

OFFICE OF THE GOVERNMENT CORPORATE COUNSEL
SYSTEMS AND PROCEDURES
MANUAL





REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE
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SYSTEMS AND PROCEDURES MANUAL

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The Top Management of the OGCC commits to authorize the establishment of this *Systems and Procedures Manual (Revision 1)*; and ensures compliance with the statutory and regulatory requirements.

Signed and approved on the 28th day of February 2019.

Reviewed by:

A handwritten signature in black ink, consisting of several vertical strokes and a few horizontal ones, forming a stylized name.

BEL D. DERAYUNAN
Assistant Government Corporate Counsel
Quality Management Representative

Approved by:

A handwritten signature in blue ink, featuring a large, stylized 'E' followed by several loops and a final flourish.

ELPIDIO J. VEGA
Government Corporate Counsel

I. INTRODUCTION

The Office of the Government Corporate Counsel (OGCC), as the principal law office of government-owned or controlled corporations (GOCCs), their subsidiaries, government corporate entities, government acquired asset corporations, and government instrumentalities with corporate powers is committed to the rule of law strengthened by an effective, expeditious, accessible and impartial justice system.

As statutory counsel, the OGCC caters to various corporations engaged in a myriad of socio-economic activities, such as gaming, agriculture, trading, economic zone operations, housing, information and energy, water and environment, insurance, banking and finance, transportation and healthcare. Over the past two years, more and more GOCCs have increasingly relied on the legal services being rendered by the Office. The support service that the OGCC renders, in turn, has helped these corporations become more effective economic tools.

The main challenge of the OGCC is to competently, efficiently and cost-effectively provide legal services, representation, reviews and advices to all GOCCs, and at the same time closely supervise and control their legal departments or divisions. To successfully meet this challenge, the OGCC must not only render legal service with zeal, but also with speed. It must not only double its efforts, but rationalize its processes. To achieve this, the administrative staff must be able to do its work in an equally expeditious and rational manner; and the systems and procedures that they are expected to follow must be clear.

For this reason, putting together the SPM was conceived – to adopt a clear and uniform set of rules covering all facets of the administrative work in the Office. Once faithfully followed, this SPM will hopefully make the OGCC administrative officers and staff work systematically, seamlessly and synergistically.

II. PERSONNEL

1. Recruitment

Recruitment in the Office of Government Corporate Counsel, whether for regular, contractual or casual positions, shall be based on an individual's merit and fitness to perform the duties and responsibilities of a given position to be determined, as far as practicable, by competitive examinations. Opportunity for employment shall be open to all qualified Filipino citizens and positive efforts shall be exerted to attract the best qualified to enter the service.

1.1 Types of Employment Status

- 1.1.1 **Regular** – appointments attested by the Civil Service Commission which are issued to an employee who meets all the requirements for the position to which he/she is being appointed to, including the appropriate Civil Service (CS) eligibility as prescribed.
- 1.1.2 **Casual** – granted to an employee who has passed the probationary period but cannot be given a regular appointment due to lack of appropriate eligibility, or to further test his/her capabilities prior to his/her appointment to regular status. A Special Order renewable every six months is issued and he/she is paid wages on a daily basis.
- 1.1.3 **Contractual** – issued to a person who shall undertake a specific work or job for a limited period not to exceed one year. The appointing authority shall indicate the inclusive period covered by the appointment for purposes of crediting services.

1.2 Employee Recruitment and Selection

1.2.1 Sources of Applicants

Applicants are sourced from the following:

- 1.2.1 Active file;
- 1.2.2 Walk-in and mail-in applicants;
- 1.2.3 Referrals/recommendees;
- 1.2.4 CSC's list of certified eligibles;
- 1.2.5 Placement Bureaus; and
- 1.2.6 Respondents to announcements made in the OGCC website.

1.2.2 Screening of Applicants

Applicants shall be screened and evaluated pursuant to this Manual.

- 1.2.2.1 Applicants with duly filed application letters shall be required to submit the following attachments:
 - 1.2.2.1.1 One (1) 2 X 2 ID picture;
 - 1.2.2.1.2 Duly certified photocopy of transcript of scholastic records (for college graduates);
 - 1.2.2.1.3 Civil/Career Service Eligibility/ies and/ or board examination rating.
- 1.2.2.2 The accomplished form together with the attachments shall be submitted to the Personnel staff.

1.2.2.3 The HR Officer screens applicants on the basis of the individual's general qualifications *vis-a-vis* the qualification standard (QS) set by the Civil Service Commission (CSC):

1.2.2.3.1 An applicant must meet/possess the appropriate education, civil service eligibility, experience and training requirements of the position. Basis and guide for evaluation shall be the CSC Qualification Standards Manual.

1.2.2.3.2 Except as provided for in Section 3 and 9 of CSC Rules on Personnel Action and Policies, no employee may be appointed to a regular position unless he possesses the appropriate Civil Service Eligibility prescribed for the position.

1.2.2.3.3 Notwithstanding the provisions of Section 8 of said policies, the proposed appointee may, if necessary, be required to undergo a probationary period to determine his capability before elevating him to a permanent status.

1.2.2.3.4 Except for government transferees and in highly meritorious cases, a newly hired employee shall not be allowed to assume the duties of the position unless he shall have complied with the pre-employment requirements.

1.2.2.3.5 Qualified applicants are contacted/notified to submit medical results and, when appropriate, to take a written examination.

1.2.3 Interview by the Personnel Selection Board

The Personnel Selection Board shall schedule the interview of the pre-screened applicants.

1.2.4 Approval of the Government Corporate Counsel (GCC)

The GCC shall approve the hiring of the qualified applicant based on the endorsement/recommendation of the Personnel Selection Board (Legal/Administrative).

1.2.5 Medical Examination

Applicants ready for employment shall undertake medical examination before the approval of his/her appointment paper.

The medical examinations to be undertaken are the following:

1.2.5.1 HEPA – B Screening;

1.2.5.2 X-Ray;

1.2.5.3 Blood Type;

1.2.5.4 Urinalysis;

1.2.5.5 Drug Testing;

1.2.5.6 Dental Examination; and

1.2.5.7 Neuro-Psychiatric Exam

1.2.6 Assumption of Duty

1.2.6.1 The effectivity date of an original appointment is “upon assumption to duty” which means effective on the date the employee actually assumed the duties of the position as certified by the concerned official.

1.2.6.2 The OGCC Personnel advises the concerned unit/team/section on the approval of the hiring and its effectivity.

- 1.2.6.3 The following shall be conducted at the OGCC to duty of the newly-hired employee:
- 1.2.6.4 Orientation/briefing of the new employee on proper office decorum and OGCC's policies and procedures to be conducted by the Chief Administrative Officer (CAO) or Personnel Officer.
- 1.2.6.5 Introduction of the newly-hired employee by the CAO or Personnel Officer to his/her immediate supervisor.
- 1.2.6.6 Introduction of the new employee to co-workers and familiarization of the workplace by the CAO or Personnel Officer.
- 1.2.6.7 Orientation to his/her job assignments by the Section Head.

2. OGCC Merit Selection Plan¹

2.1. Basic Policies

- 2.1.1 Selection of employees for appointment in the government service shall be open to all qualified men and women according to the principle of merit and fitness. There shall be equal employment opportunity for men and women at all levels of position on the agency, provided they meet the minimum requirements of the position to be filled.
- 2.1.2 The OGCC Merit Promotion Plan (OGCC-MPP) covers positions in the first, second and third level and shall also include original appointments and other related personnel actions. There shall be no discrimination in the selection of employees on account of gender, civil status, disability, religion, ethnicity, or political affiliation.
- 2.1.3 When a position in the first, second and third level becomes vacant, applicants for employment who are competent, qualified and possess appropriate civil service eligibility shall be considered for permanent appointment. In addition to be required qualifications, applicants for third level positions must possess executive and managerial competence.
- 2.1.4 Vacant positions marked for filling shall be published in accordance with Republic Act 7041 (Publication Law). The published vacant positions shall also be posted in at least three (3) conspicuous places in the OGCC for at least ten (10) calendar days. Other appropriate modes of publication shall be considered. Filing of vacant positions shall be made after ten (10) calendar days from their publication. The publication of a particular vacant position shall be valid until filled up but not to extend beyond six (6) months reckoned from the date the vacant was published.
- 2.1.5 The following positions are exempt from the publication requirement:
 - a. Primarily confidential positions;
 - b. Positions which are policy determining;
 - c. Highly technical positions;
 - d. Other non-career positions;
 - e. Third level (Career Executive Service); and
 - f. Positions to be filled by existing regular employees in the agency in case of reorganization.

¹ Office Order No. 085, Series of 2001, 30 May 2001.

2.1.6 A Personnel Selection Board (PSB) for first and second level positions shall be established in OGCC, preferably with the following composition:

- a. Agency Head or the authorized representative;
- b. Division Chief or the authorized career service representative of the organization unit where the vacancy is;
- c. Human Resource Management Office or the career service employee directly responsible for personnel management; and
- d. Two representatives of the rank-in-file career employees, one from the first level and one from the second level, who shall both be chosen at large by the employees through a general assembly. The candidate who garnered the second highest votes shall automatically be the alternate representative.

The first level representative shall participate during the screening of candidates for vacancies in the first level; the second level representative shall participate in the screening of candidates for vacancies in the second level. Both rank-in-file representatives shall serve for a period of two (2) years. For continuity of operation, the agency accredited employee association may designate an alternate.

2.1.7 The PSB members including alternate representatives for first, second, and third level positions shall undergo orientation and workshop on the selection/promotion process and CSC policies on appointments.

2.1.8 All candidates for appointment for first and second level positions shall be screened by the PSB. Candidates for appointment to third level positions composed of at least three (3) career service officials as must be constituted in the OGCC. Appointment to the following positions shall no longer be screened by the PSB:

- a. Substitute appointment due to their short duration and emergency nature. However, should the position be filled by regular appointment, candidates for the position should be screened and passed upon by the PSB;
- b. Appointment to personal and primarily confidential positions; and
- c. Renewal of temporary appointment issued to the incumbent personnel.

2.1.9 The Government Corporate Counsel, as far as practicable, shall ensure equal opportunity for men and women to be represented in the PSB for all levels.

2.1.10 For next vacancies in the first and second level, all qualified next-in-rank employees shall be automatically considered candidates for promotion to the next higher position.

2.1.11 The PSB shall maintain fairness and impartiality in the assessment of candidates for appointment. Toward this end, the PSB may employ the assistance of external or independent resource persons and may initiate innovative schemes in determining the best and most qualified candidates.

2.1.12 The Government Corporate Counsel (GCC) shall assess the merits of the PSB's recommendation for appointment and in the exercise of sound discretion, select, in so far as practicable, from among the top five ranking applicants deemed most qualified for appointment to the vacant position.

2.1.13 The Government Corporate Counsel may appoint an applicant who is not next-in-rank but possesses superior and qualification and competence, and has undergone selection process.

- 2.1.14 The comparative competence and qualification of candidates for appointment shall be determined on the basis of performance, education and training, experience and outstanding accomplishments, psycho-social attributes and personality traits, and potential.
- 2.1.15. An employee may be promoted or transferred to a position which is not more than three (3) salary, pay or job grades higher than the employee's present position except in very meritorious cases, such as: if the vacant position is next-in-rank as identified in the System of Ranking Position (SRP) approved by the head of agency staffing pattern.
- 2.1.16 An employee should have rendered at least very satisfactory service for the last rating period in the present position before being considered for promotion. An employee who is on local or foreign scholarship or training grant or on maternity leave may be considered for promotion. For this purpose, performance rating to be considered shall be the rating immediately prior to the scholarship or training grant or maternity leave. If promoted, the effectivity date of the promotional appointment shall be on assumption to duty.
- 2.1.17 Promotion within six (6) months prior to compulsory retirement shall not be allowed except as otherwise provided by law.
- 2.1.18 A notice announcing the appointment of an employee shall be posted in three conspicuous places in the OGCC a day after the issuance of the appointment for at least fifteen calendar days.

3. Salary and Schedule of Payment

- 3.1 Regular/Contractual. The initial salary of an employee on regular/contractual status shall be processed upon completion of all pre-employment documents and upon issuance of his/her appointment paper.
- 3.2 Salary is based on the assumption date stated on the appointment paper, and as certified by the concerned official.
- 3.3 Requirements.

In all cases, the required forms/documents must be accomplished by the employee and forwarded to Personnel Section as attachments to the voucher for the processing of the initial payment of wages/salary. These documents are as follows:

- 3.3.1 Appointment Paper;
- 3.3.2 Daily Time Record (DTR) – original and photocopy, to be signed by the employee and the CAO;
- 3.3.3 Certification of Assumption to duty;
- 3.3.4 Panunumpa sa Katungkulan/Oath of Office;
- 3.3.5 Statement of Assets and Liabilities;
- 3.3.6 Duly certified Birth Certificate;
- 3.3.7 Duly certified Marriage Contract; and
- 3.3.8 BIR Form 1902.

- 3.4 Paydays shall be every week.
- 3.5 The following are the regular deductions:

- 3.5.1 Regular and Casual Employees

- 3.5.1.1 Philhealth
- 3.5.1.2 Withholding Tax
- 3.5.1.3 PAG-IBIG
- 3.5.1.4 Pro Fund Premium
- 3.5.1.5 GSIS Premium

3.5.2 Probationary

- 3.5.2.1 Compulsory Life Insurance (CLI)
- 3.5.2.2 Philhealth
- 3.5.2.3 Withholding Tax
- 3.5.2.4 PAG-IBIG

3.6 First payment of wages, salaries and allowances for the subject employees shall be through voucher.

3.7 Computation of the employees' wages/salaries and allowances shall be based on the latest approved CSC Appointment Contract, for regular and permanent employees. Likewise, Notice of Salary Increment or Notice of Salary Adjustment shall also support payment of salary increase or salary adjustment.

4. Separation from the service

4.1 Voluntary

4.1.1 **Resignation** – Officer or employee who wishes to terminate his/her services with the OGCC shall file his/her resignation letter at least 30 calendar days prior to its effectivity. The letter shall indicate the reason/s for and the proposed date of resignation.

4.1.1.1 Resigning employee shall be required to report for work during said 30-day period for the turnover of responsibilities to his/her successor.

4.1.1.2 Any resigning employee is not allowed to charge the 30-day period against his leave credits. Non-compliance is a ground for the deferment of the acceptance of the resignation.

4.1.1.3 The resignation letter shall be forwarded to OGCC Personnel which shall prepare an acceptance letter to be signed by the GCC.

4.1.2 **Optional Retirement** – An employee may also qualify for optional retirement under existing laws. He shall be entitled to whatever retirement benefits may be due him under applicable laws, policies and regulations.

4.1.2.1 He shall be required to:

- 4.1.2.1.1 Get clearance from money and property accountabilities;
- 4.1.2.1.2 Submit an updated Statement of Assets and Liabilities; and
- 4.1.2.1.3 Commute all accumulated vacation and/or sick leave credits.

4.1.3 **Transfer** – An employee who seeks appointment by transfer to another government office shall first secure from the GCC, a written permission to transfer.

4.1.3.1 Before the transfer is effected, the employee shall be required to submit the following requirements:

- 4.1.3.1.1 Duly approved permission to transfer;
- 4.1.3.1.2 Certificate of Clearance;
- 4.1.3.1.3 Updated Statement of Assets and Liabilities;
- 4.1.3.1.4 Service Record to be requested from Personnel Section;
- 4.1.3.1.5 Certification indicating the date of assumption to duty to his new appointment; and
- 4.1.3.1.6 The unused vacation and/or sick leave credits of the transferring employee shall be transferred to his new office but not its corresponding money value, provided there shall be no gap in the service.

4.2 Involuntary

A casual employee whose SO or services will no longer be renewed, must be duly informed by AD at least one (1) month prior to the expiration or termination of his/her SO.

4.2.1 Compulsory Retirement – Retirement shall be automatic and compulsory for an employee at the age of sixty-five (65) years, except as otherwise, provided for under existing laws.

4.2.2 Dropping from the Rolls – Officers and employees who are either habitually absent or have unsatisfactory or poor performance or have shown to be physically and mentally unfit to perform their duties may be dropped from the rolls.

4.2.2.1 An officer or employee who is continuously Absent Without Approved Leave (AWOL) for at least thirty (30) calendar days shall be separated from the service or dropped from the rolls without prior notice. He shall however be informed of his separation from the service not later than five (5) days from its effectivity.

4.2.2.2 If the number of unauthorized absences incurred is less than thirty (30) calendar days, written Return-to-Work Order shall be served on the official or employee at his last known address on record. Failure on his part to report for work within the period stated in the order shall be valid ground to drop him from the rolls.

4.2.3 Death or Disability

When the employee dies or becomes totally disabled.

4.3.4 Expiration of Appointment/Termination of Appointment

Employees whose appointments are co-terminus with the term of the GCC.

4.3 Application for terminal leave.

4.3.1 Concerned employee shall be required to submit a duly accomplished and approved Certificate of Leave Clearance (COLC) to support the application for terminal leave and the corresponding voucher for commutation purposes.

4.3.2 Submit the following requirements to OGCC Personnel Section for the processing of the Last Payment of Salaries/ Wages/ Terminal Pay. Application for terminal leave shall be filed and processed by the Accounting Section using the prescribed form:

- 4.3.2.1 Duly approved resignation letter;
- 4.3.2.2 Certificate of Clearance;

- 4.3.2.3 Certification that the employee has no pending administrative and/or criminal case filed against him;
 - 4.3.2.4 Statement of Assets & Liabilities and Networth;
 - 4.3.2.5 Service Record- to be requested from the OGCC Personnel Section;
 - 4.3.2.6 Application for Leave of Absence for Terminal Pay- to be signed by the GCC;
 - 4.3.2.6 Last Time Card;
 - 4.3.2.7 Photocopy of Leave Card- to be requested from Personnel Section;
 - 4.3.2.7 Appointment; and
 - 4.3.2.8 Identification Card (ID) to be surrendered upon resignation, retirement, termination of the employee.
- 4.3.3 An employee who resigns shall be entitled to the commutation of all accumulated vacation and/or sick leave credits.
- 4.3.4 Processing of the last payment shall be done through voucher.
- 4.3.5 Payment of terminal leave due to resignation or retirement shall be based on the latest salary received prior to resignation or retirement.

5. Attendance

5.1 Working Hours

- 5.1.1 Office days are from Monday to Friday. Office hours shall be flexible working hours which is from 7:00 A.M. to 6:00 P.M. daily.
- 5.1.2 Lunch break shall be maintained at 12:00 noon to 1:00 P.M. regardless of the flexi-time.
- 5.1.3 Coffee breaks shall be from 10:00-10:15 in the morning and 3:00-3:15 in the afternoon. In no case shall coffee breaks exceed 15 minutes and lunch breaks be more than one hour.

5.2 Attendance and Time Keeping

5.2.1 Use of Time Recorder (TR)

- 5.2.1 All OGCC officers and employees (with the rank of SG-28 and below) shall swipe their new Identification (ID) Cards in the TR to record their daily presence both in the morning, noontime, afternoon, or evening, as the case may be.
- 5.2.2 The designated official timekeeper of the AD shall verify DTR entries from that of the Daily Logsheet (DL). In case of discrepancy, the DTR entries shall prevail.
- 5.2.3 Officers/employees who have no swiped entries shall be required to submit any of the following applicable supporting documents pursuant to existing guidelines:
 - 5.2.3.1 Application for Leave of Absence
 - 5.2.3.2 Official Business Slip (OBS)
 - 5.2.3.3 Travel Authority (TA)
 - 5.2.3.4 Trip Ticket

Non-compliance thereof shall be construed as absence from Office and the equivalent amount of salaries/wages shall be automatically deducted from the payroll/leave credits.

5.2.2 Use of Bundy Clock

- 5.2.2.1 The Daily Time Record (DTR) shall be the principal basis in determining the employees' attendance, as well as in computing the employees' wages, salaries, allowances, overtime pay and related benefits.
- 5.2.2.2 The DTR shall refer to the time card (TC) being punched in the Bundy Clock Machine to generate the employees' time in and out entries.
- 5.2.2.3 The time card is non-transferable and shall be punched only by the bonafide owner.
- 5.2.2.4 Falsification or irregularities in the keeping of time records will render the guilty officer or employee administratively liable without prejudice to criminal prosecution as the circumstances warrant.
- 5.2.2.5 Employees with non-bundy clock entries on their TCs shall submit the same to their concerned Section Head for initial during cut-off days for payroll, duly supported by the approved POS/ALA/TA/Trip Ticket, whichever is applicable.
- 5.2.2.6 In case of missing or lost Daily Time Record (DTR), the party responsible for said loss shall issue the necessary affidavit as supporting document to the employee's claim for wage payment.
- 5.2.2.7 Submission of DTR for the previous month is not later than every 5th day of the succeeding month for officers and regular employees, and the DTR for the current month on the prescribed cut-off period for casual/probationary/job order employees.
- 5.2.2.8 Non-submission of DTR/ALA on the cut-off date shall mean exclusion of the concerned officer/employee in the payroll and he/she will be allowed to collect his/her salary/wage only on the succeeding payroll period. In addition, request for preparation of voucher to effect its payment shall no longer be allowed.

5.2.3 Use of Logbook/Logsheets

- 5.2.3.1 All officers (up to the level of Section Head) and employees shall, aside from swiping their IDs/punching/filling their DTRs, be required to record their actual arrival and departure on the Daily Logsheets.

The logsheet shall also serve as the basis for the employee's non-entries due to:

- 5.2.3.1.1 Lost TC;
 - 5.2.3.1.2 Bundy clock malfunctioning; and
 - 5.2.3.1.3 For other purposes relating to the preparation of the payroll.
- 5.2.3.2 The daily logsheet shall be accomplished immediately after swiping the ID/punching the TC in the morning, lunchtime and afternoon, as the case may be. Employees on Official Business (O.B.) who intend to proceed directly to the place where said O.B. shall be undertaken shall accomplish the logsheet upon arrival at OGCC. They should indicate under the A.M. time-in entry the actual time of arrival at the place where O.B. was conducted and reflect under the Remarks Column the conduct of such O.B.

5.2.3.3 The time entries to be reflected on the logsheet should correspond to the CTR/bundy clock entries/pen written entries on the DTR of each officer/employee. For pen entries, any discrepancy in the DTR and logsheet, the logsheet shall be followed.

5.2.3.4 The logbook for legal and non-legal employees shall be placed at a strategic location.

5.2.4 Pass-out Slip

5.2.4.1 A pass-out slip is a form duly accomplished/submitted by all officers and employees who leave the office premises whether on official business or for personal reasons, duly signed by the respective Section Head or Division Chief, as the case may be. The pass serves as a basis in segregating undertime and tardiness from official trips. Without such pass, undertime and tardiness shall be automatically deducted from the officer's/employee's salary, or if the officers/employees have corresponding leave credits, they shall be subtracted from accrued leave credits.

5.2.4.2 The officer/employee shall surrender the original copy of the approved POS/OLS to the guard-on-duty upon leaving the office. The duplicate copy shall be attached to the logbook/employee's time card when securing the initials/signature of the CAO/Personnel Officer for the non-bundy clock entries. The triplicate copy of the OLS shall be filed with Personnel Section.

5.2.4.3 Employees who leave the office premises between 12:00 nn and 1:00 pm for personal reasons may not be required to submit pass-out slips provided that the time of arrival at the office shall not be later than 1:00 pm. Otherwise, the guard-on-duty shall likewise, record the same on the guard's logsheet.

5.2.4.3 Officers and employees on O.B. who proceed directly to the place of said O.B. on a particular day and would therefore result a non entry on their time cards, shall secure approval of the appropriate pass-out slips the day prior to the conduct of O.B.

5.2.4.4 Inasmuch as POS which are personal in nature should not exceed two hours at every instance of application, therefore any excess thereof shall be considered half-day. A Notice of Automatic Application shall be issued to the concerned officer/employee by his/her immediate supervisor, copy furnished AD. Further, the immediate supervisor shall instruct his/her staff to file an ALA for a half (1/2) day-leave on the following day and should the following day fall on a Saturday, Sunday or holiday, it should be filed on the succeeding working day.

5.3 Non-Monetary Remuneration for Overtime Services Rendered²

5.3.1 Employees are required to render forty (40) hours of work in a week, subject to the work schedule adopted by the agency. In the exigency of the service, employees may be required to render services beyond regular working hours.

