control” (Contract Cost: 57,900,000.00) <u>DPWH – Benguet 1st District Engineering Office</u> 3. “20PE0019 Reconstruction to concrete pavement, 280MM – specific location along Shilanbeckel Road (S00385LZ), K0261+050 – K0263+3358, La Trinidad, Benguet” (Contract Cost: 57,629,411.29) 4. “20PE0027 Construction of road slope protection structure along Benguet Nueva Vizcaya Road (S00382LZ), K0254+255-K0254+370, La Trinidad, Benguet” (Contract Cost: 47,766,122.53) 5. “20PE0092 Construction of evacuation center, Tablan, Kabayan, Barrio, Kabayan, Benguet” (Contract Cost: 34,719,368.40) <p><u>The non-declaration of the ongoing projects is in violation of Clause 12.1(a)(ii) of the Instructions to Bidders (ITB)] and Section 23 of the RIRR of R.A. 9184. (emphasis supplied)</u></p> <p>Section 23.1(a) of the RIRR of R.A. 9184 provides that, “<u>For purposes of determining the eligibility of bidders</u> using the criteria stated in Section 23.4 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:</p> <p>a) Class “A” Documents</p>

	<p>Legal Documents</p> <p>Xxx xxx xxx;</p> <p><u>Technical Documents</u></p> <p>Xxx xxx xxx;</p> <p>iv) <u>Statement of the prospective bidder of all its ongoing government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid.</u> (emphasis supplied)</p> <p>Moreover, the Government Procurement Policy Board (GPPB) NPM No. 006-2018 states that:</p> <p><u>“Failure to declare an ongoing government and private contract, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid is a ground for disqualification.</u> These contracts, as reflected in the “Statement of all on-going contracts”, are vital to the computation of the Net Financial Contracting Capacity of the bidder, and they are necessary information during the post-qualification stage to verify, validate and ascertain the technical qualification of the Lowest Calculated Bidder for the ultimate determination whether it is the Lowest Calculated and Responsive Bidder.” (emphasis supplied)</p>
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WHEREAS, in the said BAC Resolution No. 21, **Tarlac 3-G Construction & Development Corporation** was declared the bidder with the **next/fourth LCB**, subject to post-qualification. Thereafter, the post-qualification on the said contractor commenced on 26 January 2021. However, the BAC-I, in its BAC Resolution No. 23 dated 03 February 2021, declared the said contractor as post-disqualified for the Project due to its non-submission of the required document or non-compliance with the requirements provided under the bidding documents for the project, and R.A. 9184, to wit:

REQUIREMENT	NON-COMPLIANCE
Technical Requirements under Section 34.3(b)(ii) of R.A. 9184.	<p>The bidder incurred negative slippage of more than fifteen percent (15%) of its ongoing projects, to wit:</p> <ul style="list-style-type: none"> Project with DPWH Regional Office – III entitled, “18C00040 Construction/Improvement of Access Roads Leading to Declared Tourism Destinations, Clark-Bamban-Capas Access Road Leading To Clark City (Section I), Capas, Tarlac, Province of Tarlac, (Contract Cost: PhP168,136,633.49)

	<p>Slippage: 22.13%</p> <ul style="list-style-type: none"> Project with DPWH – Tarlac District Engineering Office entitled, “19CJ0184 Construction of 4-Storey 20 Classrooms, Maliwalo Central ES, City of Tarlac (Capital), Tarlac”, (Contract Cost: 48,951,700.47) <p>Slippage: 52.77%</p> <p>The Revised IRR of R.A. 9184 specifically provides the following:</p> <p>Section 34.3 (b) (ii)</p> <p>“b. <u>Technical Requirements.</u> To determine compliance of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including, where applicable:</p> <p>i) Xxx xxx xxx;</p> <p>iii) 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, as well as <u>checking the performance of the bidder in its ongoing government and private contracts, if any of these ongoing contracts shows:</u></p> <p>a. <u>Negative slippage of at least fifteen percent (15%) in any one project or a negative slippage of at least ten percent (10%) in each of two (2) or more contracts:</u></p> <p>Xxx xxx xxx;</p> <p>If the BAC verifies any of these deficiencies to be due to the contractor’s fault or negligence, the agency shall disqualify the contractor from the award, for the procurement of Infrastructure Projects.”</p>
<p>Statement of all its ongoing government and private contracts including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid.</p>	<p>The bidder failed to declare nine (9) ongoing projects with different DPWH offices, to wit:</p> <ol style="list-style-type: none"> <u>DPWH – Tarlac District Engineering Office</u> “19CJ0184 Construction of 4 Storey 20 Classrooms, Maliwalo Central ES, City of Tarlac (Capital), Tarlac” (Contract Cost: 48,951,700.47) “20CJ0078 Local Infrastructure Program Construction of Multi- Purpose Building, Barangay