5.3.2 The Head of Office shall determine the need for overtime services. In this regard, the Office concerned shall issue an office order specifying the date and time for rendition of overtime, and its purpose.

² CSC DBM Joint Circular 2, s. 2004, dated 4 October 2004.

5.3.3 Overtime services may be authorized for the following activities:

- a. completion of infrastructure and other projects with set deadlines when due to unforeseen events the deadline cannot be met without resorting to overtime work;
- b. relief, rehabilitation, reconstruction and other related work or services during calamities and disasters;
- c. work related to school graduation/registration where the additional work cannot be handled by existing personnel during regular working hours;
- d. work involving the preparation for and administration of government examinations, including the prompt correction and release of results thereof where existing personnel are not adequate to handle such work during regular working hours;
- e. seasonal work such as budget preparation and rendition of annual reports to meet scheduled deadlines;
- f. preparation of special/financial/accountability reports required occasionally by central monitoring agencies like the Congress of the Philippines, Office of the President, Commission on Audit, Department of Budget and Management, and National Economic and Development Authority;
- g. the provision of essential public services during emergency situations such as power and energy, water, distribution and control of basic staples, communication and transportation, medical and health services, peace and order, and security;
- h. implementation of special programs/projects embodied in Presidential directives and authorizations and with specific dates to complete, which are in addition to the regular duties of the employees;
- i. legal services to facilitate the dissolution of cases/resolutions/decisions;
- j. services rendered by drivers and other immediate staff of officials when required to keep the same working hours as their superiors; and
- k. such other activities as may be determined by the head of agency.

5.3.4 Computation of Compensatory Overtime Credit COCs

The COC is expressed in number of hours, computed as follows:

5.3.4.1 For overtime services rendered on weekdays or scheduled work days:

$$\text{COC} = \text{number of hours of overtime services} \times 1.0$$

5.3.4.2 For overtime services rendered on weekends, holidays or scheduled days off:

$$\text{COC} = \text{number of hours of overtime services} \times 1.5$$

5.3.5 Accrual and Use of COCs

5.3.5.1 Each employee may accrue not more than forty (40) hours of COCs in a month. In no instance, however, shall the unexpended balance exceed one hundred twenty hours (120) hours.

5.3.5.2 The COCs should be used as time-off within the year these are earned. The unutilized COC should not be carried over in the ensuing year, hence, are non-cumulative.

5.3.5.3 The COCs shall be considered as official time for the following purposes:

5.3.5.3.1 compliance with compensation rules relative to the entitlement to PERA, Additional Compensation, year-end benefits, and other benefits received on a regular basis; and

- 5.3.5.3.2 computation of service hours for entitlement to sick and vacation leave credits, and step increment due to length of service.

5.3.6 Limitation on the Use of COCs

- 1.6.1 The COCs cannot be used to offset undertime/s or tardiness incurred by the employee during regular working days.
- 1.6.2 The COCs earned cannot be converted to cash, hence, are non-commutative.
- 1.6.3 The COCs will not be added to the regular leave credits of the employee. Hence, it is not part of the accumulated leave credits that is paid out to the employee.

5.4 Leave of Absence

- 5.4.1 All OGCC officers and employees, whether regular (permanent or temporary) casual on full-time basis are entitled to the following:

5.4.1.1 Types of Leave of Absence

5.4.1.1.1 Vacation Leave/Sick Leave

- 5.4.1.1.1.1 After six months of continuous service, an official or employee shall be entitled to 15 days vacation leave and 15 days sick leave with full pay for each calendar year of service exclusive of Saturdays, Sundays and holidays.
- 5.4.1.1.1.2 All officers/employees shall be allowed to avail of his vacation leave provided that his absence will not be detrimental to OGCC's workflow.
- 5.4.1.1.1.3 All officers and employees shall be required to go on vacation leave for a minimum of five (5) working days annually.
- 5.4.1.1.1.4 Employees who have not had any vacation leave during the year shall be allowed to avail of the mandatory annual 5-day forced leave only if they have earned vacation leave credits. Forced leave without pay shall not be allowed.
- 5.4.1.1.1.5 The mandatory annual five-day leave shall be forfeited if not availed during the year.
- 5.4.1.1.1.6 The grant of vacation leave is discretionary on the part of the approving officer and the mere filing of such leave application does not entitle an officer/employee to go on leave outright. Application of employees who absent themselves from work before approval of the same should be disapproved outright.
- 5.4.1.1.1.7 An officer/employee who is absent without approved leave shall not be entitled to receive his/her salary corresponding to the period of his/her unauthorized leave of absence nor be deducted from his/her leave credits, if any.
- 5.4.1.1.1.8 An application for leave of absence for 30 days or more shall be accompanied by a Certificate of Leave Clearance duly recommended by the CAO.

- 5.4.1.1.1.9 The CAO shall notify in writing the employee who is absent without leave (AWOL) for thirty days, to report within five (5) days from receipt of notice, otherwise, he/she shall be dropped from the rolls.
- 5.4.1.1.1.10 However, if the concerned employee fails to return to the service, when the exigencies of the service require, the GCC may drop him from the service even prior to the expiration of the 30-day period.
- 5.4.1.1.1.11 If the reason for such leave is for employment either local or foreign, such application for leave shall be denied outright.

5.4.1.1.2 Maternity Leave (ML)

- 5.4.1.1.2.1 Every woman in the government service who has rendered an aggregate of two or more years of service, shall, in addition to the vacation and sick leave granted to her, be entitled to maternity leave of 60 days with full pay in any instance of pregnancy.
- 5.4.1.1.2.2 Every woman, married or unmarried, may be granted maternity leave of more than once a year in every instance of pregnancy, irrespective of its frequency.
- 5.4.1.1.2.3 Employees on co-terminus status may claim leave benefits under permanent status for the purpose of Maternity Leave Law.
- 5.4.1.1.2.4 Every married or unmarried woman may go on maternity leave for less than sixty (60) days – when a female employee wants to report back to duty before the expiration of her maternity leave, she may be allowed to do so provided, she presents a medical certificate that she is physically fit to assume the duties of her position.
- 5.4.1.1.2.5 The commuted money value of the unexpired portion of her maternity leave which she collected prior to her maternity leave need not be refunded. She may receive the benefits granted under the maternity leave law and the salary for actual services rendered effective the day she reports for work prior to the expiration of the 60 day period.
- 5.4.1.1.2.6 Every woman in the government service is entitled to maternity leave of absence with pay even if she has a pending administrative case.
- 5.4.1.1.2.7 All contractual female employees whether or not receiving 20% (premium) on their salary shall be entitled to maternity leave benefits like regular employees in accordance with the conditions for the grant of maternity leave.
- 5.4.1.1.2.8 Application/Requirements for the Availment of Maternity Leave.
 - 5.4.1.1.2.8.1 Medical Certificate
 - 5.4.1.1.2.8.2 Application for Leave of Absence
 - 5.4.1.1.2.8.3 Certificate of Leave Clearance

5.4.1.1.3 Terminal Leave

- 5.4.1.1.3.1 Terminal leave is applied for by an official or an employee who intends to sever his connection with his employer. Accordingly, the filing of application for terminal leave requires a condition *sine qua non*, the employee's resignation, retirements or separation from the service.
- 5.4.1.1.3.2 An employee who wishes to terminate his/her services with the agency shall be allowed to commute the outstanding balance of his/her leave credits to its corresponding money value.
- 5.4.1.1.3.3 Payment of terminal leave due to resignation or retirement shall be based on the highest salary received at any time during the service.

5.4.1.1.4 Paternity Leave

- 5.4.1.1.4.1 Legally married male employees whether regular (permanent or temporary), casual with at least six months of continuous satisfactory service shall be entitled to 7 days of paternity leave with full pay for the first four (4) deliveries (including miscarriage) of his legitimate spouse with whom he is cohabiting, per Paternity Act effective on 15 July 1996.
- 5.4.1.1.4.2 Married male employee with more than one (1) legal spouse (those in the exercise of religious belief) shall be entitled to avail of paternity leave for an absolute maximum of four deliveries regardless of whichever spouse gives birth.
- 5.4.1.1.4.3 Paternity Leave of seven (7) days shall be non-cumulative and strictly non-convertible to cash and may be enjoyed in a continuous or in an intermittent manner by the employee on the days immediately before, during and after the childbirth or miscarriage of his legitimate spouse.
- 5.4.1.1.4.4 Application for paternity leave shall be filed in advance at least three days prior to the effectivity of said leave except in emergency cases. The requirements to be submitted are the following:
 - 5.4.1.1.4.4.1 Application of Leave of Absence
 - 5.4.1.1.4.4.2 Birth Certificate
 - 5.4.1.1.4.4.3 Marriage Contract

5.4.1.1.5 Special Leave Privileges

- 5.4.1.1.5.1 In addition to the vacation, sick, maternity and paternity leave, officers and employees may be granted the maximum three (3) days special leave privileges within a calendar year under the following conditions:
 - 5.4.1.1.5.1.1 These privileges shall be enjoyed only by those who have rendered six (6) months of continuous satisfactory service in the aggregate, regardless of employment status.

- 5.4.1.1.5.1.2 These privileges shall be availed of under the following circumstances:
- 5.4.1.1.5.1.2.1 Personal Milestones such as birthdays/wedding/wedding anniversary celebrations and other similar milestones including death anniversaries.
 - 5.4.1.1.5.1.2.2 An officer/employee can still avail of his/her birthday or wedding anniversary leave if such occasion falls on either Saturday, Sunday or holiday either immediately before or after the occasion.
 - 5.4.1.1.5.1.2.3 Parental obligations such as attendance in school programs, PTA meetings, graduations, first communion, medical needs among others where a child of the employee is involved.
 - 5.4.1.1.5.1.2.4 Filial obligations to cover the personnel's moral obligation toward his parents and siblings for their medical and social needs.
 - 5.4.1.1.5.1.2.5 Domestic emergencies such as urgent repairs needed at home, sudden absence of a yaya/maid, and the like.
 - 5.4.1.1.5.1.2.6 Personal transactions to cover the entire range of transaction an individual does with government and private offices such as paying taxes, court appearances, arranging a housing loan, etc.
 - 5.4.1.1.5.1.2.7 Calamity, accident, hospitalization that pertains to force majeure events that affect the life, limb, and property of the employee or his immediate family.
 - 5.4.1.1.5.1.2.8 Relocation Leave - granted to official/employee whenever he/she transfers residence.
- 5.4.1.1.5.1.3 The employee shall seek approval of the application for the said leave privileges for at least one week prior to the availment except on emergency cases.
- 5.4.1.1.5.1.4 Employees applying for special privilege leaves shall no longer be required to present proof that they are entitled to avail of such leaves.
- 5.4.1.1.5.1.5 A three-day limit in a given year shall be strictly observed; an employee can avail of one special privilege leave for three days or a combination of any of the leaves for a maximum of three days in a given year.
- 5.4.1.1.5.1.6 Special leave privileges are non-cumulative and strictly non-convertible to cash.

- 5.4.1.1.5.1.7 Said leave privileges if utilized shall not be charged to or deducted from the officers'/employees' accumulated leave credits.

5.4.1.1.6 Parental Leave

- 5.4.1.1.6.1 In addition to leave privileges under existing laws, parental leave of not more than seven (7) working days every year shall be granted to any solo parent employee who has rendered service of at least one (1) year. The seven-day parental leave shall be non-cumulative.

5.4.1.1.7 Judiciary Leave

- 5.4.1.1.7.1 GCC - 60 days
- 5.4.1.1.7.2 DGCC - 60 days
- 5.4.1.1.7.3 AGCC - 30 days commulative
- 5.4.1.1.7.4 AGCC - 30 days non-commulative

5.4.1.2 Computation of Leave Credits

- 5.4.1.2.1 Vacation and sick leave credits shall be computed on the basis of 1.25 days vacation and 1.25 days sick leave for every calendar day of actual service using the prescribed table. Approved leave with pay shall be considered as part of actual service while leave without pay for any reason other than illness shall not be counted as actual service.
- 5.4.1.2.2 For those who complete the required 40 hours within the five days work per week but do not complete the required 8 hours a day of work, a fraction of a day not served to complete the 8 hours shall be deducted from the leave credits. Any absence incurred must be charged in proportion to the number of hours required for a day's work.
- 5.4.1.2.3 When an employee fails to render the required service on a regular day for which a half-day holiday shall have been declared, he/she shall be charged with a full day's absence. If suspension of work is declared after the start of working hours, an employee shall not be considered absent for the whole day but only from the start of office hours up to the time of suspension of work. He/She shall be deducted leave credits or an amount corresponding to the said period.
- 5.4.1.2.4 Vacation and sick leave credits shall be cumulative and credits not availed of within the year may be carried over to the succeeding years.

5.4.1.3 Leave with Pay

- 5.4.1.3.1 **Continuous** vacation leave of absence with full pay shall be allowed for a maximum period of three months only, provided that the employee concerned has sufficient leave credits.
- 5.4.1.3.2 In case of **absence** with full pay on account of illness, the three-month allowable period may be extended subject to verification by the concerned Section Head and upon issuance of a Certification duly noted by the attending physician.

5.4.1.3.3 Employees, who file a vacation and/or sick leave for more than one month and consequently shall have been verified to be employed in another entity or out of the country without prior written approval from the GCC shall be allowed to collect their salary/wages for one month only. Furthermore, any leave of absence incurred thereafter shall be disapproved and in cases like these, the grant of fringe benefits to the officials/employees shall not be authorized.

5.4.1.3.4 Vacation leave with pay shall not be granted to an officer/employee with pending administrative/formal/civil/ criminal charges.

5.4.1.4 Leave Without Pay

5.4.1.4.1 Leave **without** pay not exceeding one year may be granted for justifiable reasons, as long as said leave of absence is not for purposes of employment, either within or outside the country.

5.4.1.5 Violation of Leave Laws

5.4.1.5.1 Any of the following shall be considered violations on leave laws and shall be subjected to disciplinary action.

5.4.1.5.2 Any OGCC official/employee who deceives or misleads his immediate supervisor, directly or indirectly, as to the real reason for his leave of absence.

5.4.1.5.3 Any officer/employee who has been absent for a period of seven working days or more within one month or said number of days continuously at any time, without approved leave of absence/prior notice, shall be issued a written warning by the GCC.

5.4.1.5.4 Any officer/employee who has been absent for a continuous period of one month without an approved leave of absence/prior notice/justifiable cause shall be dropped from the service immediately without the necessity of written notice/warning.

5.4.1.5.5 An officer/employee in the Civil Service shall be considered habitually absent if he/she incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the leave law for at least three months in a semester or at least three consecutive months during the year.

5.4.1.5.6 Unauthorized absences shall refer to those incurred without approved ALA prior to the absence or at least a PRIOR verbal notice and/or permission. However, permission may be granted AFTER the actual date of explanation is given by the employee either verbally or in writing during the next office day. Such absences may then be converted to vacation or sick leave, as the case may be.

5.4.1.5.7 If an employee, who is on leave without pay for one year for any reason, fails to return to duty at the expiration of one year from the effectivity date of such leave, he shall be considered automatically separated from the service, provided, he was notified in writing before its expiration with a warning that if he fails to report for duty on said date, he will be dropped from the service.

5.4.1.6 Application/Documentary Requirements for Leave of Absence:

- 5.4.1.6.1 Leave application shall be submitted using the CS Form No. 6 Revised 1984. Signatories to the ALA shall be in accordance with the existing OGCCs Hierarchy of Authority.
- 5.4.1.6.2 Employees with no leave credits yet shall, likewise, file ALA without pay.
- 5.4.1.6.3 Vacation leave of absence for one full day or more shall be filed at least five (5) days prior to its effectivity.
- 5.4.1.6.4 Sick Leave of absence for more than five (5) days shall be supported by a medical certificate.
- 5.4.1.6.5 Application for Terminal Leave.
- 5.4.1.6.6 Application for Paternity privileges, shall be filed in advance at least three (3) days prior to its effectivity except in emergency cases.
- 5.4.1.6.7 Applications for sick leave of absence shall be made using the prescribe form and shall be filed immediately upon employee's return from such leave.

5.4.1.7 Sanctions

- 5.4.1.7.1 The following sanctions shall be imposed for habitual absenteeism after due proceedings:
 - 5.4.1.7.1 1st violation – penalty of 6 months and 1 day to 1 year suspension without pay
 - 5.4.1.7.2 2nd violation – dismissal from the service
- 5.4.1.7.2 Any official/employee who is separated from the service for cause, (not voluntarily but for cause), shall not be entitled to commutation of leave credits. Such earned leave credits shall be considered forfeited immediately upon separation from the service.

6. TARDINESS

- 6.1 The tardiness/undertime of regular (permanent and temporary), as well as casual and probationary employees shall be deducted from their vacation leave credits. If the employee has already exhausted his/her vacation leave credits, the tardiness/undertime shall be deducted from the salary/wages of the employee.
- 6.2 The number of minutes incurred as tardiness/undertime shall be converted into a fraction of a day using the conversion table.
- 6.3 An employee shall be considered habitually tardy if he/she incurs tardiness 10 times a month for at least two (2) consecutive months in a semester or at least two (2) consecutive months during the year.

7. OFFICE DECORUM

7.1 Office Uniform/Attire

7.1.1 Those who are entitled to uniform subsidies whenever official uniform are provided by OGCC, shall wear the attire prescribed in the rules and regulations governing the wearing of uniforms, from Monday to Thursday. Friday will be a wash day.

7.1.2 On those days when there is no prescribed uniform and during wash day, all OGCC officers/employees shall be guided by the provisions on proper office attire. Wearing of the following is hereby prohibited:

7.1.2.1 The wearing of “maong” pants, although generally prohibited, may be considered as appropriate attire when paired with a collared polo/shirt, but no commercial prints (for male employees) or any appropriate blouse or shirt (for female employees);

7.1.2.2 The use of tightfitting, seductive, micro-mini and gauzy/flimsy/ transparent dresses by female employees;

7.1.2.3 Walking shorts, pedal pushers, leggings, tights, and jogging pants. However, pantaloons, culottes or such other pants worn during formal occasions (slacks) are allowed;

7.1.2.4 Sando, strapless or spaghetti-strap blouse (unless worn as undershirt), tank tops, blouse with over-plunging necklines;

7.1.2.5 The use of too much costume jewelry, flashy bangles and similar accessories;

7.1.2.6 Wearing of heavy theatrical make-up;

7.1.2.7 The wearing of slippers, sandals, bakya, etc.; and

7.1.2.8 It is likewise considered taboo to use curlers, turbans and bandannas during office hours and within office premises even during break-time.

7.2 In the implementation of this dress code, certain exemptions may be allowed, on the following grounds:

7.2.1 Employees who are in mourning;

7.2.2 Employees who are on the family way;

7.2.3 New employees who have not been issued uniforms;

7.2.4 When the nature of work of the official/employee demands that he/she wears clothing other than those prescribed above;

7.2.5 When religious affiliation or creed or any legitimate practice by the employee in relation thereto, requires him/her to wear a particular clothing;

7.2.6 Physical disabilities, and other legitimate health reasons; and

7.2.7 Other circumstances analogous to the foregoing.

III. PROCUREMENT

1. Legal Reference

- 1.1** This Manual relies primarily on the basis of the provisions of the IRR of RA No. 9184 *vis-à-vis* the pertinent budgeting and accounting rules and regulations and the proposed DOJ Customized Procurement Manual. Moreover, the forms and processes mentioned in this Manual are consistent with the standard bidding forms issued by the Government Procurement Policy Board (GPPB) and the Generic Procurement Manual (GPM) for goods and services, except to the extent modified by the IRR, respectively.

2. Goals and Objectives

- 2.1** This Manual aims to improve the efficiency, speed, quality and responsiveness of all the support services related to procurement and raises the level of procurement awareness of all the end-users. For this purpose, a set of policies and procedures is established in the conduct of procurement activities in the OGCC. In particular, the following objectives are sought to be achieved in the application of this Manual:

- 2.1.1** To standardize the rules of procedure to be followed in the preparatory activities leading to the actual bidding of Goods by the OGCC Bids and Awards Committee (OGCC BAC).
- 2.1.2** To simplify and streamline all procurement related activities and set specific timelines within the OGCC in the purchase of Goods.
- 2.1.3** To assist the OGCC in consistently adhering to the provisions of RA No. 9184 and its IRR in the preparation of its Annual Procurement Plan (APP) and in the conduct of all procurement activities.
- 2.1.4** To provide practical solutions to common procurement problems.
- 2.1.5** To enable both the end-users and procurement practitioners in the OGCC to have a better appreciation and full understanding of the importance and role of an efficient procurement system in the delivery of quality services to its client corporations.
- 2.1.6** To advance the ends of accountability and transparency in all procurement activities, avoid wastage and maximize the utilization of limited government resources.

3. Scope and Application

3.1 Legal Reference

- 3.1.1** Section 4.1 of the IRR of RA No. 9184 explicitly provides that such rules and regulations applies to all procurement activities of any branch, agency, bureau, office, or instrumentality of the Government of the Philippines, including government owned and/ or controlled corporations, government financial institutions, state universities and colleges and local government units.
- 3.1.2** Thus, OGCC is covered by this law and its implementing rules and is required to procure through Public Bidding or any of the Alternative Methods pursuant to the mandate of RA No. 9184 and its IRR. This manual shall cover all procurement

activities of the OGCC regardless of source of fund, whether locally-funded or foreign-assisted, in OGCC.

- 3.1.3 For easy understanding of the procurement process, the guidelines and procedures prescribed in this Manual focus on the procurement of Goods.

4. Definition of Terms

When used and/or referred to in this Manual, the following terms shall mean or be understood, as follows:

- 4.1 Approved Budget for the Contract (ABC)** - the budget for the contract duly approved by the Head of Procuring Entity (HOPE), as provided in the General Appropriations Act (GAA) and continuing appropriations.
- 4.2 Annual Procurement Plan (APP)** - contains all the procurement projects meticulously and judiciously planned by the Procuring Entity for a given year and which in all cases must be within its approved budget.
- 4.3 BAC** - the **Bids** and Awards Committee established to undertake all procurement activities within the OGCC. It shall perform the functions and have the responsibilities provided under Item 8.2 of RA 9184 and its IRR.
- 4.4 Bid** - the signed offer or proposal to undertake a contract submitted by the Bidder in response to and in consonance with the requirements of the Bidding Documents. "Bid" is also equivalent to and may be used interchangeably with "Proposal" and "Tender".
- 4.5 Bidder** - an eligible contractor, manufacturer, supplier, distributor and/or consultant competing for the award of a contract in any procurement by the Procuring Entity. A manufacturer, supplier, distributor and/or consultant is said to be eligible if it meets all the eligibility requirements issued by the Procuring Entity.
- 4.6 Bidding Documents** - the documents issued by the OGCC as the basis for bids, furnishing all information necessary for a prospective bidder to prepare a bid for the procurement of goods required by the Procuring Entity.
- 4.7 Common-Use Supplies** - the goods, materials and equipment included in the Electronic *Catalogue* of the Philippine Government Electronic Procurement System (PhilGEPS).
- 4.8 End-User Unit** - all various units and teams within the OGCC.
- 4.9 Expendable Supplies** - refer to articles which are normally consumed in use within one (1) year or converted in the process of manufacture or construction, or those having a life expectancy of more than one (1) year but which shall have decreased substantially in value after being put to use for only one (1) year (*e.g.*, medicines, stationery, fuel and spare parts)
- 4.10 Goods** - all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal or contractual services, such as, the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or

analogous services, as well as procurement of materials and supplies provided by the procuring entity for such services. The term “related” or “analogous services” shall include, but not limited to, lease or purchase of office space, media advertisements, health maintenance services, and other services essential to the operation of the procuring entity.

4.11 HOPE – Head of the Procuring Entity, *i.e.* the Government Corporate Counsel.

4.12. Non-expendable Supplies – Refer to articles which are not consumed in use and ordinarily retain their original identity during the period of use, whose serviceable life is more than one (1) year and which add to the assets of the GOP (*e.g.*, furniture, fixtures, transport and other equipment)

4.13 PAPs – Programs/Activities/Projects

4.14 Procurement – refers to the acquisition of goods. In case of projects involving mixed procurements, the nature of the procurement, *i.e.*, goods, infrastructure projects, or consulting services, shall be determined based on the primary purpose of the contract. Procurement shall also include the lease of goods and real estate. With respect to real property, its procurement shall be governed by the provisions of R.A. No. 8974¹ and other applicable laws, rules and regulations.