	<p>Cardona, Gerona, Tarlac” (Contract Cost: 3,009,647.27)</p> <p>3. "20CJ0086 Local Infrastructure Program Construction of Multi- Purpose Building, Barangay Ungot, Tarlac City, Tarlac”, (Contract Cost: PhP3,009,647.27)</p> <p>4. "20CJ0099 Construction / Repair / Rehabilitation / Improvement of Various Infrastructure Including Local Projects Construction of San Jose, Tarlac-Palauig, Zambales Road Including Drainage Phase 7, San Jose, Tarlac”, (Contract Cost: PhP75,641,825.53)</p> <p>5. "20CJ0105 Local Infrastructure Program Concreting of Moriones, San Jose Balanti Road, Tarlac City, Tarlac”, (Contract Cost: PhP14,391,196.81)</p> <p>6. "20CJ0148 Local Infrastructure Program Concreting of Carangian-San Pablo-San Vicente Bypass Road, Tarlac City, Tarlac”, (Contract Cost: PhP14,390,626.07)</p> <p>7. "20CJ0165 Construction of 2STY4CL Sulipa Es, Gerona, Tarlac”, (Contract Cost: PhP13,533,802.25)</p> <p><u>DRWH – Tarlac 2nd District Engineering Office</u></p> <p>8. "20CK0023 Construction of Brgy. San Isidro (Almendras) to Sitio Kabayung Sarul, Concepcion, Tarlac”, (PhP14,255,188.30)</p> <p>9. "20CK0035 Rehabilitation/Improvement of Existing Dike Along Parua River (Right Bank, San Antonio Section) D/S of Sta. Rita Bridge, Concepcion, Tarlac”, (Contract Cost: PhP37,669,425.20)</p> <p><i>The non-declaration of the ongoing projects is in violation of Clause 12.1(a)(ii) of the Instructions to Bidders (ITB)] and Section 23 of the RIRR of R.A. 9184. (emphasis supplied)</i></p>
<p>Clause 12.1(b)(ii.2) of the BDS and ITB</p> <p>The contractor’s key personnel to be assigned to the contract to be bid must meet the required qualifications and relevant experiences supported by their respective CVs following the format under Section IX - Bidding Forms.</p>	<p>The bidder failed to comply with the requirements for the key personnel to be assigned to the project provided under Clause 12.1(b)(ii.2) of the BDS and ITB. The number of years of work experience of the nominated key personnel fall short of the required number of years of work experience for the personnel to be assigned to the Project, based on the Curriculum Vitae (CV) in its bid submission, to wit:</p> <ul style="list-style-type: none"> • The nominated <u>Site Civil Engineer</u> has a total

	<p>experience of 2 years, 7 months and 18 days only, which is less than the required minimum 3-year work experience as Site Engineer.</p> <ul style="list-style-type: none"> • The nominated <u>Quantity Engineer</u> has a total experience of 2 years, 7 months and 18 days only, which is less than the required minimum 3-year work experience as Quantity Engineer. • The nominated <u>Materials Engineer</u> has a total experience of 2 years, 7 months and 18 days only, which is less than the required minimum 3-year work experience Materials Engineer. • The nominated <u>Electrical Engineer</u> has a total experience of 2 years, 7 months and 18 days only, which is less than the required minimum 3-year work experience Electrical Engineer. • The nominated <u>Health and Safety Officer</u> has a total experience of 2 years, 7 months and 18 days only, which is less than the required minimum 3-year work experience as Health and Safety Officer.
<p>Clause 12.1(b)(ii.3) of the Instructions to Bidders (ITB), project requirements shall include, among others, the list of contractor’s major equipment units, which are owned, leased, and/or under purchase agreements, supported by proof of ownership, certification of availability of equipment from the equipment lessor/vendor for the duration of the project, as the case may be, which must meet the minimum requirements for the contract set in the BDS.</p> <p>The same clause under BDS provides the List of Minimum Equipment Requirement; to wit:</p> <p>1 Back hoe (Excavator) – 0.8 cu. m. 1 Dump Truck – 10 cu. m. 1 Water Truck – 1000 gallons</p> <p>If owned, the above equipment should be supported by proof of ownership and certification by the bidder of availability of equipment for the duration of the project.</p> <p>If leased, supported by contract to lease and certification of availability of</p>	<p>The bidder failed to show/present during post-qualification the actual “Back hoe (Excavator)” and “Dump Truck” nominated in its bid submission, and failed to submit the Certificate of Availability for all nominated equipment, [in violation of Clause 12.1(b)(ii.3) of the ITB and BDS, and Section 34.3 of the RIRR of R.A. 9184].</p> <p>The RIRR of R.A. 9184, Rule X on Post-qualification, specifically provides the following:</p> <p>Section 34.3 (b) (ii)</p> <p>b) <u>Technical Requirements.</u> To determine compliance of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including, where applicable:</p> <p>i) xxx xxx xxx</p> <p>ii) <u>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, xxx.”</u> (emphasis supplied)</p> <p><u>The bidder failed to prove that all nominated equipment are available for the duration of the project.</u></p>

<p>equipment from the equipment lessor for the duration of the project.</p> <p>If under purchase agreement, supported by agreement to purchase and certification of availability of equipment from the equipment vendor and the bidder for the duration of the project.</p>	
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WHEREAS, in the said BAC Resolution No. 23, **Precious Construction** was declared the bidder with the **next/fifth LCB**, subject to post-qualification. Thereafter, the post-qualification on the said contractor commenced on 09 February 2021. However, the BAC-I, in its BAC Resolution No. 25 dated 03 February 2021, declared the said contractor as post-disqualified for the Project due to its non-submission of the required document or non-compliance with the requirements provided under the bidding documents for the project, and R.A. 9184, to wit:

REQUIREMENT	NON-COMPLIANCE
<p>Technical Requirements under Section 34.3(b)(ii) of R.A. 9184.</p>	<p>The bidder incurred negative slippage of more than fifteen percent (15%) of its seven (7) ongoing projects/contracts with different DPWH Offices, to wit:</p> <ol style="list-style-type: none"> Project with DPWH – CAR Regional Office entitled, “18P00055 Cluster I: A) Repair/Rehabilitation/Improvement of Luzong-Tuquipa Road, Brgys. Luzong And Tuquipa, Luba, Abra; B) Repair/Rehabilitation/Improvement of Sitio Caba-Gayaman Road, Brgy Gayaman, Luba, Abra; C) Repair/Rehabilitation/Improvement of Sabnanga”, (Contract Cost: 100,038,104.51) <p>Slippage: 78.12%</p> <ol style="list-style-type: none"> Project with DPWH – CAR Regional Office entitled, “18P00056 Cluster II :A) Repair/Rehabilitation/Improvement of Poblacion-Gayaman Flood Control; B) Repair/Rehabilitation of Barit Barangay Road Overflow Spillway”, (Contract Cost: Php46,246,752.89) <p>Slippage: 76.18%</p> <ol style="list-style-type: none"> Project with DPWH NCR – Malabon Navotas District Engineering Office entitled, “170A0060 Const. /Strength. of Riverwall Along Nav. River Fr. Nav. City Hall to Vadeo 5 (P. II), Nav. City”, (Contract Cost: 46,402,958.63)

Slippage: 26.79%

4. Project with DPWH NCR – Metro Manila 1st District Engineering Office entitled, “200E0184 Construction of Multi-Purpose Building, Zone 25-40, Manila City”, (Contract Cost: Php67,220,279.83)

Slippage: 91.77%

5. Project with DPWH NCR – Metro Manila 1st District Engineering Office entitled, “180F0210 Construction of Slope Protection Tullahan River, Brgy. San Bartolome (Phase 6), Q.C.” (Contract Cost: Php46,549,395.71)

Slippage: 37.56%

6. Project with DPWH Region III – Bulacan 1st District Engineering Office, entitled “2 20CC0251 Construction of Three Storey Nine Classroom – Bulihan National High School, Malolos, Bulacan”, (Contract Cost: Php32,016,073.13)

Slippage: 74.27%

7. Project with DPWH Region IV-A – Regional Office entitled, “20D00036 FY 2020 DPWH Infrastructure Program Organizational Outcome 1: Ensure Safe and Reliable National Road System Network Development Program Construction of Missing Links/New Roads, Tagaytay Calamba Road Via Canlubang, Laguna Section, Laguna”, (Contract Cost: Php112,361,159.42)

Slippage: 56.35%

The Revised IRR of R.A. 9184 specifically provides the following:

Section 34.3 (b) (ii)

“b. Technical Requirements. To determine compliance of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including, where applicable:

- ii) Xxx xxx xxx;