4.15 Procuring Entity – the OGCC.

4.16 Project Procurement Management Plan (PPMP) - the procurement plan prepared by the End-User Units for their respective programs, activities and projects. Consistent with the government’s fiscal discipline measures, only those considered crucial to the efficient discharge of governmental functions, or those required for the day-to-day operations or in the pursuit of the principal mandate of the OGCC in the dispensation of justice shall be included in the PPMP. The PPMP shall be the basis of the BAC in preparing the APP for approval by the HOPE.

4.17 Shopping - a method of procurement of Goods whereby the OGCC or its attached agency simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications. This method shall be employed in any of the following cases: (i) when there is an unforeseen contingency requiring immediate purchase: Provided, however, that the amount shall not exceed One Hundred Thousand Pesos (Php100,000.00); or b) procurement of ordinary or regular office supplies and equipment not available in the Procurement Service (PS) involving an amount not exceeding the Five Hundred Thousand Pesos (Php500,000.00). The phrase “ordinary or regular office supplies shall be understood to include those supplies, commodities, or materials which, depending on the procuring entity’s mandate and nature of operations, are necessary in the transaction of its official businesses, and consumed in the day-to-day operations of said procuring entity. However, office supplies shall not include services such as repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services.

4.18 Small Value Procurement - a method of procurement for those not covered under Shopping and the amount involved does not exceed Five Hundred Thousand Pesos (Php500,000.00). Under this method, the procuring entity shall draw up a list of at least three (3) suppliers, contractors, or consultants of known qualifications that will be invited to submit proposals.

¹“An Act to Facilitate the Acquisition of Right-of-Way Site or Location for National Government Infrastructure Project and for Other Purposes”.

- 4.19 Technical Specifications** - refers to the physical description of the goods or services, as well as the PE's requirements in terms of the functional, performance, environmental interface and design standard requirements to be met by the goods to be manufactured or supplied, or the services to be rendered.

5. Governing Principles on Procurement

5.1 Legal reference

5.1.1 Section 3 of the IRR of RA No. 9184

SECTION 3. Governing Principles on Government Procurement. –

The procurement of the GOP shall be governed by these principles:

- a) Transparency in the procurement process and in the implementation of procurement contracts through wide dissemination of bid opportunities and participation of pertinent non-government organizations.
- b) Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding.
- c) Streamlined procurement process that will uniformly apply to all government procurement. The procurement process shall be simple and made adaptable to advances in modern technology in order to ensure an effective and efficient method.
- d) System of accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts and the private parties that deal with GOP are, when warranted by circumstances, investigated and held liable for their actions relative thereto.
- e) 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 the Act and this IRR, and that all these contracts are performed strictly according to specifications.

6. Procuring Entity

- 6.1 In Sections 5(o) of RA No. 9184 and 5(bb) of the IRR, Procuring Entity, is any branch, department, office, agency, or instrumentality of the government, including state universities and colleges, government-owned and/or-controlled corporations, government financial institutions, and local government units procuring Goods, Consulting Services and Infrastructure Projects.

7. The Head Of Procuring Entity (Hope)

7.1 Legal Reference

- 7.1.1 Section 5(t) of the IRR of RA No. 9184 refers HOPE to: (i) the head of the agency or body, or his duly authorized official, for NGAs and the constitutional commissions or offices, and branches of government; (ii) the governing board or its duly authorized official, for GOCCs, GFIs and SUCs; or (iii) the local chief executive, for LGUs: Provided, however, That in an agency, department, or office where the procurement is decentralized, the head of each decentralized unit shall be considered as the Head of the Procuring Entity, subject to the limitations and authority delegated by the head of

the agency, department, or office.

7.2 The HOPE shall have the following responsibilities:

- 7.2.1 Designate the Chairperson and Members of the BAC.
- 7.2.2 Establish a permanent BAC Secretariat through the creation of a new office or designation of an existing organic office.
- 7.2.3 Approve the APP.
- 7.2.4 Approve all procurement projects and programs recommended by the BAC including the corresponding notice of award, contract, notice to proceed, and such other related procurement documents.
- 7.2.5 Approve and submit a Procurement Monitoring Report to the GPPB within fourteen (14) calendar days after the end of each semester.
- 7.2.6 Submit a copy of the approved APP to the Office of the Ombudsman on or before the 15th day of February of every year.²
- 7.2.7 Provide pertinent issuances consistent with RA No. 9184 and its IRR to expedite procurement process.
- 7.2.8 To facilitate the approval process, the HOPE may designate a second-ranking official to approve the APP. The HOPE may likewise delegate the approval of the notice of award, contract, notice to proceed and other related documents to any other official in the Procuring Entity (PE) who is not a Member of the BAC.

8. The Bids and Awards Committee (BAC)

8.1 Legal Reference

Section 11.1.1 of the IRR of RA No. 9184

Section 11.1.1. Each procuring entity shall establish in its head office a single BAC to undertake the functions specified in Section 12 of this IRR in order to facilitate professionalization and harmonization of procedures and standards. In line with the standardization of procurement procedures and the thrust towards strengthening the procurement function to increase operational efficiency and effectiveness, Heads of Procuring Entities shall aim to consolidate or unify all procurement activities of the organization, whether locally-funded or foreign-assisted, and whether pertaining to goods, infrastructure projects, or consulting services.

8.2 Accordingly, separate BACs may be organized in the following:

- 8.2.1 Geographical location of the Project Management Officer or end-user units
- 8.2.2 Nature of the procurement.

8.3 The HOPE shall establish a single Bids and Awards Committee (BAC). The BAC shall undertake all procurement within the PE except to the extent delegated to the Administrative Service/Division (AS/AD). Nevertheless, the HOPE is given the prerogative to create a separate BAC where the number and complexity of the items to be procured so warrants.

8.4 Composition

² Ombudsman Memorandum Circular No. 1, series of 2011 dated 7 January 2011.

- 8.4.1 The BAC shall be headed by a Chairperson, who is at least a third ranking permanent official in the PE to be designated by the HOPE.
- 8.4.2 It shall be composed of at least five (5) but not more than seven (7) members of unquestionable integrity and procurement proficiency to be likewise designated by the HOPE. Provided, that in no case shall the HOPE and/or the approving authority be the Chairperson or a member of the BAC: ³
 - 8.4.2.1 There shall be at least three (3) regular members of the BAC, to wit:
 - 8.4.2.2 The Chairperson, who is at least a third (3rd) ranking permanent official of the procuring entity;
 - 8.4.2.3 An officer, who is at least a fifth (5th) ranking permanent official with knowledge, experience and/or expertise in the procurement, and who, to the extent possible, represents the legal or administrative area; and
 - 8.4.2.4 An officer, who is at least a fifth (5th) ranking permanent official, with knowledge, experience and/or expertise in the procurement, and who, to the extent possible, represents the finance area.

8.5 Term of Members

- 8.5.1 The BAC Chairperson and members shall have a fixed term of one (1) year reckoned from the date of appointment, renewable at the discretion of the HOPE. However, the Chairperson and members of the BAC shall continue to exercise their functions, even after the expiration of their terms, until a new set of members are designated.
- 8.5.2 The designation of the BAC members is within the exclusive prerogative and discretion of the HOPE and they may be removed from such designation for justifiable causes (*e.g.* gross misconduct and violation of the provisions of RA No. 9184 and its IRR, among others).
- 8.5.3 In case of resignation, retirement, separation, transfer, re-assignment, or removal of a BAC member, the HOPE shall designate a replacement, ***which shall possess the same qualifications and ranking as the official replaced.*** The replacement shall only serve for the unexpired term. In case of leave or suspension, the replacement shall serve only for the duration of the leave or suspension.

8.6 Prohibited BAC Members:

- 8.6.1 HOPE;
- 8.6.2 Approving Authority or any Official who approves procurement contracts;
- 8.6.3 Chief Accountant or Head of the Provincial/City/Municipal Accounting Office and his/her staff, unless the Accounting Department is the end-user unit, in which case the Chief Accountant, Head of the Accounting Department or his/her staff may be designated as an end-user member.⁴

³ Section 11.2.5 of Rule I the IRR of RA No. 9184.

⁴ COA Circular Letter No. 2004 - 3.

Exception:

If the end-user unit is the Accounting OGCC, in which case the Chief Accountant and the Head of the Accounting OGCC or his/her staff may be designated as a provisional BAC member (representative from the end-user who has knowledge of procurement laws and procedures).

However, to avoid conflict of interest and eliminate any ground for corrupt practices, government officials who approve procurement transactions and the Chief Accountants or the Head of the Accounting OGCC shall be disqualified from BAC membership.

8.7 BAC Meetings and Quorum

- 8.7.1 The BAC shall undertake all procurement activities consistent with the approved APP and in accordance with the rules and procedures established in this manual. For this purpose, the BAC shall meet from time to time, as the need arises and to the extent practicable for all its members.
- 8.7.2 The Chairperson or in his/her absence the Vice-Chairperson shall preside over the meetings of the BAC. The alternate Vice-Chairperson shall preside over the meetings of the BAC only when the Chairperson and Vice-Chairperson are not present.
- 8.7.3 A simple majority (one-half of membership plus one) of the BAC composition shall constitute a quorum for the transaction of business: Provided that the presence of the Chairperson, Vice-Chairperson or alternate Vice-Chairperson shall be required.
- 8.7.4 The decision of at least a majority of those present at a given meeting, where there is quorum, shall constitute a valid and binding action of the BAC: Provided, however, that the Chairperson or, in his/her absence the Vice-Chairperson or alternate Vice-Chairperson, shall vote *only* in case of a tie.

8.8 Functions and Responsibilities of the BAC

8.8.1 Legal Reference:

Section 12.1 of the IRR of RA No. 9184

SECTION 12. Functions of the BAC –

12.1. The BAC shall have the following functions: (a) advertise and/or post the invitation to bid/request for expressions of interest; (b) conduct pre-procurement and pre-bid conferences; (c) determine the eligibility of prospective bidders; (d) receive bids; (e) conduct the evaluation of bids; (f) undertake post-qualification proceedings; (g) resolve motions for reconsideration; (h) recommend award of contracts to the Head of the Procuring Entity or his duly authorized representative; (i) recommend the imposition of sanctions in accordance with Rule XXIII; (j) recommend to the Head of the Procuring Entity the use of Alternative Methods of Procurement as provided for in Rule XVI hereof; and (k) perform such other related functions as may be necessary, including the creation of a Technical Working Group (TWG) from a pool of technical, financial, and/or legal experts to assist in the procurement process, particularly in the eligibility screening, evaluation of bids, and post-qualification.

9. Technical Working Group (TWG)

9.1 Qualifications

9.1.1 The BAC shall consider the primordial considerations in the creation of TWG, which is the necessary expertise required based on the nature and complexity of the procurement. Thus, it is recommended that the TWG members include representative(s) both from the end-user unit and experts in various disciplines such as, but not limited to, the legal, technical and financial areas, who can handle the different aspects of the procurement at hand. In return, this will manifest that the TWG created will:

9.1.1.1 Ensure transparency and efficiency of the procurement process, specifically to provide effective study of the requirements and evaluation of the bids submitted.

9.1.1.2 Provide additional manpower in successfully carrying out procurement activities.

9.2 Duties and responsibilities of the TWG

9.2.1 The TWG shall have the following duties and responsibilities:

9.2.1.1 Assist the BAC in the conduct of procurement activities within the PE.

9.2.1.2 Assist the BAC in the conduct of eligibility screening, evaluation of Bids, and post-qualification proceedings.

9.2.1.3 Verify all the documents submitted by the bidder with the lowest calculated bid or single calculated bid, conduct ocular inspection of said bidder's place of business as well as completed and on-going projects, and report to the BAC on the results of the foregoing actions.

9.2.1.4 Provide legal and/or technical support to the BAC in the performance of its functions and responsibilities.

9.2.1.5 Undertake such other functions as may be directed or assigned by the BAC from time to time.

10. BAC Secretariat

10.1 Legal Reference

Section 14 of the IRR of RA No. 9184 provides that the HOPE shall create a Secretariat, which will serve as the main support unit of the BAC. An existing organic office within the PE may also be designated to serve as Secretariat. However, to strengthen and promote the professionalization of the organizations' procuring unit, the HOPE may create procurement units that may serve concurrently as BAC Secretariat in accordance with the guidelines issued by DBM.⁵

⁵National Budget Circular No. 517, dated 22 December 2008 (Guidelines on the Establishment of Procurement Units).

10.2 Qualifications

The HOPE may consider the following factors in selecting the personnel who will be assigned to the BAC Secretariat:

- 10.2.1 Integrity;
- 10.2.2 Procurement proficiency, taking into consideration the experience and actual procurement trainings attended;
- 10.2.3 The appropriate Civil Service qualification standards;
- 10.2.4 The head of the BAC Secretariat should be:
- 10.2.5 In central offices, it shall be at least a 5th ranking permanent employee or, if not available, a permanent official of the next lower rank; or
- 10.2.6 It shall be at least a 3rd ranking permanent employee in bureaus, regional offices and sub-regional/district offices, or if not available, a permanent employee of the next lower rank.

10.3 Duties and Responsibilities of the BAC Secretariat

The Secretariat shall have the following duties and responsibilities:

- 10.3.1 Prepare the Bidding Documents in accordance with Rule VI (*Preparation of the Bidding Documents*) of the IRR of RA 9184 to be submitted for approval of BAC.
- 10.3.2 Organize and make all necessary arrangements for the BAC meetings and conferences. This includes the invitation of observers and the COA representative in all stages of procurement.
- 10.3.3 Prepare minutes of meetings and/or resolutions of the BAC.
- 10.3.4 Act as custodian of procurement documents and other records.⁶
- 10.3.5 Manage the sale and distribution of Bidding Documents to all interested bidders.⁷
- 10.3.6 Advertise and/or post bidding opportunities, including Bidding Documents, and notices of awards.
- 10.3.7 Consolidate the PPMPs submitted by the End-User Units to make them available for review as provided under Section 7 of the IRR of RA 9184.
- 10.3.8 Assist in the planning and managing of the procurement process, including the preparation of the Annual Procurement Schedule for approval of the BAC.
- 10.3.9 Monitor compliance with the approved Annual Procurement Schedule and recommend any revision/amendment, subject to the approval of the BAC.
- 10.3.10 Monitor procurement activities and milestones for proper reporting to relevant agencies when required.
- 10.3.11 Act as central channel of communications on procurement matters for the BAC with the various offices within the PE, other government agencies, suppliers, contractors, service providers, and the general public.
- 10.3.12 In preparing the Annual Procurement Schedule, the Secretariat shall take into account the following: (i) nature and quantity of the items to be procured; (ii) the applicable procurement timelines and methods to be adopted; (iii) the target delivery dates identified by the End-User Units; and (iv) such other relevant matters and/or circumstances attendant to the procurement project concerned.

11. Honoraria

11.1 Legal Reference

⁶COA Circular 2009-001.

⁷GPPB Resolution No. 04-2012, dated 24 February 2012.

Section 15 of the IRR of RA No. 9184

SECTION 15. Honoraria of BAC, BAC Secretariat, and TWG Members. –

The procuring entity may grant payment of honoraria to the BAC members in an amount not to exceed twenty five percent (25%) of their respective basic monthly salary subject to availability of funds. For this purpose, the DBM shall promulgate the necessary guidelines. The procuring entity may also grant payment of honoraria to the BAC Secretariat and the TWG members, subject to the relevant rules of the DBM.

Also, please take note of the following DBM issuances:

1. Appendix 23 on the Guidelines on the Grant of Honoraria to Government Personnel Involved in Government Procurement.
 2. DBM Budget Circulars 2004-5A and 2007-3, dated 7 October 2005 and 29 November 2007, respectively.
- 11.2 Budget Circular No. 2004-5A,⁸ dated 7 October 2005, issued by the DBM provides the guidelines on the grant of honoraria to government personnel involved in public procurement. Among others, this Circular provides the following:
- 11.2.1 The Members of the BAC and the TWG may be paid honoraria only for successfully completed procurement projects as identified, described, detailed, scheduled and budgeted for in the Annual Procurement Plan (APP) prepared by the agency. A procurement project shall be considered successfully completed once the contract has been awarded to the winning bidder.
 - 11.2.2 The payment of honoraria shall be limited to procurement that involves competitive bidding. Competitive bidding activities are present only in:
 - 11.2.2.1 Open and Competitive Bidding;
 - 11.2.2.2 Limited Source Bidding; and
 - 11.2.2.3 Negotiated Procurement under Section 53.1 of the IRR, where the bidding has failed twice.
 - 11.2.3 Therefore, honoraria shall not be granted when the procurement is through:
 - 11.2.3.1 Direct Contracting;
 - 11.2.3.2 Repeat Order;
 - 11.2.3.3 Shopping; and
 - 11.2.3.4 All other cases or circumstances in negotiated procurement under Section 53 of the IRR, except Section 53.1
- 11.3 Personnel should be duly assigned as Chair or Member of the BAC, BAC Secretariat or the TWG by the officials concerned.
- 11.4 The members of the BAC Secretariat who are performing the related functions in addition to their regular duties in other non-procurement units of the agency may likewise be paid honoraria at the same rate as the TWG Chair and Members, subject to the same regulations.
- 11.5 Heads of government entities are prohibited from paying honoraria to personnel involved in procurement activities outside of those covered herein.

⁸ As amended by Budget Circular No. 2007-3, dated 29 November 2007.

- 11.6 By reason of jurisprudence, an Undersecretary or Assistant Secretary who concurrently serves in the BAC, in whatever capacity, shall not be entitled to honoraria.
- 11.7 In lieu of honoraria, the payment of overtime services may be allowed for the administrative staff, such as clerks, messengers and drivers supporting the BAC, the TWG and the Secretariat, for procurement activities rendered in excess of official working hours. The payment of overtime services shall be in accordance with the existing policy on the matter.
- 11.8 Those who are receiving honoraria for their participation in procurement activities shall no longer be entitled to overtime pay for procurement-related services rendered in excess of official working hours.
- 11.9 Payment of the honoraria and overtime pay authorized herein shall be sourced only from the following:
- 11.9.1 Collections from successfully completed procurement projects limited, however to activities prior to awarding of contracts to winning bidders:
- 11.9.1.1 proceeds from sale of bid documents;
 - 11.9.1.2 fees from contractor/supplier registry;
 - 11.9.1.3 fees charged for copies of minutes of bid openings, BAC resolutions and other BAC documents;
 - 11.9.1.4 protest fees; and
 - 11.9.1.5 proceeds from bid security forfeiture; and
- 11.9.2 Savings
- 11.10 Pursuant to the DOF-DBM-COA Permanent Committee Resolution No. 2005-2, dated June 2005, all agencies are authorized to treat the collections from the sources identified above as trust receipts to be used exclusively for the payment of honoraria and overtime pay duly authorized. Agencies may utilize up to one hundred percent (100%) of the said collections for the payment of honoraria and overtime pay subject to the guidelines in the Budget Circular. Any excess in the amount collected shall form part of the local government funds.
- 11.11 The manner of payment of honoraria and overtime pay shall be in accordance with the immediately preceding paragraph.
- 11.12 The total amount of honoraria and overtime pay to be paid for procurement-related activities shall not exceed the said collections.
- 11.13 In cases of deficiency in collections from the sources identified in item (j), the amount of honoraria and overtime pay shall be adjusted proportionately for all those entitled thereto.
- 11.14 Also see GPPB Resolution 21-2005 on the Guidelines for Legal Assistance and Indemnification of BAC Members and its Support Staff, which provide the general conditions, procedures and funding source for free legal assistance, liability insurance and medical assistance.

12. Observer

12.1. Legal Reference

Section 13.5 of the IRR of RA No. 9184

Section 13.5. Observers shall be allowed access to the following documents upon their request, subject to signing of a confidentiality agreement: (a) minutes of BAC meetings; (b) abstract of Bids; (c) post-qualification summary report; (d) APP and related PPMP; and (e) opened proposals.

12.2. Purpose

Based on the legislative intent of the aforementioned provision, the rationale behind the requirement for the BAC to invite observers who may attend and observe all stages of the procurement process is to enhance transparency of the procurement activities. As a taxpayer and representative of the general public, these observers are interested in seeing to it that procurement laws are observed and irregularities are thereafter prevented.

12.3. Extent of Participation

These observers shall be invited to sit in the proceedings involving all stages of the procurement process of the PE concerned. The operative words, “all stages of the procurement process” entail that the observers shall be invited to observe in the following procurement stages: starting from the conduct of Pre-procurement conference up to Contract Award.

12.4. Qualifications

The BAC shall invite three (3) observers in all stages of procurement, in addition to the Commission on Audit (COA) representative, two (2) representatives of the following:

12.4.1. At least one (1) shall come from a duly recognized private group in a sector or discipline relevant to the procurement at hand,⁹ to wit:

For Infrastructure projects

National Constructors Associations duly recognized by the Construction Industry Authority of the Philippines, such as, but not limited to the following:

1. Philippine Constructors Association, Inc.;
2. National Constructors Association of the Philippines; and
3. Philippine Institute of Civil Engineers.

For Goods

A specific relevant chamber-member of the Philippine Chamber of Commerce and Industry.

For Consulting Services

A project-related professional organization accredited or duly recognized by the Professional Regulation Commission or the Supreme Court, such as, but not limited to:

1. Philippine Institute of Civil Engineer;
2. Philippine Institute of Certified Public Accountants; and

⁹Section 13.1.a of the IRR of RA 9184.

3. Confederation of Filipino Consulting Organizations.

12.4.2. The other observer shall come from a Non-government Organization (NGO). These observers shall be duly registered under the Securities and Exchange Commission or the Cooperative Development Authority.¹⁰

12.4.3. Representative from the Commission on Audit and employees association may likewise be invited to participate as internal observer.

12.5. Criteria

Section 13.2 of the IRR of RA No. 9184 provides that observers shall meet the following criteria:

1. Knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid;
- 2.
3. Absence of actual or potential conflict of interest in the contract to be bid; and
- 4.
5. Any other relevant criteria that may be determined by the BAC.

12.6. Roles and Responsibilities

The observers shall have the following responsibilities:

1. Prepare the Procurement Observation Report either jointly or separately, indicating their observations made on the conduct of the bidding.
2. Submit the Observer's Report to the PE and furnish a copy to the BAC Chairperson, the GPPB and Office of the Ombudsman/Resident Ombudsman.
3. Immediately inhibit and notify in writing the PE concerned of any actual or potential interest in the contract to be bid.

13. Project Procurement Management Plan (PPMP)

13.1 Legal Reference

Section 7.3.2 of the IRR of RA No. 9184

Section 7.3.2. The end-user units of the procuring entity shall prepare their respective Project Procurement Management Plan (PPMP) for their different programs, activities, and projects (PAPs). The PPMP shall include:

- a. information on whether PAPs will be contracted out, implemented by administration in accordance with the guidelines issued by the GPPB, or consigned;
- b. the type and objective of contract to be employed;
- c. the extent/size of contract scopes/packages;

¹⁰Section 13.1.b of the IRR of RA 9184.

- d. the procurement methods to be adopted, and indicating if the procurement tasks are to be outsourced as provided in Section 53.6 of this IRR;
- e. the time schedule for each procurement activity and for the contract implementation; and
- f. the estimated budget for the general components of the contract.

For purposes of this Section, consignment refers to an arrangement where the following requisites are present: (a) delivery of goods by their owner (consignor), without sale, to a government agency (consignee); (b) consignee must try to sell the goods and remit the price of the sold goods to the consignor; (c) consignee accepts without any liability except for failure to reasonably protect them from damage; (d) no disbursement of government funds is involved; and (e) at terms not disadvantageous to the GOP.

13.2 Purpose

The PPMP serves as a guide document in the procurement and contract implementation process, as well as a vital reference in procurement monitoring. It deals primarily with:

1. Planning for the procurement of project requirements;
2. Bidding or procurement strategy;
3. Source selection;
4. Time schedule for each procurement activity;
5. Delivery schedules;
6. Contract administration;
7. Contract termination;
8. Procurement milestones; and
9. Other important procurement details or information.

The PPMP is prepared *by the end-user unit* during the budget preparation to support the cost estimates in the budget proposal.