	<p>iv) 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, as well as <u>checking the performance of the bidder in its ongoing government and private contracts, if any of these ongoing contracts shows:</u></p> <p>a. <u>Negative slippage of at least fifteen percent (15%) in any one project or a negative slippage of at least ten percent (10%) in each of two (2) or more contracts;</u></p> <p>Xxx xxx xxx;</p> <p>If the BAC verifies any of these deficiencies to be due to the contractor's fault or negligence, the agency shall disqualify the contractor from the award, for the procurement of Infrastructure Projects."</p>
<p>Statement of all its ongoing government and private contracts including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid.</p>	<p>The bidder failed to declare seventeen (17) ongoing projects with different DPWH offices, to wit:</p> <p><u>DPWH – CAR Regional Office</u></p> <p>1. "18P00055 Cluster I: A) Repair/Rehabilitation/Improvement of Luzong-Tuquipa Road, Brgys. Luzong And Tuquipa, Luba, Abra; B) Repair/Rehabilitation/Improvement of Sitio Caba-Gayaman Road, Brgy Gayaman, Luba, Abra; C) Repair/Rehabilitation/Improvement of Sabnanga", (Contract Cost: 100,038,104.51)</p> <p>2. "18P00056 Cluster II :A) Repair/Rehabilitation/Improvement of Poblacion-Gayaman Flood Control; B) Repair/Rehabilitation of Barit Barangay Road Overflow Spillway", (Contract Cost: Php46,246,752.89)</p> <p><u>DPWH NCR – Malabon Navotas District Engineering Office</u></p> <p>3. "170A0060 Const. /Strength. of Riverwall Along Nav. River Fr. Nav. City Hall to Vadeo 5 (P. II), Nav. City", (Contract Cost: 46,402,958.63)</p> <p><u>DPWH NCR – Metro Manila 1st District Engineering</u></p> <p>4. "190B0364 Construction of MPB, Brgy. Pasadeña, San Juan City, (Contract Cost: Php34,208,101.94)</p> <p>5. "200E0184 Construction of Multi-Purpose Building, Zone 25-40, Manila City", (Contract Cost:</p>

	<p>Php67,220,279.83)</p> <p>6. "18OF0210 Construction of Slope Protection Tullahan River, Brgy. San Bartolome (Phase 6), Q.C", (Contract Cost: Php46,549,395.71)</p> <p><u>DPWH Region III – Bulacan 1st District Engineering Office</u></p> <p>7. "20CC0200 Construction of Water Pumping Station No. 3, Lolomboy, Bocaue, Bulacan", (Contract Cost: Php92,581,900.14)</p> <p>8. "2 20CC0251 Construction of Three Storey Nine Classroom – Bulihan National High School, Malolos, Bulacan, (Contract Cost: Php32,016,073.13)</p> <p><u>DPWH Region IV-A – Batangas 4th District Engineering Office</u></p> <p>9. "17DD0234 Construction of Four (4) Storey Twenty (20) Classrooms School Building at Lumbang NHS, Brgy. Lumbang, Lipa City, Batangas, (Contract Cost: Php 41,789,502.50)</p> <p>10. "18DD0570 Construction of 4STY16CL, Inoslobanmarawoy ES, Lipa City, Batangas", (Contract Cost: Php41,970,500.00)</p> <p><u>DPWH Region IV-A – Regional Office</u></p> <p>11. "20D00036 FY 2020 DPWH Infrastructure Program Organizational Outcome 1: Ensure Safe and Reliable National Road System Network Development Program Construction of Missing Links/New Roads, Tagaytay Calamba Road Via Canlubang, Laguna Section, Laguna", (Contract Cost: Php112,361,159.42)</p> <p><u>DPWH Region V – Regional Office</u></p> <p>12. "20F00071 001: Ensure Safe and Reliable National Road System-Network Development Program Construction of Bypass and Diversion Roads, Juban-Bulan Diversion Road, Bulan Section, Sorsogon, Bulan, Sorsogon (2nd Legislative District)", (Contract Cost: Php37,433,597.18)</p> <p><u>DPWH Region V – Albay 1st District Engineering Office</u></p> <p>13. "19FA0080 Cluster 44- Rehab/Restoration/Re Construction of Comun FC Downstream, Malinao, Albay; Tayhi RC, Tabaco City And Bagong San Roque</p>
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	<p>Site 1 RC, Sto. Domingo, Albay”, (Contract Cost: Php80,916,506.90)</p> <p>14. “20FA0044 Cluster 24- Construction/Impv't. of Access Roads Leading to Declared Tourism Destinations In The First District of Albay”, (Contract Cost: Php83,789,884.33)</p> <p><u>DPWH Region V – Camarines Norte District Engineering Office</u></p> <p>15. “17FC0405 Const. of Two (2) Storey Twelve (12) C/L School Bldg., Labo ES, Labo Cams. Norte (2)”, (Contract Cost: Php28,183,920.25)</p> <p><u>DPWH Region V – Camarines Sur 2nd District Engineering Office</u></p> <p>16. “20FE0058 OO2: Flood Management - Construction/Maintenance of Flood Mitigation Structures and Drainage Systems - Construction of Revetment (Along Libmanan River) Within Bicol River Basin, Brgy. Tampuhan, Libmanan, Camarines Sur”, (Contract Cost: Php45,376,800.92)</p> <p>17. “19FK0074 Flood Mitigation Program Const. /Maintenance of Flood Mitigation Structure And Drainage Systems Cons. /Rehab. of Lungib Seawall and Embankment Phase II Casiguran, Sorsogon”, (Contract Cost: 73,868,792.15)</p> <p><u>The non-declaration of the ongoing projects is in violation of Clause 12.1(a)(ii) of the Instructions to Bidders (ITB)] and Section 23 of the RIRR of R.A. 9184.</u> (emphasis supplied)</p>
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WHEREAS, in the same BAC Resolution No. 25, the BAC-I declared **Marlon Andal Construction Corporation (MACC) Philippines / BLACPrime Construction, Inc. Joint Venture** as the bidder with the **next/sixth LCB**, subject to post-qualification. Thereafter the post-qualification on the said Joint Venture commenced on 18 February 2021;