13.3 Format

The PPMP shall contain the following information:

- 1) Information on whether PAPs will be contracted out, implemented by administration in accordance with guidelines issued by the GPPB, or consigned;
- 2) Name of the project/procurement;
- 3) General description of the project/procurement;
- 4) Extent/size of contract scopes/packages (This refers to the general description of the lot to be included in a particular contract, including quantities where applicable);
- 5) Procurement methods to be adopted, and indicating if the procurement tasks are to be outsourced as provided in Section 53.6 of the IRR;
- 6) Time schedule for each procurement activity and for the contract implementation; and
- 7) Estimated budget for the general components of the contract.

14. Approved Budget For The Contract (ABC)

- 14.1 The ABC refers to the budget for the contract duly approved by the HOPE, as provided for in the General Appropriations Act (GAA), continuing, and automatic appropriations.
- 14.2 In determining the ABC, the end-user unit has to consider several factors, namely: the appropriation for the project or procurement, the market price of the goods and/or

services being procured, inflation, and cost of money which are directly related to the procurement time table, among others.

14.3 Thus, the end-user unit, with the assistance of the TWG (when necessary), must consider the different cost components, namely:

1. Cost or market price of the product or service itself;
2. Freight, insurance, taxes, and other incidental expenses such as installation costs, training costs, if necessary, and cost of inspection;
3. Cost of money, to account for government agencies usually buying on credit terms;
4. Inflationary factor, since the planning phase is usually done one year ahead of the actual procurement date;
5. Quantities, considering that buying in bulk usually means lower unit prices;
6. Supply of spare parts and/or maintenance services, if these are part of the contract package; and
7. Cost for securing all types and forms of securities other than cash. (*e.g. premiums for surety bond, bank fees and other charges to be incurred by the bidder in obtaining bid, performance and warranty securities*)

14.4 If the project or contract has a foreign component, it is also best to include a currency valuation adjustment factor, in order to address foreign exchange rate fluctuations between the planning phase and the actual procurement date. To determine the factor to be used, the end-user unit may request for guidance from the BSP, or refer to BSP forecasts, if available.

14.5 If the sum of the different cost components is lower than the appropriation for the procurement, then the ABC should be equal to the sum of the cost components. If the resulting sum is higher than the appropriation, it is advisable to review the technical specifications and the computation of the ABC. In any case, the ABC should not exceed the appropriation.

15. Annual Procurement Plan (APP)

15.1 Legal Reference

Section 7.2 of the IRR of RA No. 9184

Section 7.2. No procurement shall be undertaken unless it is in accordance with the approved APP of the procuring entity. The APP shall bear the approval of the Head of the Procuring Entity or second-ranking official designated by the Head of the Procuring Entity to act on his behalf, and must be consistent with its duly approved yearly budget.

15.2 The APP is the document that consolidates the various PPMPs submitted by the various PMOs and end-user units within the PE. It reflects the entirety of the procurement activities that will be undertaken by the PE within the calendar year.

15.3 The APP is prepared by the BAC, through its Secretariat, after passing through the Budget Office and finalized after the approval of the GAA or the corporate budget. The PMOs and end users will revise their respective PPMP based on the GAA or the corporate budget and submit the same to the BAC for finalization of the mode of procurement. The APP shall then be re-submitted to the HOPE or the second-ranking official of the PE for final approval.

15.4 In preparing the APP, the BAC shall take into consideration the following factors:

- a) The APP should include all procurement activities planned for the year. The approved APP shall be the basis for the PEs procurement, and only those projects/procurement included therein shall be undertaken.
- b) The APP shall include only those procurements that are considered crucial to the efficient discharge of governmental functions. The procurement activity is crucial to the efficient discharge of governmental functions if it is:
 - (i) Required for the day-to-day operations of the PE; or
 - (ii) In pursuit of the principal mandate of the PE concerned.
- c) The APP shall include provisions for foreseeable emergencies based on historical records. The BAC, through the BAC Secretariat, shall include therein a lump sum to cover for these emergencies or contingencies, which amount shall not be more than ten percent (10%) of the PEs total appropriations for MOOE.
- d) Scheduling of procurement activities should be done in such a manner that the BAC and the other offices/units in the PE that are involved in the procurement process are able to efficiently manage the conduct of procurement transactions. Moreover, it is paramount that project implementation timelines are met.

15.5 A review and updating of the individual PPMPs and the APP shall be done regularly, at least once every six (6) months or as often as necessary, subject to the required approval process.

- a) The PMOs and the end-user units will do the review and updating of the PPMPs. These units may avail of the services of technical experts to review the individual PPMPs.
- b) The updated PPMPs will then be submitted to the BAC Secretariat for subsequent inclusion in the updated APP. For flexibility, and to encourage advance procurement actions, the APP and PMPP should also be based on proposed budget to allow for advance planning for the succeeding budget year.

15.6 Procurement Strategy

15.6.1 The procurement strategy refers to the approach that will be adopted by the BAC in the procurement of the goods, infrastructure projects, and consulting services included in the APP.

15.6.2 Thus, in the review and consolidation of the PPMPs, the BAC will be able to determine the extent of diversity, quantities, quality, cost, the supply market, and other characteristics of the PEs requirements for the year. The profile of the procurement is a major determinant in the choice of procurement strategy to be employed, as well as in the scheduling of procurement activities.

- 15.6.3 The individual PPMPs sometimes reflect a mix of procurement types, for example, an ICT project might involve the procurement of goods (*e.g.*, workstations, network equipment and peripherals), procurement of civil works (*e.g.*, the installation of cables might involve the repair of some offices and other related civil works) and procurement of consulting services (*e.g.*, design and development of information systems). In similar cases, the BAC will have to exercise judgment in determining the bid lots and contract package. There are two approaches to this case –
- a) The project could be bid out as one package, or
 - b) It could be divided into several bid lots (*e.g.*, supply of hardware, supply and installation of cables, design and development of information systems, and repair of facilities).

15.7 Format¹¹

The BAC, through the BAC Secretariat shall consolidate the PPMPs and prepare the APP covering the procurement activities of the PE, which shall contain the following information:

- a) Name of the project/procurement;
- b) PMO or end-user unit;
- c) General description of the project/procurement (general description of requirements and quantities, where applicable);
- d) The procurement methods to be adopted, and indicating if the procurement tasks are to be outsourced as provided in Section 53.6 of the IRR;
- e) The time schedule for each procurement activity; and
- f) The ABC.

16. Methods Of Procurement

16.1. Competitive Bidding

16.1.1. Legal Reference

Section 10, of the IRR of RA 9184

Competitive Bidding or Public Bidding refers to the method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post-qualification, and award of contract, the specific requirements and mechanics of which shall be defined in the IRR to be promulgated under this Act.¹²

16.1.2. Purpose

16.1.2.1. The conduct of Public Bidding as a general mode of procurement

¹¹ In compliance with President Aquino's Administrative Order No. 17 "Directing the Use of the Procurement Service and the Philippine Government Electronic Procurement System in Procurement Activities in Accordance With RA 9184, and Improving the Operation of the Procurement Service" for which the DBM issued Circular No. 2011-6 and 2011-6A. Thus, all government-procuring entities are directed to submit their APP for common use-supplies and equipment.

¹² Section 5(h) of the IRR of RA 9184.

aims to protect public interest by giving the public the best possible advantages through open competition. Thus, competition must be legitimate, fair and honest.

16.1.2.2. One of the essential elements of a public bidding is that "all bidders must be on equal footing, not simply in terms of application of the procedural rules and regulations imposed by the relevant government agency, but more importantly, on the contract bid upon. Thus, each bidder must be able to bid on the same thing.

16.1.2.3. Another self-evident purpose of public bidding is to avoid or preclude suspicion of favoritism and anomalies in the execution of public contracts.

16.2. Alternative Methods of Procurement

16.2.1. Legal Reference

Sections 40 to 53 of the IRR of RA 9184 provide the different alternative methods of procurement available for the procuring entities.

16.2.2. Conditions for Use of Alternative Methods of Procurement

In highly exceptional cases provided for in Article XVI of R.A. 9184 and Rule XVI of the IRR, the PE is allowed to resort to the alternative methods of procurement in order to promote economy and efficiency, subject to the following conditions:

- 1) The BAC shall recommend to the HOPE the use of alternative methods of procurement in cases where public bidding is not feasible, to be indicated in the APP;
- 2) The HOPE or his duly authorized representative has given prior approval of the use of any of the alternative methods of procurement;
- 3) The conditions surrounding the procurement at hand justify the use of any of the alternative methods of procurement, as provided for in Sec.48-54, Art. XVI of the R.A. 9184 and Sections 48-54, Rule XVI of the IRR.

In cases where the original method of procurement specified in the APP is public bidding and conditions arise justifying the use of an alternative method of procurement after the APP is finalized, the APP may be amended through a BAC Resolution recommending the issuance of a supplemental APP specifying the use of the alternative method to be approved by the HOPE.

16.3. Different Types Of Alternative Methods Of Procurement

- 16.3.1. **Limited Source Bidding**, otherwise known as **selective bidding**, is a method of procurement of goods and consulting services that involves direct invitation to bid by the concerned entity of all pre-selected suppliers or consultants with known experience and proven capability on the requirements of the particular contract. The pre-selected suppliers or consultants shall be all those appearing in

the list maintained by the relevant government authority that has expertise and experience in the type of procurement concerned, which list should have been submitted to, maintained and updated with, the GPPB. Where a relevant government authority is maintaining no such list, competitive bidding shall be conducted. It is noted that the purpose of the list is to regulate the quality of goods being offered and the qualifications of consultants in the particular field of expertise.

- 16.3.2. **Direct Contracting** or **single source procurement** is a method of **procurement of goods** that does not require elaborate bidding documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations.
- 16.3.3. **Repeat Order** is a method of procurement of goods from the previous winning bidder, whenever there is a need to replenish goods procured under a contract previously awarded through Competitive Bidding.
- 16.3.4. **Shopping** is a method of procurement of goods whereby the PE simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications.
- 16.3.5. **Negotiated procurement** is a method of procurement of goods, infrastructure projects and consulting services, whereby the PE directly negotiates a contract with a technically, legally, and financially capable supplier, contractor, consultant or, where allowed, an individual consultant, only in the cases provided for in Section 53 of R.A. 9184 and Section 53, Rule XVI of its IRR.

17. Procurement Service (PS) of DBM

17.1. Legal Reference

The Procurement Service (PS) – Department of Budget and Management (DBM) was created on 18 October 1978 by virtue of Letter of Instructions (LOI) No. 755 which directed the establishment of an integrated procurement system for the national government and its instrumentalities.

On 28 July 1987 the President issued Executive Order No. 285 reiterating the mandate of LOI 755 by abolishing the General Services Administration and transferring the procurement and price monitoring functions of the Supply Coordination Office to the PS.

Subsequently, on 2 June 1989 the President issued Executive Order No. 359 which prescribed the systematic expansion of the PS through a network of regional depots under a governing Procurement Policy Board.

PS-DBM has the following functions, among others:

1. Identify those supplies, materials, and such other items, including equipment, which can be economically purchased through central procurement and which it shall cover within its scope of activity;
2. Determine the technical specifications of items that it will procure for agencies of the Government;
3. Identify the sources of supply which are able to offer the best prices, terms and other conditions for the items procured by government; and

4. Purchase, warehouse and distribute items for resale to agencies of government, including GOCCs.

Moreover, it is mandated under the GPRA to administer the Philippine Government Electronic Procurement System or the PhilGEPS. All procuring entities are directed to purchase common-use supplies from the PhilGEPS.

18. Philippine Government Electronic Procurement System (PHILGEPS)

18.1. Legal Reference

Section 8 of the RA 9184 and its IRR provides for the procurement by electronic means and the PhilGEPS.

18.2. Policy on the use of PhilGEPS

To promote transparency and efficiency, information and communications technology shall be utilized in the conduct of procurement procedures:

1. There shall be a single portal that shall serve as the primary source of information on all government procurement.
2. It shall serve as the primary and definitive source of information on government procurement.
3. The Electronic Procurement System (EPS) established in accordance with Executive Order No. 322, series of 2000, and Executive Order No. 40, series of 2001 (E.O. 40), shall continue to be managed by the PS-DBM under the supervision of the GPPB, as the PhilGEPS, in accordance with the IRR of RA 9184.

18.3. Features of the PhilGEPS

18.3.1. Electronic Bulletin Board

The PhilGEPS shall have a centralized electronic bulletin board.

PEs are required to post the following in the PhilGEPS Electronic Bulletin Board, except if the ABC is less than PhP50,000.00:

- a) Invitation to Bid, including the bidding documents, for competitive bidding and notices of other procurement opportunities using any of the alternative methods of procurement;
- b) Supplemental/Bid bulletins;
- c) Contract awards, the corresponding Notices of Award (NOA), including the reasons for award of contract;
- d) Notice to Proceed (NTP);
- e) Results of bidding and related information; and
- f) Other notices, announcements, information for interested parties.

Failure to post a procurement opportunity and the Notice of Award shall render the resulting contract null and void, and the erring government official/s administratively liable in accordance with R.A. 6713 and other pertinent laws, rules and regulations, and appropriate sanctions shall be imposed.

18.3.2. Registration of Manufacturers, Suppliers, Distributors, Contractors and Consultants

- 18.3.2.1. The PhilGEPS shall have a centralized electronic database of all manufacturers, suppliers, distributors, contractors, and consultants registered under the system.
- 18.3.2.2. Registration shall entail the submission of the requirements specified by the PS-DBM. Details of the requirements may be obtained from the PS-DBM website (<http://www.procurementservice.org>), or the PhilGEPS website (<http://www.philgeps.net>). Submission of these requirements may be done on-line at the PhilGEPS website or physically at the PhilGEPS office. Registration shall be effective for one year and may be renewed, provided that the manufacturer, supplier, distributor, contractor, or consultant concerned maintains its registration current and updated at least once a year, or more frequently when needed.
- 18.3.2.3. Manufacturers, suppliers, distributors, contractors, and consultants applying for registration must also indicate their account number with a bank duly licensed by the BSP to facilitate payment as well as the posting of bid and performance security, when applicable.
- 18.3.2.4. The PhilGEPS shall deny registration to or exclude from the registry any party that is found to have willfully misrepresented any of the information provided in the application for registration or who is in the “blacklist” of the Government or any of its procuring entities from participating in any of its procurement opportunities.
- 18.3.2.5. A manufacturer, supplier, distributor, contractor, or consultant applying for registration shall be required to provide an e-mail address to which all communications from the BAC and the Procuring Entity shall be sent. The e-mail address provided shall be considered as such applicant’s information system for purposes of reckoning the date of sending or receipt of electronic messages or documents.
- 18.3.2.6. Once the PhilGEPS allows electronic bid submission and other online transactions requiring digital signatures, registered manufacturers, suppliers, distributors, contractors, and consultants shall secure a digital certificate from the appropriate certification authority to be able to participate in the procurement activities of the PhilGEPS.
- 18.3.2.7. Registration with the PhilGEPS is not tantamount to a finding of eligibility, nor is it a guaranty that a manufacturer, supplier, distributor, contractor, or consultant may participate in a public bidding without first being determined to be eligible for that particular public bidding.

18.3.3. Electronic Catalogue

- 18.3.3.1. The PhilGEPS features a centralized electronic catalogue of common and non-common use goods, supplies, materials and equipment.
- 18.3.3.2. PEs are required to procure common-use goods, supplies, materials and equipment from the PS-DBM through the Electronic Catalogue in the PhilGEPS. Once the PhilGEPS is fully operational, the procedures for

transacting with the PhilGEPS shall be provided for in detail in the websites of the PhilGEPS (<http://www.philgeps.net>) and the PS-DBM (<http://www.procurementservice.org>).

18.3.3.3. The Electronic Catalogue may also feature non-common use items that may be procured directly and without public bidding by procuring entities from suppliers: *Provided, however,* That for an item to be carried in the Electronic Catalogue for this purpose, the supplier thereof must have been determined as the Lowest Calculated Responsive Bidder in a previous bidding conducted by PS-DBM or by a Procuring Entity for PS-DBM: *Provided, further,* That such item will be featured in the Electronic Catalogue for a maximum period of six (6) months unless another supplier offers a price lower by at least five percent (5%) and such supplier is determined by the Procuring Entity that conducted the previous bidding to meet the eligibility and bidding requirements for the item, in which case the item from the latter supplier will be that featured in the Electronic Catalogue for the remainder of the six (6)-month period.

18.3.3.4. Procuring entities without internet access may avail of the PhilGEPS Public Access Terminals which shall be installed at DBM-designated locations in the provinces and in Metro Manila.

18.3.4. **Additional Features**

The PhilGEPS has also the following features:

- a) A Virtual Store that will enable the ordering of common-use and non-common use items online called a virtual store. This virtual store shall be open only to registered PEs and may not be accessed by suppliers.
- b) An Electronic Payment function that will allow the system to manage the generation of purchase orders and the payment of bids processed through the system. The focus of this feature is to facilitate the electronic transfer of funds from PS-DBM to and from Procuring Entities and suppliers, and from Procuring Entities to suppliers for bids managed directly by the Procuring Entity. This system will:
 - (i) Generate purchase orders from a bid notice, award notice or contract;
 - (ii) Support approval process for purchase orders before any payment or fund transfer is processed;
 - (iii) Have a process to submit request for payment upon delivery of goods and/or services and the completion of the approval process; and
 - (iv) Have the ability to interface with the designated bank of the Procuring Entity and suppliers to support the electronic transfer of funds.
- c) An Electronic Bid Submission that will support the implementation of e-Bid submission processes, which includes creation of electronic bid forms, creation of bid box, delivery of bid submissions, notification to supplier of receipt of bids, bid receiving and electronic bid evaluation. This facility will cover all types of procurement for goods, infrastructure projects and consulting services.
- d) Other features that may be developed in the future under the policy guidance of the GPPB.

19. Bidding Documents

19.1 Legal Reference

Section 17 of the IRR of RA 9184 provides for the legal basis for the issuance of the bidding documents.

19.2 Purpose

This is the stage when the Procuring Entity provides the prospective Bidders a copy of the bidding documents so that they can study the requirements and conditions of the procurement process being adopted in general and the specific procurement being bid out.

19.3 Definition

Bidding documents are documents issued by the PE to provide prospective bidders all the necessary information that they need to prepare their bids.¹³ These clearly and adequately define, among others:

1. The objectives, scope and expected outputs and/or results of the proposed contract;
2. The technical specifications of Goods to be procured;
3. Expected contract duration, the estimated quantity in the case of procurement of goods, delivery schedule and/or time frame;
4. The obligations, duties and/or functions of the winning bidder; and
5. The minimum eligibility requirements of bidders, such as track record to be determined by the HOPE.

19.4 Participants

The following must participate in the preparation of the bidding documents:

1. BAC;
2. TWG;
3. End-user unit/PMO;
4. Consultant(s), if any; and
5. BAC Secretariat/Procurement Unit.

19.5 Various types and sizes of contracts in the Bidding Documents

The Bidding Documents should clearly state the type of contract to be entered into and contain the proposed contract provisions appropriate for it, most common types of contracts provide for payments on the basis of a lump sum, unit price, or combinations thereof.¹⁴

The size and scope of individual contracts will depend on the magnitude, nature, and location of the project, for example:

¹³ Section 5[f] of the IRR of RA 9184.

¹⁴ Reimbursable cost contracts are acceptable to IFIs only in exceptional circumstances such as conditions of high risk or where costs cannot be determined in advanced with sufficient accuracy. Such contracts should include appropriate incentives to limit costs.

1. For projects requiring a variety of goods and works, separate contracts may be awarded for the supply and/or installation of different items of equipment and plant and for the works.
2. For a project requiring similar but separate items of equipment or works, bids may be invited under alternative contract options that would attract the interest of both small and large firms, which could be allowed, at their option, to bid for individual contracts (slices/items) or for a group of similar contracts (package). All bids and combinations of bids should be received by the same deadline and opened and evaluated simultaneously so as to determine the bid or combination of bids offering the lowest calculated cost to the PE.

19.6 Preparation of Bidding Documents

The BAC Secretariat/TWG, with the assistance of consultant/s, if any, and the end-user unit/PMO, prepares the bidding documents following the standard forms and manuals prescribed by the GPPB.

Under Section 17.1 of the IRR of RA 9184, the bidding documents must contain the following information:

1. Eligibility requirements;
2. ITB, including scope of bid, documents comprising the bid, criteria for eligibility, bid evaluation methodology/criteria in accordance with the Act, and post-qualification, as well as the date, time and place of the pre-bid conference (where applicable), submission of bids, and opening of bids;
3. Scope of Work, for services;
4. Technical Specifications;
5. Plans/Drawings, when applicable;
6. Form of Bid, Price Form, and List of Goods or Bill of Quantities;
7. Delivery Time or Completion Schedule;
8. Form, amount and validity period of Bid Security;
9. Form and amount of Performance Security and Warranty; and
10. Form of Contract, General Conditions of Contract and Special Conditions of Contract.

The PE may require additional documents or specifications, where applicable, and necessary for prospective bidders to prepare their respective bids. The bidding documents, as amended, shall subsequently form an integral part of the contract. Statements not made in writing at any stage of the bidding process shall not modify the bidding documents.

19.7 Confidentiality of Bidding Documents

The bidding documents are strictly confidential and shall not be divulged or released to any person prior to its official release.

Under no circumstances should the bidding documents, as a whole, or individually, be divulged or released to any prospective bidder prior to their official release to the suppliers. Neither should these be divulged to any person with or without direct or indirect interest in the project being bid out, except those officially authorized to handle them.¹⁵ However, after its official release, it shall be made available to the public.

¹⁵ Section 19 of the IRR of RA 9184, Access to Information.

20. Pre-Procurement Conference

20.1 Legal Reference

Section 20 of the IRR of RA 9184 provides for the conduct of pre-procurement conference prior to the advertisement or the issuance of the Invitation to Bid for each procurement undertaken through a public bidding.

20.2 Purpose

It is the forum called by the BAC where all officials involved in the procurement meet and discuss all aspects of a specific procurement activity, which includes, among others the:

1. Technical Specifications;
2. ABC;
3. Applicability and appropriateness of the recommended method of procurement and the related milestones;
4. Bidding documents; and
5. Availability of the pertinent budget release for the project.

20.3 When mandatory

Pre-procurement conference is mandatory for goods involving an ABC amounting to more than Two Million Pesos (PhP2,000,000.00) to determine the readiness of the Procuring Entity to procure goods and services in terms of the legal, technical, and financial requirements of the project.

It ensures that the procurement will proceed in accordance with the PPMP and APP, confirms the availability of appropriations and programmed budget for the contract, and reviews all relevant documents in relation to their adherence to the law.

However, the BAC is encouraged to conduct a pre-procurement conference although it is not mandatory for procurements of goods with an ABC amounting to Two Million Pesos (PhP2,000,000.00) and below, more so if the circumstances, such as the complexity of the technical specifications, warrant the holding of such conference before the PE proceeds with the procurement.

ABC of the Contract	When conducted?	
Above 2M	Mandatory	Conducted at least 7 calendar days prior to the date of advertisement and/or 1 st day of posting of the IB
2M and below	Discretionary	

20.4 Participants

The participants of the pre-procurement conference are:

1. The BAC;
2. The BAC Secretariat/Procuring Unit;
3. Representatives of the PMO or end-user unit/s;
4. The members of the TWG/s and consultants hired by the PE who prepared the technical specifications, TORs, bidding documents and the draft advertisement, as the case may be, for the procurement at hand;
5. Officials who reviewed the above-enumerated documents prior to final approval, if any; and
6. Other officials concerned, as may be required.

21. Procurement Of Goods Through Competitive Bidding

20.1 Purpose

This aims to protect the public interest by giving the public the best possible advantages thru open competition. It is a mechanism that enables the government agency to avoid or preclude anomalies in the execution of public contracts. Thus, there are three principles of public bidding: the offer to the public, an opportunity for competition, and a basis for an exact comparison of bids.

20.2 Competitive Bidding consists of the following process:

1. Advertisement,
2. Pre-bid conference,
3. Receipt, opening and examination of eligibility and bid requirements,
4. Evaluation of bids,
5. Post-qualification, and
6. Award of contract.

A Procuring Entity should, therefore, see to it that its procurement program allows enough time to conduct such Public Bidding.