WHEREAS, on 23 February 2021, the BAC-I deliberated the TWG Report on the results of post-qualification on Marlon Andal Construction Corporation (MACC) Philippines / BLACPrime Construction, Inc. Joint Venture. After careful examination, validation and verification of all the submitted eligibility, legal, technical and financial documents, the BAC-I TWG found **Marlon Andal Construction Corporation (MACC) Philippines / BLACPrime Construction, Inc. Joint Venture** compliant with and responsive to the requirements stipulated in the bidding documents and recommended to declare the said Joint Venture as the bidder with the **Lowest Calculated and Responsive Bid (LCRB)** for the Project in its Post-Qualification Report;

WHEREAS, **Marlon Andal Construction Corporation (MACC) Philippines / BLACPrime**

Construction, Inc. Joint Venture is not included in the GPPB List of Blacklisted Constructors as of 16 February 2021;

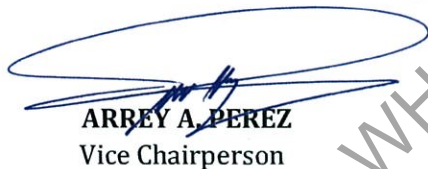
NOW, THEREFORE, foregoing considered and after careful evaluation and thorough deliberation of the bids submitted for the project, we, the Members of the Bids and Awards Committee for Infrastructure (BAC-I), hereby **RESOLVE** as it is hereby **RESOLVED** to recommend the following:

1. To award the contract to **Marlon Andal Construction Corporation (MACC) Philippines / BLACPrime Construction, Inc. Joint Venture** as the bidder with the **Lowest Calculated and Responsive Bid (LCRB)** for the **Contract for the San Fernando La Union Port Expansion Project - Construction of Ferry Port Terminal** located at Poro Point Freeport Zone San Fernando City, La Union, in the amount of **PESOS: Thirty-Four Million Nine Hundred Seventeen Thousand One Hundred Eighty-Nine & 89/100 (PhP34,917,189.89)**, pursuant to Sec. 34.4 of the revised IRR of R.A. 9184; and
2. To issue the corresponding Notice of Award (NOA) to **Marlon Andal Construction Corporation (MACC) Philippines / BLACPrime Construction, Inc. Joint Venture**, being the bidder with LCRB.

RESOLVED, at the BCDA Corporate Center Office, this 23rd day of February 2021.

BIDS AND AWARDS COMMITTEE FOR INFRASTRUCTURE (BAC-I)


AILEEN ANUNCIACION R. ZOSA
Chairperson


ARREY A. PEREZ
Vice Chairperson


ENG. RICHARD BRIAN M. CEPE
Member


ATTY. GISELA Z. KALALO
Member


ENG. RYAN PAUL S. GALURA
Member

Approved by:


VIVENCIO B. DIZON
President and CEO