20.2.1 Two (2) Types of Competitive Bidding Procedures:

1. Single-Stage Competitive Bidding - the regular procedure used for competitive or public bidding.
2. Two-Stage Competitive Bidding – this type of bidding is employed when the required technical specifications/ requirements of the contract cannot be precisely defined in advance of bidding, or where the problem of technically unequal bids is likely to occur.

22. Single-Stage Competitive Bidding

22.1. Advertisement and Posting of Invitation to Bid

22.2. Legal Reference

Section 21 of the IRR of RA 9184 provides for the basis for the advertisement of the Invitation to Bid.

22.3. **Invitation to Bid**

The Invitation to Bid serves as the notice to the public and all interested parties of the procurement and bidding opportunities of the PE.

22.4. **Purpose**

The invitation to bid serves as the notice to interested suppliers and to the general public and other interested parties of the proposed procurement. It provides basic information that will enable prospective bidders to decide whether or not to participate in the procurement at hand.

Advertising/ posting the Invitation to Bid and ensuring its widest possible dissemination will increase the number of prospective bidders and intensify competition for the procurement activity or project. Intensified competition, in turn, will ensure that the government, in general, and the PE, in particular, will get the best possible proposals as to quality and cost.

22.5. **Contents of an Invitation to Bid**

The Invitation to Bid shall provide the following information, among others:¹⁶

1. Name of the contract to be bid, and a brief description of the goods to be procured;
2. A general statement on the criteria to be used by the PE for:
 - a. Eligibility check;
 - b. Examination and evaluation of bids;
 - c. Post-qualification; and
 - d. Award of Contract.
3. Date, time and place of the deadline for:
 - a. The pre-bid conference if any;
 - b. The submission and receipt of bids; and
 - c. The opening of bids;
4. ABC;
5. Source of funding;
6. Period of availability of the bidding documents, the place where the bidding documents may be secured, the website where the bidding documents may be downloaded, and, where applicable, the price of the bidding documents;
7. Contract duration or delivery schedule;
8. Name, address, telephone number, facsimile number, e-mail and website addresses of the concerned PE, as well as its designated contact person; and
9. Such other necessary information deemed relevant by the PE.

The invitation should provide information that enables potential bidders to decide whether to participate. As such, apart from the above essential items, the Invitation to Bid should also indicate any important bid evaluation criteria (for example, the application of a margin of preference in bid evaluation) or qualification requirement (for example, a requirement for a minimum level of experience in manufacturing a similar type of product for which the invitation is issued).

The deadline for the submission of bids indicated in the Invitation to Bid should be no later than forty-five (45) calendar days from the date of advertisement and/or first day of posting.¹⁷

¹⁶ Section 21.1 of the IRR of RA 9184.

¹⁷ Section 25.4.a of the IRR of RA 9184.

22.6. Posting and Advertisement

The Invitation to Bid for procurements must be advertised and posted as follows: ¹⁸

1. Advertised at least once in one (1) newspaper of general nationwide circulation which has been regularly published for at least two (2) years before the date of issue of the advertisement, except for projects with ABCs amounting to Two Million Pesos (PhP2,000,000.00) and below;
2. Posted continuously in the PhilGEPS website, the website of the PE concerned, if available, and the website prescribed by the foreign government/foreign or international financing institution, if applicable, for seven (7) calendar days starting on date of advertisement; and
3. Posted at any conspicuous place reserved for this purpose in the premises of the PE concerned for seven (7) calendar days, if applicable, as certified by the head of the BAC Secretariat of the PE concerned.

Medium	Above PhP 2M	PhP 2M and below
Newspaper of General Nationwide Circulation	√	
PhilGEPS website	√	√
PEs website, if available	√	√
Conspicuous Place	√	√

22.7. Who is Responsible?

The BAC is responsible for ensuring that the Invitation to Bid is advertised and posted in accordance with law.

22.8. Procedure

The following steps are followed in the advertising and posting of the Invitation to Bid:

1. The BAC Secretariat prepares the draft Invitation to Bid for review/approval of the BAC.
2. The BAC approves the contents of the Invitation to Bid during the pre-procurement conference, should one be conducted.
3. The BAC Secretariat posts the Invitation to Bid in any conspicuous place reserved for this purpose in the premises of the PE for the duration required; and this fact shall be certified to by the head of the Secretariat.

¹⁸ Section 21.2.1 of the IRR of RA 9184.

4. The BAC Secretariat advertises the Invitation to Bid in a newspaper of general nationwide circulation for the duration required, as prescribed above.
5. The BAC Secretariat, through its member who is authorized to transact with the PhilGEPS, posts the Invitation to Bid in the following websites: the PhilGEPS, that of the PE, if available, and the website prescribed by the foreign government or international financing institution, if applicable, for the duration required.

22.9. **Reservation Clause**

The Reservation Clause declares that the HOPE reserves the right to reject any and all bids, to declare a failure of bidding, or not to award the contract in the following situation:¹⁹

1. If there is prima facie evidence of collusion between appropriate public officers or employees of the PE, or between the BAC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
2. If the BAC is found to have failed in following the prescribed bidding procedures for which the applicable sanctions shall be applied to the erring officers, as provided in Section 65 of the revised IRR; or
3. For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP, as follows:
 - a) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially, or technically feasible as determined by the HOPE;
 - b) If the project is no longer necessary as determined by the HOPE; and
 - c) If the source of funds for the project has been withheld or reduced through no fault of the PE.

The Supreme Court of the Philippines declared that a bidder is bound by the reservation clause, and the said clause vests in the authority concerned the discretion to ascertain who among the bidders is the lowest responsive bidder or the lowest and best bidder or most advantageous to the best interest of the Government. As such, a bidder has no right or cause of action to compel the BAC or agency to award the contract to it. The Court further stated that this requires inquiry, investigation, comparison, deliberation and decision – a quasi-judicial function which, when honestly exercised, may not be reviewed by the courts. It should be noted, however, that R.A. 9184 Section 41, has placed some limiting qualifiers on the possible contents of the Reservation Clause.²⁰

If the HOPE abuses his power to reject any and all bids, as provided by the Reservation Clause, with manifest preference to any bidder who is closely related to him in accordance with Section 47 of the revised IRR, or if it is proven that he exerted undue influence or undue pressure on any member of the BAC or any officer or employee of the PE to take such action, and the same favors or tends to favor a

¹⁹ Section 41 of the IRR of RA 9184.

²⁰ In the case of *Mata v. San Diego*, G.R. No. L-30447, 21 March 1975.

particular bidder, he shall be meted with the penalties provided in Section 65 of the revised IRR.²¹

23. Two-Stage Competitive Bidding

23.1. Legal Reference

Section 30.3 of the IRR of RA 9184 provides that due to the nature of the requirements of the project, the required technical specifications/requirements of the contract cannot be precisely defined in advance of bidding, or where the problem of technically unequal bids is likely to occur, thus, a two (2)-stage bidding procedure may be employed.

23.2. Definition

The Two-Stage Competitive Bidding is one where the bidding process is divided in two (2) stages. The first stage involves the issuance by the PE of bidding documents with technical specifications that are not yet well defined and merely in the form of performance criteria, and the submission by the bidders of their respective Letters of Intent, eligibility requirements, if needed, and initial Technical Proposals without price. This allows the PE to receive inputs from the eligible bidders whose Technical Proposals meet the minimum performance standards (a meeting/discussion may be held with these bidders), for purposes of drawing up the final revised technical specifications/requirements of the contract. The second stage involves the release of the well-defined technical specifications by the PE, followed by the conduct of the regular procedure for public bidding with all the bidders identified during the first stage, who shall then be required to submit their respective revised Technical Proposals including their Financial Proposals.

23.3. Conditions

The Two-Stage Competitive Bidding Procedure may be employed for the procurement of goods when:

1. Due to the nature of the project requirements (*e.g.*, complex information and communications technology), the required technical specifications/requirements of the contract cannot be precisely defined in advance of bidding, or it may be undesirable or impractical to prepare complete technical specifications in advance.

PEs may consider it undesirable or impractical to compare complete technical specifications in advance under any of the following circumstances:

- a. In the case of turnkey contracts;
 - b. Contracts for large complex facilities;
 - c. Complex information and communication technology; or
 - d. Works of a special nature.
2. The problem of technically unequal bids is likely to occur.

²¹Section 65.1.e of the IRR of RA 9184.

The purpose of the bidding procedure is to come up with well-defined, standardized technical specifications, with inputs from all stakeholders, including the bidders themselves.

23.4. **Timeline**

The timeline for the conduct of a Two-Stage Competitive Bidding will depend on several variables:

1. The Project Timelines as defined by the PMO or end-user unit;
2. The technical complexity of the project; and
3. The time required for drawing up the final technical specifications.

These variables, however, affect only the first stage of the bidding, as well as the drawing up of the final technical specifications. Thus, while the timelines for the first stage may not be definite, the second stage shall follow the timelines prescribed for the regular competitive bidding procedure. In setting the timelines, the PE should ensure that the time periods involved are reasonable and that there is no undue delay of the entire procurement procedure and project implementation.

23.5. **Participants**

1. PMO or end-user unit;
2. TWG;
3. BAC;
4. BAC Secretariat; and
5. Observers.

23.6. **General Procedure**

1. In the first stage, bidders are first invited to submit technical offers (plus other bid requirements) without prices, on the basis of a conceptual design or performance specifications which lay down the minimum operating and performance requirements.
2. Each of the unpriced technical bids shall then be discussed between the bidder concerned and the PE and its consultants, if any, for the purpose of providing for technical and commercial clarifications and adjustments, and in order to agree on an acceptable technical standard for all bids.
3. At the second stage, the bidding documents will then be amended, but in revising the said bidding documents, the PE would have to respect the confidentiality of the bidders' technical proposals used in the first stage, consistent with requirements of transparency and intellectual property rights. After the discussions, the bidders shall be given an opportunity to revise or adjust their proposals to conform to the standards agreed upon. The bidders shall also be invited to submit price proposals and these shall be evaluated.

23.7. **Specific Procedure**

1. The TWG, with the assistance of the PMO or end-user unit, prepares the bidding documents in accordance with the usual procedures. However, the technical specifications shall only be in the form of performance criteria, *i.e.* the technical specifications shall contain functional descriptions of the goods, or expected output for services, without specifying the details thereof.

2. If necessary, the BAC calls a Pre-Procurement Conference, following the procedures set forth in Step 1 of competitive bidding.
3. The BAC issues the bidding documents which contain, in addition to the items prescribed for competitive bidding, a request for the prospective bidders to submit the following:
 - a. Eligibility requirements, if needed; and
 - b. Initial Technical Proposals only (no price tenders).
4. The BAC, with the assistance of the TWG, checks the eligibility documents, as conducted in a Single-Stage Competitive Bidding procedure, and proceeds with the determination of the eligible and ineligible bidders.
5. The TWG evaluates the technical merits of the proposals received from eligible bidders vis-à-vis the required performance standards, and determines the proposals that meet the minimum standards.
6. The TWG and BAC meet/discuss with the eligible bidders whose Technical Proposals meet the minimum required standards stipulated in the bidding documents. The purpose of this meeting is to draw up the final revised technical specifications/requirements of the contract.
7. Once the final revised technical specifications are completed and duly approved by the BAC, copies of the same shall be provided to all eligible bidders that met the minimum technical standards. The latter are then required to submit their revised Technical Proposals, including their Financial Proposals in two (2) separate sealed envelopes, at a specified deadline, after which time no more bids shall be received.

The BAC proceeds with the bid evaluation, post-qualification, award of contract and contract signing in accordance with the procedure and timelines prescribed for competitive bidding.

24. Issuance Of The Bidding Documents

24.1. Legal Reference

Section 17 of the IRR of RA9184 provides for the issuance of bidding documents, which shall be prepared by the procuring entity following the standard forms and manuals prescribed by the GPPB.

24.2. Purpose

This is the stage when the PE provides the prospective bidders a copy of the bidding documents so that prospective bidders can study the requirements and conditions of the procurement process being adopted in general and the specific procurement being bid out.

24.3. Availability

Section 17.3 of the IRR provides that to provide prospective bidders ample time to examine the Bidding Documents and to prepare their respective bids, the concerned BAC shall make the Bidding Documents for the contract to be bid available from the

time the Invitation to Bid is first advertised/posted until the deadline for the submission and receipt of bids.

A maximum period of forty-five (45) calendar days from the last day of posting of the Invitation to Bid up to opening of bids is provided by Section 25.4 (a) of the IRR, which means that there is a period of forty-five (45) calendar days for which the bidding documents are available.

24.4. Cost

Pursuant to GPPB Resolution No. 04-2012 dated February 24, 2012, the GPPB approved the issuance of guidelines providing for the standard fees in the sale of bidding documents using the fixed rate based on a fixed range approach.

24.5. General Guidelines:

- 24.5.1. PEs shall make the bidding documents available on the same date the advertisement and/or posting of the Invitation to Bid was made pursuant to Section 17.3 of the IRR of RA 9184.
- 24.5.2. As required in Section 21.1 (f) of the IRR of RA 9184, the price of the bidding documents must be included in the Invitation to Bid in order to inform all prospective bidders of the cost of its acquisition.
- 24.5.3. The BAC shall issue the bidding documents to any prospective bidder upon payment of the standard rate for the sale of bidding documents.
- 24.5.4. The standard rate for the sale of bidding documents using the fixed rate on a fixed range approach shall be applicable in the procurement of goods, consulting services, and the contracting for infrastructure projects by the PE, whether procured by way of public bidding or any of the alternative methods of procurement.
- 24.5.5. PEs are proscribed to adopt any internal rules or practices that establish fees that are inconsistent or beyond the standard rate for the sale of bidding documents set forth in these guidelines.
- 24.5.6. The proceeds from the sale of the bidding documents shall continue to be used for the payment of honoraria as provided for in Budget Circular No. 2004-5A, dated 7 October 2005, or to augment the funds for the PE's legal assistance and indemnification package as provided in the Guidelines for Legal Assistance and Indemnification of Bids and Awards Committee Members and its Support Staff.

24.6. Standard Rates

The cost of bidding documents corresponding to the range per ABC as indicated in the table below shall be the maximum amount of fee for the acquisition of bidding documents whenever PEs require the payment of bidding documents in the conduct of their procurement activities.

Approved Budget for the Contract (ABC)	Maximum Cost of Bidding Documents (in Philippine Peso)
500,000 and below	500.00
More than 500,000 up to 1 Million	1,000.00
More than 1 Million up to 5 Million	5,000.00
More than 5 Million up to 10 Million	10,000.00
More than 10 Million up to 50 Million	25,000.00
More than 50 Million up to 500 Million	50,000.00
More than 500 Million	75,000.00

24.7. How Documents issued

Section 17.4 of the IRR provides that the BAC Secretariat issues the bidding documents to the prospective bidders that may wish to secure the said documents, or, if it is for sale, to those prospective bidders upon payment of the corresponding cost. On the other hand, Section 17.5 of the IRR provides that the prospective bidders may also download the bidding documents from the website of the PE and the PhilGEPS website. However, at the option of the PE only those who have paid for the bidding documents shall be allowed to participate in the pre-bid conference and raise or submit written queries or clarifications.

Observers may secure copies of the bidding documents free of charge.

25. Conduct Of Pre-Bid Conference And Issuance Of Supplemental/Bid Bulletins

25.1. Legal Reference

Section 22 of the IRR of RA 9184 provides for the conduct of pre-bid conference and issuance of bid bulletins.

25.2. Purpose

The pre-bid conference is the initial forum where the PE's and the prospective bidders' representatives discuss the different aspects of the procurement at hand. The ground rules that will govern the procurement are discussed during the conference. In particular, the participants shall discuss, among other things, the eligibility requirements, and the technical and financial components of the contract to be bid. This is also an opportunity for the prospective bidders to request for clarifications about the bidding documents. However, it should be noted that any statement made at the pre-bid conference shall not modify the terms of the bidding documents, unless such statement is specifically identified in writing as an amendment thereto and issued as a supplemental/bid bulletin. **(IRR Section 22.4)**

25.3. Period of Action and Threshold

Section 22.1 of the IRR provides that: For contracts to be bid with ABCs costing One Million Pesos (Php1,000,000.00) the BAC shall convene at least one (1) pre-bid conference to clarify and/or explain any of the requirements, terms, conditions and specifications in the bidding documents.

For contracts with ABCs of less than One Million Pesos, pre-bid conference may or may not be held at the discretion of the BAC. The BAC may also decide to hold a pre-bid conference upon the written request of a prospective bidder.

The pre-bid conference shall be held **at least twelve (12) calendar days before the deadline for the submission and receipt of bids**. If the PE determines that, by reason of the method, nature, or complexity of the contract to be bid or when international participation will be more advantageous to the GOP, a longer period for the preparation of bids is necessary, the pre-bid conference shall **be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids**. Thus, a supplemental/bid bulletin shall be issued for this reason.²²

ABC for the contract	When is it conducted?	
1 Million or More	Mandatory	At least 12 calendar days before deadline for the submission and receipt of bids. However, by reason of the (i) method, nature and complexity of the contract to be bid, or (ii) international participation is more advantageous, a longer period for the preparation of bids is necessary. The pre-bid conference shall be held at least 30 calendar days before deadline for the submission and receipt of bids.
Less than 1 Million	Discretionary	

Note that these periods are all within the maximum period of forty-five (45) calendar days from the date of advertisement and/or first day of posting of the Invitation to Bid up to the opening of bids, as provided under IRR Section 25.4 (a). It is suggested for pre-bid conference to be conducted not earlier than seven (7) calendar days after newspaper advertisement or the last day of posting of the Invitation to Bid.

25.4. Participants

1. BAC;
2. BAC Secretariat/TWG;
3. End-user unit;
4. Prospective bidders; and
5. Observers.

The attendance of the prospective bidders shall not be mandatory (as long as they have been duly notified in writing of the date, time and place thereof in the Invitation to Bid).

However, the PE shall allow only those prospective bidders who have purchased the bidding documents to participate in the pre-bid conference and raise or submit written queries and/or clarifications.

25.5. Proper Conduct of Participants

The BAC, BAC Secretariat, TWG, and other officials involved in procurement are expected to act in an impartial, courteous and professional manner in all their dealings and interactions with the bidders during all stages of the procurement.

²² Section 22.2 of the IRR of RA 9184

The bidders' representatives are likewise enjoined to adopt the same professional manner in their dealings with the PE's officials. Communications between the parties must, as much as possible, be made in writing, except during the pre-bid conference when verbal clarifications may be allowed – keeping in mind, however, that any statement made at the pre-bid conference would not modify the terms of the bidding documents, unless such statement is specifically identified in writing as an amendment of the documents and issued as a supplemental/bid bulletin.

25.6. Procedure

The manner by which the pre-bid conference is conducted depends on the determination of the BAC, such as but not limited to the following:

1. The members of the BAC, BAC Secretariat, TWG, and relevant persons are introduced during this stage.
2. The presentation by the BAC of the eligibility requirements as well as the technical and financial components of the contract to be bid, the evaluation procedure, evaluation criteria, and possible causes of failure of the bidding.
3. The BAC shall also discuss the requirements in the Invitation to Bid, the replies to the bidders' queries about the requirements, specifications and other conditions of the project, the bid evaluation of all bidders and post-qualification evaluation of the lowest calculated bidder. Emphasis should also be given to the warranty requirement of the project and the different offenses and penalties provided for in IRR of R.A. 9184.
4. The BAC Secretariat shall record the minutes of the pre-bid conference, which shall be available to all participants not later than three (3) calendar days after the pre-bid conference.²³

25.7. Issuance of Supplemental/Bid Bulletins

Supplemental/Bid Bulletins are issuances of the PE which seeks to amend, clarify, and/or modify any provision in the bidding documents, whether agreed upon during the pre-bid conference or as a response to a written request for clarification or interpretation espoused by a prospective bidder on any part of the bidding document, which shall form an integral part thereof.

It is a notice issued by the PE to prospective bidders with respect to any clarifications or modifications in the bidding documents, including those affecting the technical specifications, eligibility requirements, procurement schedule, and other similar matters.

25.8. Request for Clarification

Requests for clarification(s) on any part of the bidding documents or for an interpretation may be made by prospective bidders provided that these are in writing and are submitted to the BAC at least ten (10) calendar days before the deadline for the submission and receipt of bids. The BAC shall issue its response by issuing a supplemental/bid bulletin duly signed by the BAC Chairperson, to be made

²³ Section 22.4 of the IRR of RA 9184

available to all those who have properly secured the bidding documents at least seven (7) calendar days before the deadline for the submission and receipt of bids.²⁴

25.9. Procuring Entity's Initiative

At its initiative, the PE may also issue supplemental/bid bulletins for purposes of clarifying or modifying any provision of the bidding documents not later than seven (7) calendar days before the deadline for the submission and receipt of bids. Any modification to the bidding documents must be identified as an "AMENDMENT."²⁵

25.10. Posting Requirement

Section 22.5.3 of the IRR provides that the supplemental/bid bulletin issued by the BAC shall be posted on the PhilGEPS and website of the PE concerned, if available. It shall be the responsibility of the prospective bidders to ask for, and secure, these bulletins. The BAC however, should ensure that all bidders who have submitted their bids before the issuance of supplemental/bid bulletins shall be informed thereof and shall be allowed to modify or withdraw their bids.

25.11. Form and Contents

A supplemental/bid bulletin must contain a brief but comprehensive and accurate summary of the issue or issues that it wishes to address. If it was a prospective bidder that raised the issue addressed by the bulletin, then it ought to contain a summary of that bidder's request for clarification and/or interpretation, without identifying the bidder.

25.12. Procedure on the issuance of Supplemental/Bid Bulletin

a. If upon the initiative of the BAC, the following steps are followed:

1. The BAC Secretariat and/or the TWG draft the supplemental/bid bulletin for approval by the BAC.
2. The BAC approves the supplemental/bid bulletin and the BAC chairperson signs it.
3. The BAC Secretariat sends copies of the supplemental/bid bulletin to all prospective bidders who have properly secured or purchased the bidding documents, within the period prescribed above.
4. The BAC Secretariat posts the supplemental/bid bulletin in the PhilGEPS and the website of the PE.

b. If issued in response to a request for clarification submitted by a prospective bidder:

1. The prospective bidder submits to the BAC, through the BAC Secretariat, a written request for clarification, within the period prescribed above.
2. The BAC directs the BAC Secretariat and/or TWG to study the request for clarification.

²⁴ Section 22.5.1 of the IRR of RA 9184.

²⁵ Section 22.5.2 of the IRR of RA 9184.

3. The TWG, BAC and BAC Secretariat perform the steps undertaken in the issuance of the supplemental/bid bulletin issued at the initiative of the BAC.

26. Submission and Opening Of Bids

26.1. Legal Reference

Sections 25 to 31 of the IRR of RA 9184 provides for the procedural guidelines for the submission and receipt of the bid proposals.

26.2. Purpose

It is a procedure to determine if a prospective bidder is eligible to participate in the bidding at hand. In determining a prospective bidder's eligibility, the BAC shall use non-discretionary "pass/fail" criteria, as stated in the Invitation to Bid. Essentially, this means that the absence, incompleteness or insufficiency of a document shall make a prospective bidder ineligible to bid for the particular procurement.

26.3. Submission of Bids

Bidders shall submit their bids through their duly authorized representative using the forms specified in the Bidding Documents in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under Section 23.1 of the IRR, and the second shall contain the financial component of the bid.

26.4. Contents of the first envelope

The first envelope shall contain the following technical information/documents, at the least:

1. Eligibility requirements;
2. The Bid Security in the prescribed form, amount and validity period;
3. Technical specifications, which may include production/delivery schedule, manpower requirements, and/or after-sales service/parts, if applicable; and
4. A sworn affidavit by the prospective bidders or its duly authorized representative of its responsibilities in the form prescribed by the GPPB pursuant to Section 25.2 of the IRR.

27. Eligibility Requirements

27.1. Legal Reference

Section 23.1 of the IRR requires bidders to submit the following eligibility requirements contained as part of the technical component of the bid, to wit:

1. Class "A" Documents

a. Legal Documents

- i. Registration certificate from SEC for partnership, corporation, or joint venture corporation; DTI for sole proprietorship; or CDA for cooperatives, or any proof of such registration as stated in the bidding documents;
- ii. Mayor's permit issued by the city or municipality where the principal place of business of the prospective bidder is located;

b. Technical Documents

A statement of the prospective bidder of all its ongoing and completed 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, within the period specified in the bidding documents. This statement must include the following information for each of the contracts:

- i. Whether the contract is ongoing, completed or awarded but not yet started within the relevant period;
- ii. The name of the contract;
- iii. The date of the contract;
- iv. The kinds of goods sold;
- v. The amount of contract and value of outstanding contracts;
- vi. The date of delivery;
- vii. The end user's acceptance, for completed contracts; and
- viii. End user's acceptance or official receipt(s) issued for the contract, if completed.

c. Financial Documents

- i. The prospective bidder's audited financial statements, showing, among others, the prospective bidder's total and current assets and liabilities, stamped "received" by the BIR or its duly accredited and authorized institutions, for the immediately preceding calendar year which should not be earlier than two (2) years from the date of bid submission.
- ii. The prospective bidder's computation for its Net Financial Contracting Capacity (NFCC) or a commitment from a Universal or Commercial Bank to extend a credit line in favor of the prospective bidder if awarded the contract to be bid.

2. Class "B" Documents

Valid joint venture agreement (JVA), in case the joint venture is already in existence. In the absence of a JVA, duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA in the instance that the bid is successful shall be included in the bid.

Failure to enter into a joint venture in the event of a contract award shall be ground for the forfeiture of the bid security.

Each member of the joint venture shall submit the legal eligibility documents. The submission of technical and financial eligibility documents by any of the joint venture partners constitutes compliance.

28. BID SECURITY

A bid security is a guarantee that the successful bidder will:

1. Not default on its offer, and
2. Enter into contract with the PE within ten (10) calendar days, or less as indicated in the Invitation to Bid, from receipt of the Notice of Award, and furnish the performance security provided for in Section 39 of the Act and its IRR, except when Section 37.1 of the IRR allows a longer period.²⁶

Every bid must be accompanied by a bid security or bid securing declaration²⁷ valid for the period specified, and in the amount required in the bidding documents. It shall be denominated in Philippine Pesos and shall be posted in favor of the PE. Failure of the bidder to enclose the required bid security in any of the acceptable forms and required amount shall automatically disqualify the bidder concerned.²⁸

29. Forms and Amounts of Bid Security

29.1 Section 27.2 of the IRR provides that the bid security shall be in any of the following forms, with the corresponding required amount:

FORM OF BID SECURITY	AMOUNT OF BID SECURITY (Equal to Percentage of the ABC)
a. Cash or cashier's/manager's check, issued by a Universal or Commercial Bank.	Two percent (2%)
b. Bank draft/guarantee or 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.	
c. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Five percent (5%)
d. Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security
e. Bid securing declaration	

29.2 Who has the option?

The bidder shall have the option to choose which form/s of bid security/ies to adopt subject to the above-mentioned conditions.

²⁶ Section 27.1 of the IRR of RA 9184.

²⁷ GPPB Resolution No. 03-2012 dated January 27, 2012.

²⁸ Sections 27.1, 27.2, and 27.3 of the IRR of RA 9184.

29.3 Bid Validity Period

Bids shall remain valid for the period specified in the bidding documents, which shall not exceed one hundred twenty (120) calendar days from the date of the opening of bids. The preferable bid validity period is ninety (90) calendar days with the corresponding bid security valid for one hundred twenty (120) calendar days in order to provide reasonable time or (thirty [30] calendar days) for the PE to act if the security is to be called.

In exceptional circumstances, and prior to the expiration of the bid validity period, the PE may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing.

The bid security should also be extended corresponding to the extension of the bid validity period at the least. A bidder may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

29.4 Bid Security validity period

The bid security should be valid for the period specified in the bidding documents. Any bid not accompanied by an acceptable bid security shall be rejected by the Procuring Entity as non-responsive.

29.5 Return of Bid Securities

It shall be returned only after the bidder with the Lowest Calculated and Responsive Bid (LCRB) has signed the contract and furnished the performance security, except to those declared as failed or post-disqualified, upon submission of a written waiver of their right to file a motion for reconsideration and/or protest.

In no case shall bid security be returned later than the expiration of the bid security validity period indicated in the Invitation to Bid unless it has been extended in accordance with Section 28.2 of the IRR.

29.6 Cases when bid security may be forfeited

1. If a Bidder:

- a. Withdraws its bid during the period of bid validity;
- b. Does not accept the correction of errors;
- c. Fails to submit the requirements within the prescribed period or a finding against their veracity; or
- d. Any other reason stated in the bidding documents.

2. If the successful Bidder:

- a. Fails to sign the contract;
- b. Fails to furnish performance bond/security; or
- c. Any other reason stated in the bidding documents.

30. Technical Specifications

30.1. Inclusions

- a. The description of the functions **(Functional Description)** for which the Goods are to be utilized. For example, a ballpen is expected to write 1.5 km of straight, continuous lines.
- b. The manner that the Goods are required to perform the functions **(Performance Description)** expected of them, and the parameters by which this will be tested.
- c. The setting in which the required functions are performed at the desired level **(Environmental Interface)**.
- d. The technical design or drawing of the goods being procured **(Design)**. A design standard is particularly useful in cases where the goods procured are specially manufactured for the Procuring Entity. For example, in procuring Battle Dress Attire (BDA) for the Philippine Army, there is a specific pattern of color and shade that the BDA should follow.

30.2. Considerations in setting the technical specifications

In determining the technical specifications of the goods it will procure, the PMO or end-user unit must consider:

1. The objectives of the project or the procurement at hand, and identify the standards that should be met by the goods in terms of function, performance, environmental interface and/or design.
2. It must also conduct a market survey that will include a study of the available products or services, industry developments or standards, product or service standards specified by the authorized government entity like the Bureau of Product Standards of the DTI, ISO9000 or similar local or international bodies. As a rule, Philippine standards, as specified by the Bureau of Product Standards as well as environmental standards must be followed. For products where there are no specified Philippine standards, the standards of the country of origin or other international body may be considered.
3. Product brochures, technical publications, industry newsletters, the industry itself, as well as the Internet, are good sources of product information. The conduct of a comparative study of the options available in the market and their relevance to the requirements of the Project is highly recommended.
4. In-house experts who are part of the TWG or the PMO must likewise be tapped to provide technical advice. If there are no in-house experts available to provide advice on highly technical goods, the PE may hire consultants to assist it in developing the technical specifications for the procurement at hand.

It is important to note that Section 18 of the IRR of RA 9184 prohibits the use of brand names. Specifications for the procurement of goods shall be based on relevant characteristics and/or performance requirements. Hence, a generic description of the product or service must be used.

30.3. Omnibus Sworn Statement

Sworn statement by the prospective bidder or its duly authorized representative in the form prescribed by the GPPB as to the following:

1. It is not “blacklisted” or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or

international financing institution whose blacklisting rules have been recognized by the GPPB;

2. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
3. It is authorizing the HOPE or his duly authorized representative/s to verify all the documents submitted;
4. The signatory is the duly authorized representative of the prospective bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the prospective bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the prospective bidder is a corporation, partnership, cooperative, or joint venture;
5. It complies with the disclosure provision under Section 47 of the Act in relation to other provisions of R.A. 3019;
6. It complies with the responsibilities of a prospective or eligible bidder provided in the Philippine Bidding Documents (PBD); and
7. It complies with existing labor laws and standards, in the case of procurement of services.

30.4. Contents of the second envelope

The second envelope shall contain the following financial information/documents, at the least:

1. Financial Bid Form, which includes bid prices and the bill of quantities and the applicable Price Schedules in the form prescribed in the bidding documents; and
2. If the Bidder claims preference as a Domestic Bidder or Domestic Entity, in accordance with Section 43.1.4 and Section 43.1.3 respectively, of a certification from the DTI, SEC, or CDA.
3. Any other document required in the bidding documents.

31. Submission Of Bids

Bids should be submitted on or before the specified **time and date of the deadline for submission of bids**, as stated in the Invitation to Bid, and within forty-five (45) calendar days from last day of posting the Invitation to Bid. Bids, including eligibility requirements submitted after the specified deadline shall not be received or accepted by the BAC.

31.1 Parties involved in the receipt and opening of bids

The following parties are involved in this process:

1. BAC;
2. TWG;
3. BAC Secretariat/Procurement Unit;
4. Bidders; and

5. Observers.

32. Eligibility Check

32.1. Legal Reference

Section 30.1 of the IRR of RA 9184 provides for the procedure to be adopted in the preliminary examination of bids to determine the bidder's eligibility.

32.2. Purpose

It is a procedure to determine if a prospective bidder is eligible to participate in the bidding at hand. In determining a prospective bidder's eligibility, the BAC shall use non-discretionary "pass/fail" criteria, as stated in the Invitation to Bid. Essentially, this means that the absence, incompleteness or insufficiency of a document shall make a prospective bidder ineligible to bid for the particular procurement.

32.3. Who can participate?

The following shall be eligible to participate in the bidding for the supply of goods:²⁹

1. Duly licensed Filipino citizens/sole proprietorships;
2. Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
3. Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
4. Cooperatives duly organized under the laws of the Philippines, and of which at least sixty percent (60%) belongs to citizens of the Philippines; or
1. Persons/entities forming themselves into a joint venture, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract, provided, however, that Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%).³⁰ For the purpose, Filipino ownership or interest shall be based on the contributions of each of the members of the joint venture as specified in their JVA.

Cooperatives are not exempted from eligibility check. The exemption granted to cooperatives by RA 9520 is limited to pre-qualification. Under RA 9184 the concept of "pre-qualification" has been replaced by a procedure known as the "simple eligibility check", which is a different procedure and utilizes an objective and non-discretionary "pass/fail" criteria in the examination of the eligibility documents submitted by the bidder. Hence, since there is no more pre-qualification in competitive bidding under the GPRA, cooperatives as prospective bidders are now required to undergo simple eligibility check.

²⁹ Section 23.5.1.1 of the IRR of RA 9184.

³⁰ For Foreign Assisted Projects (FAPs), any firm may bid independently or in joint venture confirming joint and several liability, either with domestic firms and/or with foreign firms, but the International Financing Institutions (IFIs) generally do not accept conditions of bidding which require mandatory joint ventures or other forms of mandatory association between firms.

32.4. **A government corporate entity may be eligible to participate in Competitive Bidding only if it can establish the following conditions:**

- (a) It is legally and financially autonomous,
- (b) It operates under commercial law, and
- (c) It is not a dependent agency of the GOP or the PE.

32.5. **Technical Requirement/Capacity to Undertake the Contract**

The prospective bidder must have completed, within the period specified in the Invitation to Bid, a single contract that is similar to the contract to be bid, and whose value, adjusted to current prices using the National Statistics Office (NSO) consumer price indices, must be at least fifty percent (50%) of the ABC.³¹

If, at the outset and after conducting market research, the PE can already determine that imposing the same will likely result to:

- a) Failure of bidding; or
- b) Monopoly that will defeat the purpose of public bidding, the procuring entity, in lieu of the above, may require the following:
 - i. The prospective bidder should have completed at least two (2) similar contracts and the aggregate contract should be equivalent to at least the percentage of the ABC as required above; and
 - ii. The largest of these similar contracts must be equivalent to at least half of the percentage of the ABC as required above.

The similar contracts mentioned under (i) and (ii) must have been completed within the period specified in the Instruction to Bidders. The PE may clarify in the bidding documents the definition and description of what it considers to be a similar project.

32.6. **Financial Requirement**

32.6.1 The financial requirements shall be any of the following:

1. Net Financial Contracting Capacity (NFCC)

If the prospective bidder submits a computation of its NFCC, the NFCC must be at least equal to the ABC, calculated as follows:

NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started, coinciding with the contract to be bid.

Where:

K = 10 for a contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.

³¹Section 23.5.1.3 of the IRR of RA 9184.

2. Credit Line Commitment (CLC)

If the prospective bidder submits a CLC, the CLC must be at least equal to ten percent (10%) of the ABC to be bid. If the CLC is issued by a foreign universal or commercial bank, it shall be confirmed or authenticated by a universal or commercial bank.

The CLC to be submitted as part of the eligibility documents need not be the actual Credit Line. What is only required at the time of eligibility is the commitment from a bank that it will issue a Credit Line of at least equal to ten percent (10%) of the ABC in case the bidder is awarded the contract.

The actual Credit Line will be required prior to contract signing, and will form part of the contract.

32.6.2 Purpose of requiring an NFCC equal to the ABC or CLC

The NFCC or a CLC establishes the bidder's liquidity, its capacity to absorb the additional obligations in connection with the contract to be bid and to finance its implementation/completion. Compliance with this eligibility requirement may be done on the alternative, such that submission of any of the two is acceptable for purposes of determining a bidder's eligibility. However, the submission and compliance with the required percentage cannot be satisfied by a combination of the two forms.

32.7. When is a prospective bidder eligible to bid

A prospective bidder is eligible to bid for the procurement of goods if it complies with the eligibility requirements prescribed for the competitive bidding, within the period stated in the Invitation to Bid. The eligibility requirements shall provide for fair and equal access to all prospective bidders.

As procuring entities and the bidders, manufacturers, suppliers or distributors are required to observe the highest standards of ethics during the procurement and execution of contract, bidders should not be under a declaration of ineligibility for corrupt, fraudulent, collusive, and coercive practices by the government.

32.8. Effect if bidder fails to submit its bid on the date, time, and place indicated in the Invitation to Bid

Any bid submitted after the deadline for its submission and receipt prescribed by the PE shall be declared "late" and shall not be accepted by the BAC.

33. Opening Of Bids

33.1 Guidelines

33.1.1. The BAC shall receive the technical and financial components of the bid at the time, date and place specified in the bidding documents. Upon receipt of these envelopes, the BAC Secretariat must stamp the face of the outer envelope as "RECEIVED," indicating thereon the date and time of receipt, and have the stamp countersigned by an authorized representative.

33.1.2. The BAC shall open the first bid envelopes of bidders in public as specified in the

bidding documents to determine each bidder's compliance with the documents prescribed therein.

- 33.1.3. For this purpose, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a non-discretionary "pass/fail" criterion. If a bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as "failed". Otherwise, the BAC shall rate the said first bid envelope as "passed".
- 33.1.4. The BAC may request the prospective bidders to identify an individual who shall act as a third party witness and countercheck the eligibility documents being examined by the BAC. This is especially important if there are no observers present during the Bid Opening.
- 33.1.5. Alternatively, the BAC may use any device (i.e., document camera, opaque projector, etc.) that will enable all attendees to view the document being examined.
- 33.1.6. Immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible bidder whose first bid envelope was rated "passed". The second envelope of each complying bidder shall be opened within the same day.
- 33.1.7. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC unless otherwise provided in the bidding documents, the BAC shall rate the bid concerned as "failed". Only bids that are determined to contain all the bid requirements for both components shall be rated "passed" and shall immediately be considered for evaluation and comparison.
- 33.1.8. A bidder determined as "failed" has three (3) calendar days upon written notice or, if present at the time of bid opening, upon verbal notification, within which to file a request or motion for reconsideration with the BAC: Provided, however, that the motion for reconsideration shall not be granted if it is established that the finding of failure is due to the fault of the bidder concerned: Provided, further, that the BAC shall decide on the request for reconsideration within seven (7) calendar days from receipt thereof. If a failed bidder signifies his intent to file a motion for reconsideration, the BAC shall keep the bid envelopes of the said failed bidder unopened and/or duly sealed until such time that the motion for reconsideration or protest has been resolved.
- 33.1.9. In case the motion for reconsideration is granted, the BAC shall set schedule for the opening of the financial proposal of the said failed bidder. In this case, the BAC shall notify all bidders to witness the opening thereof.
- 33.1.10. The BAC shall return the bid envelopes of a prospective bidder if it is declared "ineligible" and it does not signify its intention to file a request for reconsideration or expressly waives its right to file a motion for reconsideration. In the case of the latter, such waiver shall be made in writing to be executed by the authorized representative of the ineligible bidder.
- 33.1.11. Bids that exceed the ABC will automatically be disqualified. In the case of foreign currency denominated bids, where allowed by the law and rules, the same shall be converted to Philippine currency based on the exchange rate prevailing on the day

of the bid opening. The BSP reference rate as of the date of the bid opening shall be used.

33.1.12. All members of the BAC or their duly authorized representatives who are present during bid opening, shall initial every page of the original copies of all bids received and opened.

33.1.13. The BAC Secretariat shall record the proceedings using a tape recorder, or a video recorder or any device that may facilitate the recording. The minutes of the bid opening should be prepared within three (3) calendar days after the bid opening date, so that copies thereof could immediately be sent to the BAC members, observers, bidders and other interested parties. Copies of the minutes shall also be made available to the public upon written request and payment of a specified fee to recover cost of materials.

33.2 What is the effect if only one bidder submits its eligibility and bid envelopes?

The presence of only one bidder and even if he/she alone submits its bid, the bidding process continues. If the bidder is declared eligible and its bid is found to be responsive to the bidding requirements, its bid will be declared as a Single Calculated and Responsive Bid (SCRB) and considered for contract award as contemplated in Section 36 of the IRR of RA 9184.

33.3 Once declared eligible, may questions/doubts that have been raised about the eligibility of a prospective bidder be entertained?

Notwithstanding the eligibility of a prospective bidder, the PE concerned reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that:

1. A misrepresentation has been made by the said prospective bidder, or
2. That there has been a change in the prospective bidder's capability to undertake the project from the time it submitted its eligibility requirements.
Under Section 23.7 of the IRR, should such review uncover any misrepresentation made in the eligibility requirements, statements or documents, or any changes in the situation of the prospective bidder which will affect the capability of the bidder to undertake the project so that it fails the preset eligibility criteria, the PE shall consider the said prospective bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.

In relation to this, a prospective bidder found guilty of false information faces imprisonment of not less than six (6) years and one (1) day but not more than 15 years.³²

33.4 Disqualification

Disqualification is a distinct concept from ineligibility and post-disqualification. When a bidder is disqualified, it is barred from further participating in the procurement at hand, even if, in some instances, it has initially been declared eligible. Even if a bidder is post-qualified, if after such post-qualification, the PE has found grounds for disqualification, the latter may declare such bidder disqualified, hence, the PE shall not award the contract to the former.

³² Section 65.3 of the IRR of RA 9184.

33.5 Conflict of Interest

Aside from those who are not eligible to bid for the procurement of goods, a bidder that has a conflict of interest shall be disqualified to participate in the procurement at hand. A bidder would be considered as having a conflict of interest with another bidder in any of the events described in paragraphs 1 through 3 below and a general conflict of interest in any of the circumstances set out in paragraphs 4 through 6 below:

1. If the bidder is a corporation or a partnership and it has officers, directors, controlling shareholders, partners or members in common with another bidder; or if the bidder is an individual or a sole proprietorship and he is the proprietor of another bidder, or an officer, director or a controlling shareholder of another bidder; or if the bidder is a joint venture and it or any of its members has officers, directors, controlling shareholders or members in common with another bidder, or any of its members is a bidder;
2. A bidder receives or has received any direct or indirect subsidy from another bidder;
3. A bidder has the same legal representative as any other bidder for purposes of the bidding at hand;
4. A bidder has a relationship directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another bidder, or influence the decisions of the PE regarding the bidding process. This will include a firm or an organization that lends, or temporarily seconds its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project;
5. A bidder submits more than one bid in the bidding process. However, this does not limit the participation of subcontractors in more than one bid; or
6. A bidder who participated as a consultant in the preparation of the design or technical specifications of the goods and related services that are the subject of the bid.

33.6 Disclosure of Relations

In accordance with Section 47 of the IRR, the bidder shall execute a sworn affidavit attesting that it is not related to the HOPE, members of the BAC, the TWG, and the BAC Secretariat, the head of the PMO or the end-user unit, and the project consultants, by consanguinity or affinity up to the third civil degree. This prohibition shall apply to the following persons:

1. If the bidder is an individual or a sole proprietorship, to the bidder himself;
2. If the bidder is a partnership, to all its officers and members;
3. If the bidder is a corporation, to all its officers, directors and controlling stockholders; and
4. If the bidder is a joint venture, items 1 through 3 above shall correspondingly apply to each of the members of the said joint venture, as may be appropriate.

To establish the non-existence of the above relationship, and to bind the bidders to its representation relating to the foregoing, all bids must be accompanied by a Disclosure Affidavit of the bidder to that effect.

33.7 No prospective bidder is declared eligible

If no prospective bidder is found to be eligible, the BAC should declare the bidding a failure.

1. In such a case, the BAC shall issue a Resolution declaring a failure of bidding.
 2. In order to determine the reason for the failed bidding, the BAC shall conduct a mandatory review and evaluation of the terms, conditions, and specifications in the bidding documents, including its cost estimates.
 3. Based on its findings, the BAC shall revise the terms, conditions, and specifications, and if necessary, adjust the ABC, subject to the required approvals, and conduct a re-bidding with re-advertisement and/or posting, as provided for in Section 21.2 of the IRR.
 4. All bidders that have initially responded to the Invitation to Bid and have been declared eligible in the previous biddings shall be allowed to submit new bids.
 5. The BAC shall observe the same process and set the new periods according to the same rules followed during the previous bidding/s.
- If the original estimate is found to be inadequate on reassessment to meet the objectives of the project, it may be necessary to reduce the scope of the project.
- Should there occur a second failure of bidding, the procuring entity may resort to negotiated procurement, as provided for in Section 53.1 of the IRR.

33.7 Withdrawal of Bids

- 33.7.1 A bidder may, through a letter, withdraw its bid before the deadline for the receipt of bids. Withdrawal of bids after the applicable deadline shall be subject to appropriate sanctions as prescribed in the IRR.
- 33.7.2 A bidder may also express its intention not to participate in the bidding through a letter which should reach and be stamped received by the BAC before the deadline for the receipt of bids. A bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.³³
- 33.7.3 It should be noted however that the act of habitually withdrawing from bidding or submitting letter of non-participation for at least three (3) times within a year is a ground for the position of administrative penalties, except when done for a valid reason.
- 33.7.4 The bidder that withdraws its bid beyond the deadline for the submission of bids will forfeit its bid security, as well as the imposition of any applicable administrative, civil and/or criminal sanction prescribed in R.A. 9184 and its IRR.

34. Remedies Of A Prospective Bidder If Found Ineligible Or Declared Non-Compliant

34.1. Request for Reconsideration

a. Who can file

A prospective bidder found ineligible or was declared failed has three (3) calendar days from receipt of the Notice of Ineligibility/Failure, within which to file a written request for reconsideration before the BAC.

If the prospective bidder was present during bid opening and was duly notified ***(a verbal notification will suffice in this case)*** of its ineligibility/failure, it also has three (3) calendar days upon such notice within which to file a written request for reconsideration.

³³ Section 26.2 of the IRR of RA 9184.

b. Duty of BAC

The BAC should resolve the request for reconsideration within seven (7) calendar days after its receipt. In the meantime, it will hold on to the bid of the prospective bidder until the request for reconsideration is resolved.

34.2. Protest

a. Who can file

If its request for reconsideration is denied, the ineligible bidder may protest the decision in writing with the HOPE within seven (7) calendar days from receipt of the resolution. A protest may be made by filing a verified position paper with the HOPE concerned, accompanied by the payment of a non-refundable protest fee determined pursuant GPPB Resolution No. 05-2012.³⁴

b. Contents

The protest shall be in the form of position paper which shall contain the following information:

1. The name of bidder;
2. The office address of the bidder;
3. The name of project/contract;
4. The implementing office/agency or PE;
5. A brief statement of facts;
6. The issue to be resolved; and
7. Such other matters and information pertinent and relevant to the proper resolution of the protest.

Section 55.2 of the IRR provides that the position paper is verified by an affidavit that the affiant has read and understood the contents thereof and that the allegations therein are true and correct of his personal knowledge or based on authentic records. An unverified position paper shall be considered unsigned, produces no legal effect, and results to the outright dismissal of the protest.

c. Duty of HOPE

The protest shall be resolved strictly based on records of the BAC. The HOPE shall resolve a protest within seven (7) calendar days from receipt thereof. Subject to the provisions of existing laws on the authority of OGCC Secretaries and the heads of agencies, branches, constitutional commissions or instrumentalities of the Government to approve contracts, the decision of the HOPE concerned shall be final up to the limit of his/her contract approving authority.³⁵

35. Evaluation Of Bids

35.1. Legal Reference

Section 32 of the IRR of RA 9184 provides for the bid evaluation for the procurement of goods to determine the Lowest Calculated Bid (LCB).

³⁴ GPPB Resolution No. 05-2012 dated 30 March 2012.

³⁵ Section 55.1 of the IRR of RA 9184.

35.2. Purpose of Bid Evaluation

Section 32.2 of the IRR of RA 9184 provides that the purpose of bid evaluation is to determine the LCB. This is done by:

1. Establishing the correct calculated prices of the bids, through a detailed evaluation of the financial component of the bids; and
2. Ranking of the total bid prices from the lowest to the highest as evaluated and corrected for computational errors, and other bid modifications. The bid with the lowest price shall be identified as the LCB.

35.3. Period of Bid Evaluation

The entire evaluation process for the bids for the procurement of goods must be completed in not more than **seven (7) calendar days** from the deadline for receipt of proposals.³⁶

35.4. Participants

The following must participate in the bid evaluation process:

1. BAC;
2. TWG;
3. BAC Secretariat/Procurement Unit; and
4. Observers.

35.5. Procedure

1. After the preliminary examination of bids, the BAC, or through the TWG, shall immediately conduct a detailed evaluation of all bids rated “passed,” using a non-discretionary pass/fail criteria, as stated in the Invitation to Bid and Instruction to Bidders, which shall include a consideration of the following:
 - a. Completeness of the bid. Unless the Instruction to Bidders specifically allow partial bids, bids not addressing or providing all of the required items in the bidding documents including, where applicable, those requirements pertaining to the civil works components of Goods procured, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a “0” (zero) for the said item would mean that it is being offered for free to the Government.³⁷
 - b. Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications if expressly allowed in the bidding documents. Any adjustment shall be calculated in monetary terms to determine the calculated prices.³⁸

³⁶ Section 32.4 of the IRR of RA 9184.

³⁷ Section 32.2.1.a of the IRR of RA 9184.

³⁸ Section 32.2.1.b of the IRR of RA 9184.

2. The BAC shall evaluate all bids on an equal footing to ensure fair and competitive bid evaluation. For this purpose, all bidders shall be required to include the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.³⁹ Moreover, applicable customs duties, as well as other costs of acquisition such as freight, insurance, and bank charges, must be incorporated in the bid.
3. In case of discrepancies between: (a) bid prices in figures and in words, the latter shall prevail; (b) total price per item and unit price for the item as extended or multiplied by the quantity of that item, the latter shall prevail; (c) stated total price and the actual sum of prices of component items, the latter shall prevail, and (d) unit cost in the detailed estimate and unit cost in the bill of quantities, the latter shall prevail.⁴⁰
4. Bids shall then be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, and other bid modifications, to identify the LCB. Total calculated bid prices, as evaluated and corrected for computational errors, and other bid modifications, which exceed the ABC shall be disqualified, unless otherwise indicated in the bidding documents.⁴¹
5. After all bids have been received, opened, examined, evaluated and ranked, the BAC shall prepare the corresponding Abstract of Bids. All members of the BAC shall sign the Abstract of Bids and attach thereto all the bids with their corresponding Bid Securities and the minutes or proceedings of the bidding.⁴²
6. The Abstract of Bids shall contain the following:
7. Name of the contract and its location, if applicable;
8. Time, date and place of bid opening; and
9. 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.
10. The TWG, with the assistance of the BAC Secretariat, when directed by the BAC, should prepare the Evaluation Report, containing the details of the evaluation conducted, preferably within three (3) calendar days from the date the evaluation was concluded.
11. During the bid evaluation stage, members of the BAC, including its staff and personnel, as well as its Secretariat and TWG are prohibited from making or accepting any communication with any bidder regarding the evaluation of their bids until the issuance of the notice of award.

³⁹ Section 32.2.2 of the IRR of RA 9184.

⁴⁰ Section 32.2.3 of the IRR of RA 9184.

⁴¹ Section 32.2.4 of the IRR of RA 9184.

⁴² Section 32.3 of the IRR of RA 9184.

12. However, the BAC, through the Secretariat, may ask in writing the bidder for a clarification of its bid. All responses to requests for clarification shall be in writing.
13. Mere inquiry or follow-up on the status of a procurement activity, i.e., the stage or progress of the bidding process where the procurement activity is at, is not within the scope of the prohibited communication contemplated under the rules, and may thus be accepted and responded to by the BAC. Accordingly, the response of the procuring entity should only indicate the status of the procurement activity and not include any other information relative to the evaluation of bids, such as, but not limited to, the result of the evaluation process, outcome of the post-qualification, and the name of the winning bidder. (GPPB NPM No. 017-2011)

35.6. Effect if a bidder does not accept the arithmetical corrections done by the BAC on its bid

The BAC must disqualify the bid and forfeit the bid security of the bidder.

35.7. Effect if no bid complies with all bid requirements

- 35.7.1. If no eligible bidder submits a bid, the BAC should declare the bidding a failure. In such a case, the BAC shall issue a Resolution declaring a failure of bidding. In order to determine the reason for the failed bidding, the BAC shall conduct a mandatory review and evaluation of the terms, conditions, and specifications in the bidding documents, including its cost estimates.
- 35.7.2. Based on its findings, the BAC shall revise the terms, conditions, and specifications, and if necessary, adjust the ABC, subject to the required approvals, and conduct a re-bidding with re-advertisement and/or posting, as provided for in Section 21.2 of the IRR.
- 35.7.3. All bidders who have initially responded to the Invitation to Bid/Request for Expression of Interest and have been declared eligible or short-listed in the previous biddings shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules followed during the previous bidding(s).
- 35.7.4. Should there occur a second failure of bidding, the PE may resort to negotiated procurement, as provided for in Section 53.1 of the IRR.

35.8. Lease of Computers, Communications, Information and Other Equipment

Contracts for lease of construction and office equipment, including computers, communication and information technology equipment, are subject to the same public bidding and procurement procedures as prescribed in RA 9184 and its IRR. Please refer also to Joint Memorandum Circular No. 2002-01 issued by the National Computer Center (NCC) and the DBM, which provides the policies, rules and regulations on lease of IT equipment. Also, reference may be made to OGCC Order No. 188 (dated September 28, 1999) and OGCC Order No. 219 (dated August 14, 2003), issued by the OGCC of Public Works and Highways (DPWH), governing the lease of construction equipment.

35.9. The Tie Breaking Method

Under **GPPB Circular 06-2005** procuring entities are required to identify at the onset of the bidding process and include in the bidding documents as instruction or a matter of information to prospective bidders, a ready and clear measure to be used in the event two or more of the bidders have been post-qualified as LCRB. In all cases, the measure determined by the PE shall be non-discretionary and non-discriminatory such that the same is based on sheer luck or chance. The PE may use “draw lots” or similar methods of chance.

However, in lieu of the pre-determined criteria set and declared in the bidding documents, the procuring entity may opt to bring the concerned bidders to agree on a better selection criteria which should also be non-discretionary/non-discriminatory and is similarly based on sheer luck or chance.

36. Post-Qualification

36.1. Legal Reference

Section 34 of IRR of RA 9184 provides for the objective and process of post-qualification where the Lowest Calculated Bid (LCB) shall undergo process in order to determine whether the bidder concerned complies with and is responsive to all the requirements and conditions as specified in the Bidding Documents.

36.2. Purpose

It is the process of verifying, validating, and ascertaining all the statements made and documents submitted by the LCB, which includes ascertaining the said bidder's compliance with the legal, technical and financial requirements submitted, to determine whether the bidder concerned complies with and is responsive to all the requirements and conditions as specified in the bidding documents.

If its eligibility documents had been validated and verified, and its compliance with the legal, financial, and technical requirements of the bid had been ascertained, the bidder must be declared the bidder with the “Lowest Calculated Responsive Bid” (LCRB).

36.3. Documentary Requirements in Post-Qualification

36.3.1. Within three (3) calendar days from receipt by the bidder of the notice from the BAC that the bidder has the LCB, the bidder shall submit the following documentary requirements to the BAC:

1. Tax clearance;
2. Latest income and business tax returns;
3. Certificate of PhilGEPS registration; and
4. Other appropriate licenses and permits required by law and stated in the bidding documents.

Failure to submit the above requirements on time or a finding against the veracity of such shall be ground for the forfeiture of the bid security and disqualify the bidder for award.

36.4. **The BAC, with the assistance of the Secretariat and TWG shall verify, validate, and ascertain all statements made and submitted by the LCB using a non-**

discretionary criterion, as stated in the bidding documents. These criteria shall consider, but shall not be limited, to the following:⁴³

1. Legal Requirements. The post-qualification process under this criterion involves the verification, validation and ascertaining of the licenses, certificates, permits, and agreements submitted by the bidder and its claim that it is not included in the “blacklist” maintained by the GPPB.
2. Technical Requirements. Post-qualification under this criterion means that the BAC validates, verifies, and ascertains the veracity of the documents submitted by a supplier, manufacturer or distributor to prove compliance of the goods and services offered with the requirements of the contract and bidding documents. This involves the following processes:
 - a. Verification and validation of the bidder’s stated competence and experience;
 - b. 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;
 - c. Verification and/or inspection and testing of the goods/products, after-sales and/or maintenance capabilities, in applicable cases; and
 - d. Ascertainment of sufficiency of the Bid Security as to type, amount, form and wording, and validity period.
3. Financial Requirements. Under this criterion, the BAC verifies, validates and ascertains the bid price proposal of the bidder and, whenever applicable, the required CLC in the amount specified and over the period stipulated in the bidding documents, or the bidder’s NFCC to ensure that the bidder can sustain the operating cash flow of the transaction.

36.5. Participants

The following Parties are involved in the conduct of post-qualification:

1. BAC;
2. TWG;
3. BAC Secretariat/Procurement Unit; and
4. End-user unit.

36.6. Timeline for the conduct of Post-qualification

Section 34.8 provides that the post-qualification process shall be completed in not more than seven (7) calendar days from completion of bid evaluation. However, in exceptional cases said period may be extended by the HOPE, but in no case should the aggregate period exceed thirty (30) calendar days.

⁴³ Section 34.3 of the IRR of RA 9184.

36.7. Procedure

1. The BAC/TWG verifies, validates, and ascertains the genuineness, validity and accuracy of the legal, technical and financial documents submitted by the bidder with the LCB, using the non-discretionary criteria described above. In verifying the information contained in such documents, the BAC/TWG may make inquiries with appropriate government agencies and examine the original documents kept in the bidder's place of business. The use of other means for verification and validation of such documents may be resorted to by the BAC/TWG, such as the internet and other research methods that yield the same results.
1. The BAC/TWG conducts a site inspection of the bidder's place of business and/or plant/factory, where applicable.
3. The BAC/TWG tests samples for compliance with specifications and performance levels, where applicable.
4. The BAC/TWG inquires about the bidder's performance in relation with other contracts/transactions as indicated in its eligibility statement (statement of on-going, completed or awarded contracts).
5. If the TWG conducts the post-qualification, it prepares a post-qualification report to be submitted to the BAC. The report shall contain, among others, the activities undertaken with regard to the post-qualification process, feedback from inquiries conducted, and the results of any tests conducted by the TWG or an accredited government testing center, where applicable.
6. The BAC reviews the post-qualification report submitted by the TWG.
7. The BAC determines whether the bidder with the LCB passes all the criteria for post-qualification.
8. If the LCB passes the post-qualification, the BAC declares it as the LCRB.
1. After the BAC has determined the LCRB, the Secretariat, with the assistance of the TWG, if necessary, prepares the BAC resolution declaring the LCRB and the corresponding notice to the said bidder informing it of its post-qualification.

36.8. Rules when the bidder with the LCB fails Post-qualification

1. If the bidder with the LCB fails to pass post qualification, the BAC shall immediately notify the said bidder in writing of its post-disqualification and the grounds for it. The post-disqualified bidder shall have three (3) calendar days from receipt of the said notification to request from the BAC, if it so wishes, a reconsideration of its decision.
2. The BAC shall evaluate the request for reconsideration, if any, using the same non-discretionary criteria, and shall issue its final determination of the said request within seven (7) calendar days from receipt thereof.⁴⁴
3. Similar to the cases of bidders deemed to be ineligible and whose bids are rated "failed," the bidder with the LCB who fails to pass post-qualification may

⁴⁴ Section 55.1 of the IRR of RA 9184.

likewise file a protest with the payment of the corresponding fee in case the BAC denies its request for reconsideration.

4. Immediately after the BAC has notified the first bidder of its post-disqualification, and notwithstanding any pending request for reconsideration thereof, the BAC shall initiate and complete the same post-qualification process on the bidder with the second LCB. If the second bidder passes the post-qualification, and provided that the request for reconsideration of the first bidder has been denied, the BAC shall declare the second bidder as the bidder with the LCRB. The HOPE shall then award the contract to him/her.⁴⁵
5. If the second bidder, however, fails the post-qualification, the procedure for post-qualification shall be repeated for the bidder with the next LCB, and so on until the LCRB, is determined for award.⁴⁶

36.9. All bidders fail Post-qualification

- 36.9.1. If no bidder passes post-qualification, the BAC shall issue a Resolution declaring a failure of bidding. In order to determine the reason for the failed bidding, the BAC shall conduct a mandatory review and evaluation of the terms, conditions, and specifications in the bidding documents, including its cost estimates.
- 36.9.2. Based on its findings, the BAC shall revise the terms, conditions, and specifications, and if necessary, adjust the ABC, subject to the required approvals, and conduct a re-bidding with re-advertisement and/or posting, as provided for in Section 21.2 of the IRR.
- 36.9.3. All bidders who have initially responded to the Invitation to Bid and have been declared eligible or short listed in the previous biddings shall be allowed to submit new bids. The BAC shall observe the same process and set the new periods according to the same rules followed during the previous bidding(s).

37. Award Of Contract

37.1. Legal Reference

Section 37 of the IRR of RA 9184 is the legal basis for the award of contract which necessary covers the HOPE's approval of the BAC Resolution recommending award to the LCRB and issuance of the NOA.

37.2. Purpose

The contract shall be awarded to the bidder with the LCRB at its submitted bid price or its calculated bid price, whichever is lower.⁴⁷ The BAC shall issue a resolution recommending to the HOPE award of the contract to the bidder with the LCRB at its submitted bid price or its calculated bid price, whichever is lower.

37.3. Rule on Contract Award

⁴⁵ Section 34.6 of the IRR of RA 9184.

⁴⁶ Section 34.7 of the IRR of RA 9184.

⁴⁷ Section 37.1 of the IRR of RA 9184.

After the post-qualification process has been completed, the BAC shall issue a Resolution addressed to the HOPE recommending award of contract to the bidder with the LCRB/SCRB at its submitted bid price or its calculated bid price, whichever is lower.⁴⁸

Prior to the expiration of the period of bid validity, the PE should notify the successful bidder in writing that its bid has been accepted, through a Notice of Award (NOA) received personally or sent by registered mail or electronically. It is important that, in case the NOA is not received personally, its receipt must be confirmed in writing within two (2) days by the successful bidder and submitted personally or sent by registered mail or electronically to the PE (this particular instruction must be included in the Instruction to Bidders so that the bidder may be guided accordingly).

37.4. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:

- a. Submission of the valid JVA, if applicable, within ten (10) calendar days from receipt by the Bidder of the notice from the BAC that the Bidder has the LCRB;
- b. Posting of the performance security in accordance with the Instruction to Bidders
- c. Signing of the contract as provided in the Instruction to Bidders; and
- d. Approval by higher authority, if required.

37.5. Timeline for Contract Award

Section 37.1.2 The HOPE or his duly authorized representative should approve or disapprove the recommendation of award within a period not exceeding seven (7) calendar days from the date of receipt of the recommendation of the BAC.

In the case of GOCCs and GFIs, the governing Board has a period of fifteen (15) calendar days to approve or disapprove the said recommendation.

The Notice of Award shall be given to the bidder with the LCRB immediately after approval of the recommendation. The BAC, through the Secretariat, shall post within three (3) calendar days from its issuance, the Notice of Award in the PhilGEPS, the website of PE, if any, and any conspicuous place in the premises of the PE.

Contract award must be made within one hundred twenty (120) calendar days from the date of bid opening but not to exceed the bid validity period as specified in the bidding documents. If award cannot be made within the period, the bid validity period should be extended.⁴⁹

⁴⁸ For FAPs, the award shall be based on the adjusted price after correction of error in computation.

⁴⁹ Section 28.2 of the IRR of RA 9184.

37.6. Procedure

1. The BAC Secretariat consolidates all the documents and/or records of the proceedings of the BAC with regard to the procurement at hand, and attaches the same to the BAC Resolution.
2. The BAC Secretariat drafts the BAC Resolution recommending award.
3. The BAC approves and signs the Resolution recommending award, and transmits the same to the HOPE.
4. To facilitate the approval of the award, the BAC shall submit the following supporting documents to the HOPE:
 - a) Resolution of the BAC recommending award;
 - b) Abstract of Bids;
 - c) Duly approved delivery schedule;
 - d) Document issued by appropriate entity authorizing the PE to incur obligations for a specified amount; and
 - e) Other pertinent documents required by existing laws, rules, and/or the PE concerned.
5. The HOPE, or his/her duly authorized representative, acts on the recommendation for award within seven (7) calendar days from the date of receipt of the recommendation of the BAC. In the case of GOCCs and GFIs, the governing Board shall have fifteen (15) calendar days within which to approve the recommendation for award.
6. In case of approval of the recommendation, the HOPE, through the procurement unit/office, issues the Notice of Award to the bidder with the LCRB/SCRB, while the BAC accordingly notifies the losing bidders. In case of a disapproval of the recommendation of award, the HOPE shall state the reason(s) for disapproval and instruct the BAC on the subsequent steps to be adopted. Such disapproval shall be based only on valid, reasonable, and justifiable grounds to be expressed in writing, copy furnished the BAC.
7. The bidder with the LCRB/SCRB accepts the Notice of Award.

38. Performance Security

38.1. Legal Reference

Section 39 of the IRR of RA 9184 provides for the purpose and basis for the posting of this security.

38.2. Purpose

It is a guarantee that the winning bidder will faithfully perform its obligations under the contract prepared in accordance with the bidding documents. It shall be in an amount equal to the percentage of the total contract price and in accordance with the schedule provided in Section 39.2 of the IRR and as stated in the bidding documents. It must be denominated in Philippine Pesos

and posted in favor of the PE, and will be forfeited in the latter's favor in the event it is established that the winning bidder is in default in any of its obligations under the contract.

38.3. When required

Within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the PE, and in all cases upon the signing of the contract, the successful bidder should furnish the PE with the performance security in accordance with the bidding documents.⁵⁰ The performance security forms part of the contract.

38.4. The performance security must be in any of the following or a combination of forms with the corresponding required amounts:

Forms of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
1. Cash or cashier's/manager's check, issued by a Universal or Commercial Bank.	Five percent (5%)
2. Bank draft/guarantee or 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.	
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.	Thirty percent (30%)
4. Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security

38.5. Who determines the form of the Performance Security to be submitted

The winning bidder must choose which among the preferred forms it shall submit.

38.6. In case of amendments in the contract price, will there be a corresponding change in the amount of the Performance Security?

Yes. The winning bidder shall post an additional performance security following the schedule above to cover any cumulative increase of more than ten percent (10%) over the original value of the contract as a result of amendments to order.⁵¹ The percentages in the schedule above must be applied to increases in the original value of the contract. The winning bidder must also cause the extension of the validity of the performance security to cover approved contract time extensions.

If the contract value is reduced because part of the goods or services under the contract had already been delivered or completed, and accepted by the government, the PE shall allow a proportional reduction in the original performance security. However, this proportional reduction in the value of the performance security is allowed only when the contract allows for partial deliveries or performance. Moreover, the reductions must be more than ten percent (10%), and the aggregate

⁵⁰ Section 37.2.1 of the IRR of RA 9184.

⁵¹ Section 1.4 Annex "D" of IRR, as amended by Section 1.4 M.O. 176, s. 2005.

of such reductions must not be more than fifty percent (50%) of the original performance security.⁵²

38.7. Release of Performance Security

Subject to the terms and conditions of the contract, the PE may release the performance security to the winning bidder after the issuance of the Certificate of Acceptance of the goods, provided that the PE has no claims filed against the contract awardee or the surety company and it has no claims for labor and materials filed against the contractor. However, it must ensure that the performance security is replaced by a warranty covering the defects liability period in accordance with Section 62 of the IRR.

38.8. Participants

The bidder with the LCRB, the PE and the issuer of the security, *e.g.*, the banking/financial institution or the insurance company, are all involved in the posting of the performance security.

38.9. Procedure

1. The bidder with the LCRB/SCRB posts a performance security. In so doing, it must comply with the following conditions:
 - a. The performance security must be executed in any of the acceptable form/s prescribed in the Instruction to Bidders; and
 - b. The performance security must at least be co-terminus with the period of completion of the contract or until issuance of the final Certificate of Acceptance.

38.10. Effect if the bidder being considered for award does not accept the award

If the bidder refuses to accept the award within the bid validity period, the BAC shall forfeit the bid security of the bidder and shall initiate the blacklisting proceedings in accordance with the Uniform Guidelines for Blacklisting (GPPB Resolution No. 09-2004).

It then initiates and completes the post-qualification of the bidder with the second lowest calculated bid. If found qualified, the said bidder shall be awarded the contract. This procedure is repeated until the LCRB is determined. Should all eligible bidders fail post-qualification, the BAC must declare the bidding a failure.

Refusal to accept an award, without just cause or for the purpose of forcing the PE to award the contract to another bidder, if proven, is meted with a penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years.⁵³ Additional penalties of suspension for one (1) year from participation in government procurement for the first offense, and suspension for two (2) years for the second offense shall also be imposed on the bidder.

⁵² Section 39.7 of the IRR of RA 9184.

⁵³ Section 65.3 (d) of the IRR of RA 9184.

39. Contract Signing And Issuance Of Notice To Proceed

39.1. Contract Signing

Section 37.2.1 of the IRR of RA 9184 provides that the winning bidder and the PE must enter into a contract immediately after the former has submitted the performance security and all other documentary requirements within the period specified in the IRR. The parties must sign the contract within ten (10) calendar days from receipt by the winning bidder of the Notice of Award.

The HOPE may authorize the person who may sign as instrumental witness to the contract.

The PE signatory is encouraged to sign within the same day as the signing of the bidder as there are penalties against delaying, without justifiable cause, the award of the contract.⁵⁴ Moreover, it would be best for the winning bidder and the HOPE, or its appropriate signing authority, to sign/execute the contract together – provided that all contract documents and requirements are complete – so that both may personally appear before a Notary Public.

39.2. Timelines for contract approval

When, after contract signing, further approval of a higher authority is required, the approving authority for the contract, or his duly authorized representative, shall be given a maximum of fifteen (15) calendar days from receipt thereof, together with all documentary requirements to perfect the said contract, to approve or disapprove it.

In the case of GOCCs and GFIs, when further approval of the governing Board is required, the said governing Board or its duly authorized representative has twenty-five (25) calendar days.

39.3. Issuance of Notice to Proceed

The PE shall issue the Notice to Proceed together with a copy of the approved contract to the successful bidder within three (3) calendar days from the date of approval of the contract by the appropriate government approving authority.⁵⁵

39.4. Contract Effectivity

The contract shall take effect on the date specified in the Notice to Proceed, which date shall not be later than seven (7) calendar days from its issuance. In case the procuring entity failed to specify the date of effectivity in the Notice to Proceed, the contract shall be deemed to take effect on the seventh day from the issuance of the Notice to Proceed.

39.5. Participants

1. BAC Secretariat/Procurement Unit/Office;
2. HOPE;
3. Winning bidder; and
4. End-user;

⁵⁴ Section 65.1 (b) of the IRR of RA 9184.

⁵⁵ Section 37.4.1 of the IRR of RA 9184.

39.6. **Contents of the Contract**

1. Bidding Documents;
2. Winning bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted;
3. Performance Security;
4. Credit Line in accordance with the provisions of the IRR, if applicable;
5. Notice of Award of Contract; and
6. Other documents that may be required by existing laws and/or the PE concerned.

39.7. **Procedure**

1. The winning bidder submits all the documentary requirements, including the performance security, and signs the contract.
2. The procurement unit/office transmits the contract documents to the HOPE or appropriate signing authority for signature, together with the following documents:
 - a. Duly approved delivery schedule and cost estimates or OS;
 - b. CAF;
 - c. MYOA, in case of multi-year contracts;
 - d. Abstract of Bids;
 - e. Resolution of the BAC recommending award;
 - f. Approval of award by the appropriate approving authority; and
 - g. Other pertinent documents that may be required by existing laws and/or the PE concerned.
3. After signing, if the contract needs the approval of a higher authority – such as, for bureaus, the OGCC Secretary, when required – the procurement unit/office transmits the contract and related documents to the approving authority or his authorized representative for approval.
4. The approving authority or his authorized representative acts on the contract within fifteen (15) calendar days, or twenty-five (25) calendar days for GOCCs and GFIs, from receipt thereof.
5. If further approval is required (*e.g.*, approval of the Office of the President), or a review by another government body is necessary (*e.g.*, NEDA or OGCC review), the HOPE transmits the contract documents to the appropriate approving authority or reviewing body. The periods indicated above for approval of contracts still apply, except if the approving authority is the Office of the President.
6. The HOPE or his/her duly authorized representative issues the Notice to Proceed within three (3) calendar days from the date of the approval of the contract.

7. The PE, through the BAC Secretariat, shall post the Notice to Proceed and the approved contract in the PhilGEPS or the website of the PE, if any, within fifteen (15) calendar days from the issuance of the Notice to Proceed.⁵⁶

39.8. If the bidder with the LCRB/SCRB refuses to, or is unable, through its own fault, to submit the necessary documents for contract award, post the performance security, and sign the contract within the prescribed period:

1. It shall be disqualified from participating in the bidding at hand; and
2. Its bid security is forfeited.

Upon determination of administrative liability, it will suffer the administrative penalties of suspension for one (1) year from participation in government procurement for the first offense, and suspension for two (2) years for the second offense. This is without prejudice to the blacklisting proceedings undertaken in accordance with the Uniform Guidelines for Blacklisting.⁵⁷

For its part, the BAC must initiate and complete the post-qualification of the bidder with the second LCRB. This procedure must be repeated until the LCRB is determined for award. If no bidder passes post-qualification, the BAC declares the bidding a failure and conducts a re-bidding with re-posting and re-advertisement. Should there be another failure of bidding after the conduct of the re-bidding, the PE may enter into a negotiated procurement.⁵⁸

If the bidder that fails to post the performance security and sign the contract happens to be the SCRB, the BAC must declare the bidding a failure. It then conducts a re-bidding with re-posting and re-advertisement. Should there be another failure of bidding after the conduct of the re-bidding, the PE may enter into a negotiated procurement.⁵⁹

The BAC shall initiate the process of blacklisting. The Uniform Guidelines for Blacklisting of manufacturers, suppliers, distributors, and contractors shall be used.

If the failure of the bidder with the LCRB/SCRB to sign the contract within the prescribed period is not due to its fault, the sanctions mentioned above shall not be imposed.⁶⁰

40. Alternative Methods For The Procurement Of Goods

40.1. Conditions

- 40.1.1. As a general rule, PEs shall adopt competitive bidding or public bidding, as a general mode of procurement and see to it that the procurement program allows sufficient lead time for the public bidding.
- 40.1.2. As an exception, alternative methods of procurement maybe be adopted

⁵⁶ Section 37.4.2 of the IRR of RA 9184.

⁵⁷ GPPB Resolution 09-2004.

⁵⁸ Section 40.2 of the IRR of RA 9184.

⁵⁹ Section 40.3 of the IRR of RA 9184.

⁶⁰ Section 40.1 of the IRR of RA 9184.

upon approval of the HOPE after favorable recommendation from the BAC that all of the conditions in resorting to the same are complied with. These are subject to the following conditions:

- (1) Procurement is made in highly exceptional cases, as justified by the environmental conditions; and
- (2) Resort to alternative modes is necessary in order to promote economy and efficiency.

40.1.3. In cases where the original method of procurement specified in the APP is public bidding or a different alternative method of procurement and conditions arise justifying the use of an alternative method of procurement after the APP is finalized, the APP may be updated following the same process for its approval as provided in of this Manual.

40.2. No Splitting of Contracts

Splitting of Government Contracts is prohibited. Section 54.1 of the IRR defined splitting of government contracts as the division or breaking up of GOP contracts into smaller quantities and amounts, or dividing contract implementation into artificial phases or sub-contracts for the purpose of evading or circumventing the requirements of law and the revised IRR, especially the necessity of public bidding and the requirements for the alternative methods of procurement.

For instance, when two or more identical items are to be procured by different units within the PE, it must be consolidated and recommended for bidding, if conditions warrants. This will avoid occurrence of the splitting of government contracts.

40.3. Rules on Advertisement/Posting

Advertisement and/or posting of Invitation to Bid or Request for Quotation may be dispensed with, except in the following cases were the seven (7)-day period of posting in the PhilGEPS, website of the PE, if available, and at any conspicuous place reserved for this purpose is required:

- a. Shopping under Sections 52.1 (b) of the IRR, except those with an ABC amounting to Fifty Thousand Pesos (P 50,000.00) and below;
- b. Negotiated Procurement under Sections 53.1 of the IRR (two-failed biddings);
- c. Negotiated Procurement under 53.9 of the IRR (Small value procurement), except those with an ABC amounting to Fifty Thousand Pesos (P50,000.00) and below; and
- d. Negotiated Procurement under Section 53.10 of the IRR (Lease of Real Property and Venue), except those with an ABC amounting to Fifty Thousand Pesos (P50,000.00) and below.

However, once procurement through alternative method is completed, it is the responsibility of the BAC Secretariat, for information purposes, to post the Notice of Award in the PhilGEPS, website of the PE, if available, and at any conspicuous place reserved for this purpose in the premise of the PE.

40.4. Different Alternative Methods

40.4.1. Limited Source Bidding or Selective Bidding

40.4.1.1. Legal Reference

Section 49 of the IRR of RA 9184 provides for the basis of this alternative mode of procurement, otherwise known as “selective bidding”.

40.4.1.2. Definition

It is a method of procurement of goods and consulting services that involves the issuance of a direct invitation to bid by the concerned PE to a set of pre-selected suppliers with known experience and proven capability on the requirements of the particular contract.

40.4.1.3. What are the conditions?

- a. Procurement of highly specialized types of goods and consulting services where only few suppliers or consultants are known to be available, such that resorting to public bidding will not likely result in any additional suppliers or consultants participating; or
- b. Procurement of major plant components where it is deemed advantageous to limit the bidding to known qualified bidders in order to maintain uniform quality and performance of the plant as a whole.

40.4.1.4. Who will be invited to bid?

The pre-selected suppliers or consultants shall be those appearing in a list maintained by the relevant government authority that has expertise in the type of procurement concerned. The list of pre-selected suppliers or consultants shall be updated periodically. A copy of the list shall be submitted to, and to be maintained and updated by the GPPB.⁶¹

The pre-selection shall be based upon the capability and resources of the bidders to perform the contract taking into account their experience and past performance on similar contracts, capabilities with respect to personnel, equipment or manufacturing facilities and financial position. The BAC of the concerned PE shall directly invite all the suppliers or consultants appearing in the pre-selected list. All other procedures for competitive bidding shall be undertaken, except for the advertisement of Invitation to Bid/Request

⁶¹ Section 49.2 of the IRR of RA 9184.

for Expression of Interest under Section 21.2.1 of the IRR.

In the absence of a relevant government authority, the PE has to resort to open competitive bidding in its selection of a supplier. Examples of relevant government authorities are the NTC for telecommunications equipment, the Firearms and Explosives Division of the PNP for firearms and ammunition, and the FDA for drugs.

40.4.1.5. **The following are involved in the conduct of limited source bidding for the procurement of goods:**

1. HOPE;
2. BAC;
3. TWG;
4. BAC Secretariat/ Procurement Unit;
5. Invited suppliers; and
6. Observers.

40.4.1.6. **Procedural Requirements**

- a. The BAC ensures that the APP indicates that the method of procurement for the goods is Limited Source Bidding, and the conditions required for it exist.
- b. The BAC reviews the bidding documents, including the invitation notices, technical specifications, and/or terms of reference prepared by the end user unit.
- c. The BAC confirms that there is a pre-selected list that has been submitted to, maintained and updated by the GPPB. If no such list exists, the BAC conducts the following pre-selection process:
 - i. The BAC, with the assistance of the TWG, adopts a set of criteria to be used in evaluating the capability of the entities. The criteria should take into consideration the following characteristics:
 1. Capability and resources to perform the contract taking into account their experience and past performance on similar contracts;
 2. Capabilities with respect to personnel, equipment, or manufacturing facilities; and
 3. Financial position.
 - ii. The BAC invites all industry players of known experience and proven capability on the requirements of the particular contract to submit the necessary documents for evaluation.

- iii. The BAC evaluates and submits the recommended pre-selected list to the HOPE for approval. The pre-selected list should include the technical specifications of the project and the specific criteria used for evaluation.
 - iv. Upon approval, the HOPE transmits the pre-selected list to the GPPB together with a certification justifying resort to Limited Source Bidding and verifying the compliance with the criteria.
 - v. The GPPB-TSO acknowledges receipt of the pre-selected list and posts it in the GPPB or PhilGEPS website for purpose of information and transparency.
- d. Upon identification of the pre-selected list or receipt of the acknowledgment from the GPPB-TSO, the BAC, through the BAC Secretariat, posts the Invitation to Bid for a period of seven (7) calendar days in the following:
- 1. PhilGEPS website;
 - 2. PE's website, if any; and
 - 3. Any conspicuous place in the premises of the PE.
- e. The BAC, through its BAC Secretariat directly invites all the suppliers or consultants appearing in the pre-selected list.
- f. The BAC holds the same processes required for public or competitive bidding, and recommends the award of contract to the HOPE.
- g. The HOPE evaluates the recommendation and approves/disapproves the same.
- h. After the Notice of Award is issued by the HOPE and contractual procedures have been accomplished, the BAC Secretariat posts the Notice of Award, copies of the contract and Notice to Proceed in the following:
- 1. PhilGEPS website;
 - 2. PE's website, if any; and
 - 3. Any conspicuous place in the premises of the PE.

40.4.1.7.

Are bid performance and warranty securities required for Limited Source Bidding?

Yes, these are required and should be posted in accordance with procedures for competitive bidding.

40.4.2. 2. Direct Contracting or Single Source Procurement

40.4.2.1. Legal Reference

Section 50 of the IRR of RA 9184 provides for the basis for this alternative mode of procurement, otherwise known as “single source procurement”

40.4.2.2. Definition

It is a method of procurement of Goods that does not require elaborate bidding documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations.

40.4.2.3. Conditions

- a. Procurement of items of proprietary nature which can be obtained only from the proprietary source, i.e., when patents, trade secrets, and copyrights prohibit others from manufacturing the same item;
- b. Procurement of critical components from a specific manufacturer, supplier or distributor is a condition precedent to hold a contractor to guarantee its project performance in accordance with the provisions of its contract; and,
- c. Those sold by an exclusive dealer or manufacturer that does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the Government.

40.4.2.4. Justification

To justify the need to procure through the Direct Contracting method, the BAC should conduct a survey of the industry and determine the supply source. This survey should confirm the exclusivity of the source of goods or services to be procured. In all cases where Direct Contracting is contemplated, the survey must be conducted prior to the commencement of the procurement process. Moreover, the PE must justify the necessity for an item that may only be procured through Direct Contracting, and it must be able to prove that there is no suitable substitute in the market that can be obtained at more advantageous terms.

40.4.2.5. Participants

1. HOPE;
2. BAC;
3. TWG;
4. BAC Secretariat/ Procurement Unit; and
5. Supplier/manufacturer.

40.4.2.6. Procedure

- a. The BAC ensures that the APP indicates that the method of procurement for the goods is Direct Contracting, and the conditions required for it exist.
- b. The BAC, through the TWG and the BAC Secretariat, prepares the Request for Quotation or pro-forma invoice together with the conditions of the sale.
- c. The BAC, through the BAC Secretariat, sends the Request for Quotation to the identified supplier.
- d. If necessary, negotiations are conducted to ensure that the Government is able to procure the goods at the most advantageous terms.
- e. The BAC proceeds to recommend the approval and signing of contract to the HOPE.
- f. The HOPE evaluates the recommendation and approves/disapproves the same.
- g. After the Notice of Award is issued by the HOPE and contractual procedures have been accomplished, the BAC Secretariat posts the Notice of Award, copies of the contract and Notice to Proceed in the following:
 1. PhilGEPS website;
 2. PE's website, if any; and
 3. Any conspicuous place in the premises of the PE.

40.4.2.7. Are posting of the bid performance and warranty securities mandatory?

When it comes to the posting of performance and warranty securities as prescribed under Sections 39 and 62 of the IRR, the winning bidder is mandatorily required to comply with its posting. However, the requirement of posting the bid security may be dispensed with.

40.4.3. Repeat Order

40.4.3.1. Legal Reference

Section 51 of the IRR of RA 9184 provides for the basis of this alternative mode, which is applicable in the procurement of goods.

40.4.3.2. Definition

It is a method of procurement of goods from the previous winning bidder, whenever there is a need to replenish Goods procured under a contract previously awarded through Competitive Bidding. The procurement should be covered by the contingency provided for in the APP.

Repeat Orders from the previous winning bidder may be resorted to by the PE only in cases where the procured item is clearly superior to the other bids. This superiority must exist, not only in the price quoted but also in equipment reliability, availability of spare parts, after-sales service and delivery period, among others. The bid should not have been so closely contested, such that if a bidding would be conducted again, the previous winning bidder would still have a high probability of winning.

40.4.3.3. Participants

1. HOPE;
2. BAC;
3. TWG;
4. BAC Secretariat;
5. End-user unit or PMO; and
6. Supplier who won in the previous public bidding.

40.4.3.4. Conditions

- a. Unit prices of the repeat order must be the same as or lower than those in the original contract, provided that such prices are still the most advantageous to the PE after price verification;
- b. The repeat order will not result in splitting of contracts, requisitions, or purchase orders;
- c. The repeat order shall be availed of only within six (6) months from the contract effectivity date stated in the Notice to Proceed arising from the original contract except in cases duly approved by the GPPB; and
- d. The repeat order shall not exceed twenty-five percent (25%) of the quantity of each item in the original contract.

40.4.3.5. **Procedure**

- a. The end-user unit or PMO checks the prevailing market price of the goods to be procured and compares this with the price of the goods in the original contract.
- b. The end-user unit or PMO requests for the procurement of additional units of goods previously procured and prepares the necessary Purchase Request.
- c. The BAC ensures that the APP indicates that the method of procurement for the requested goods is Repeat Order, and the conditions required for it exist.
- d. The BAC, with the assistance of the TWG and end-user unit, confirms the price with the supplier that won the previous public bidding and ensures that the price and terms and conditions in the original contract is most advantageous to the government
- e. The BAC, through the BAC Secretariat, confirms the Repeat Order with the previous supplier, and proceeds with the preparation of the Supplemental Contract or Purchase Order, using the same technical specifications in the bidding documents used in the previous bidding.
- f. The BAC submits its recommendation to the HOPE together with all the supporting documents for the transaction.
- g. The HOPE evaluates the recommendation and approves/disapproves the same.
- h. After the approval is issued by the HOPE and contractual procedures have been accomplished, the BAC, through the BAC Secretariat, posts for information purposes the award in the following:
 1. PhilGEPS;
 2. PE's website, if any; and
 3. Any conspicuous place in the premises of the PE.

40.4.3.6. **Are the posting of bid, performance and warranty securities under this procurement method required?**

Performance and warranty securities must be posted. Submission of the bid security, on the other hand, may be dispensed with.

40.4.4. Shopping

40.4.4.1. Legal Reference

Section 52 of the IRR of RA 9184 provides for the basis for this alternative mode of procurement of goods.

40.4.4.2. Definition

It is a method of procurement of goods whereby the PE simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications.⁶²

40.4.4.3. Inherent in this definition are the following requisites:

1. The goods to be procured are readily available off-the-shelf items or ordinary/regular equipment; and
2. The suppliers from whom the goods are procured are of “known qualifications”.

For the procurement of **ordinary/regular supplies/equipment** not available in the PS-DBM, the suppliers from whom goods are procured should be in good standing, and have not committed any breach of contract (*e.g.*, short deliveries, unreasonable delays in delivery of goods, delivery of defective goods, or similar acts) in previous transactions with the PE or other government entity.

It is the responsibility of the PE, through the procurement office, to monitor contract implementation as well as constantly coordinate with the GPPB-TSO for updates on blacklisted suppliers.

40.4.4.4. Ordinary or Regular office supplies

The term should be understood to include those supplies, commodities or materials which, depending on the PE's mandate and nature of operations, are necessary in the transaction of its official businesses; and consumed in the day-to-day operations of said PE. However, office supplies shall not include services such as repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services.

⁶² IRR Section 52.

40.4.4.5. **Conditions**

1. When there is an unforeseen contingency requiring the immediate purchase of goods. However, the amount must not exceed One Hundred Thousand Pesos (Php100,000.00) per transaction, and the aggregate amount of such purchases must not exceed the maximum allowed by the GAA.
2. When ordinary or regular office supplies and equipment not available in the PS-DBM need to be procured, the price of such purchase not exceeding Five Hundred Thousand Pesos (Php500,000.00). However, it must be ensured that the procurement does not result in splitting of contracts, as provided in Section 54.1 of the IRR. At least three (3) price quotations from bona fide suppliers must likewise be obtained.

40.4.4.6. **Procedure**

1. The method of procurement to be used must always be as indicated in the approved APP. In other words, there has to be an allocation for items or contingencies wherein procurement through Shopping has been identified.

Otherwise, the APP would have to be amended or updated in accordance with Section 7 of the IRR. If the original mode of procurement recommended in the APP was Public Bidding but cannot be ultimately pursued, the BAC, through a resolution shall justify and recommend the change in the mode of procurement to be approved by the HOPE.

2. After the decision to resort to Shopping or Small Value procurement has been made, the conduct thereof may be delegated to the appropriate bureau, committee, or support unit duly authorized by the BAC.
3. The Request for Quotation, indicating the specification, quantity, ABC, and other terms and conditions, shall be prepared.
4. The Request for Quotation must also prescribe the manner by which price quotations shall be submitted *i.e.*, by sealed or open quotation, and the deadline for their submission. In all instances, however, information relating to the examination, evaluation, and comparison of price quotations shall be kept confidential and should not be disclosed to any other party except to those officially concerned until award of contract.

5. The Request for Quotation shall be sent to at least three (3) suppliers, contractors, or consultants of known qualifications. *However, during unforeseen contingencies requiring immediate purchase under Section 52.1(a) of the IRR, the Request for Quotation may be sent to only one (1) supplier.*
 - a. Request for Quotations shall also be posted for a period of seven (7) calendar days in the PhilGEPS website, website of the PE, if available, and at any conspicuous place reserved for this purpose in the premises of the PE. However, in the following instances, this posting requirement shall not be applicable:
 1. When there is an unforeseen contingency requiring immediate purchase under Section 52.1(a) of the IRR; or
 2. Request for Quotations with ABCs less than or equal to Fifty Thousand Pesos (PhP50,000.00).
6. After the deadline for submission of price quotations, an Abstract of Quotations shall be prepared setting forth the names of those who responded to the Request for Quotations, their corresponding price quotations, and the lowest quotation (for goods or infrastructure projects) or highest rated offer (for consulting services) submitted.
7. For Shopping under Section 52.1 (b), at least three (3) price quotations must be obtained.
8. The deadline for submission may be extended if none or less than the required number of price quotations is received.
9. Award of contract shall be made to the lowest quotation (for goods or infrastructure projects) or, after successful negotiations, the highest rated offer (for consulting services), which complies with the specifications and other terms and conditions stated in the Request for Quotation.
10. For information purposes, all awards shall be posted in the PhilGEPS website, website of the PE, if available, and at any conspicuous place reserved for this purpose in the premises of the PE except for those with ABCs costing less than or equal to Fifty Thousand Pesos (PhP50,000.00) and below.
11. Eligibility documents need not be submitted. The PE must nevertheless validate whether it is entering into

a contract with a technically, legally and financially capable supplier, contractor or consultant.

40.4.4.7. Are bid, performance, and warranty securities still required for procurements through the Shopping method?

There is no need to post the aforementioned securities. Procurement through Shopping does not require posting of bid, performance, and warranty securities by the bidder.

40.4.4.8. Delegated procurement by the BAC to the Administrative Service/Office (AS/AO)

The following rules and procedures shall be adopted for delegated procurement by the AS/AO through Shopping and Small Value Procurement:

1. The BAC, through a resolution, may delegate the procurement of goods through Shopping or Small Value Procurement, which involves an amount of One Hundred Thousand Pesos (PhP100, 000.00) and below to the AS/AO.
2. The AS/AO may procure only the items, supplies, materials, equipments, and services incorporated in the approved APP and must take into consideration the target dates of the various End-User Units as stated in their respective PPMPs.
3. For purposes of ensuring that all the items, supplies, materials, equipments to be procured is not available from the PS before resorting to Shopping and/or Small Value Procurement, the AS/AO shall secure a Reply Action Document or its equivalent document from the PS.
4. Shopping shall be resorted to only for readily available off the-shelf items, supplies and materials or ordinary/regular equipment not available from the PS to be procured directly from suppliers of known qualifications, and shall be employed only in any of the following cases:
 - a. When there is an unforeseen contingency requiring immediate purchase of goods: *Provided, however,* that the amount shall not exceed One Hundred Thousand Pesos (PhP100,000.00); or

- b. Procurement of ordinary or regular items, supplies, materials, and equipments not available from the PS involving an amount not exceeding One Hundred Thousand Pesos (PhP100,000.00). *Provided*, that at least three (3) price quotations from suppliers of known qualifications shall be obtained.
- 5. Small Value Procurement shall be resorted to for all procurement of goods not falling under Shopping, training provider, venues and events involving an amount not exceeding One Hundred Thousand Pesos (PhP100,000.00). In this case, the AS/AO shall invite at least three (3) suppliers of known qualifications to submit their proposals. The AS/AO may proceed with the procurement when at least one (1) price quotation is obtained.
- 6. The Request for Quotation, indicating the quantity, specification, ABC, and other terms and conditions in the procurement of the goods or equipment, shall be prepared by the AS/AO
- 7. The Request for Quotation shall be sent to at least three (3) suppliers of known qualifications. However, during unforeseen contingencies requiring immediate purchase under Item 10.4.1 of the IRR, the Request for Quotation may be sent to only one (1) supplier.
- 8. The Request for Quotation shall be posted for a period of seven (7) calendar days in the PhilGEPs website and the PE website, and at PE bulletin boards: *Provided*, however, that in the following instances, the posting requirement shall not be applicable:
 - a. When there is an unforeseen contingency requiring immediate purchase under Section 52.1(a) of the IRR; or
 - b. Request for Quotation with ABCs equal to Fifty Thousand Pesos (P50,000.00) and below.
- 9. To validate the capability of a supplier, the AS/AO shall require the submission of a valid Mayor's Permit, Tax Registration Certificate

and PhilGEPS Registration Certificate except for unforeseen contingency. The price quotation, which may either be sealed or open quotation, together with the foregoing documents, shall be submitted to the AS/AO on the deadline indicated in the Request for Quotation.

10. Information relating to the examination, evaluation, and comparison of price quotations shall be kept confidential and should not be disclosed to any other party except to those officially concerned until the award of contract.
11. After the deadline for submission of price quotations, an Abstract of Quotations setting forth the names of those who responded to the Request for Quotation, their corresponding price quotations, and the lowest quotation shall be prepared by the concerned TWG except for unforeseen contingency.
12. The deadline for submission may be extended if none or less than the required number of price quotations was received.
13. The AS/AO shall recommend the award of contract to the supplier with the lowest quotation, which complies with the specifications and other terms and conditions stated in the Request for Quotation. Said recommendation is subject to approval by the Undersecretary for Administration and Finance for the OGCC Proper or the concerned approving authority in the PE.
14. For information purposes, all awards shall be posted in the PhilGEPS website, the PE website, and in all PE bulletin boards except for those with an ABC of Fifty Thousand Pesos (PhP50,000.00) and below.

Every procurement undertaken by the AS/AO, except emergency purchases, shall be covered by a Purchase Order signed by Undersecretary for Administration and Finance for the OGCC Proper or the concerned approving authority in the PE, and with a Certificate of Availability of Funds, subject to existing budgeting, accounting and auditing rules and regulations.

The AS/AO shall submit a quarterly report to the BAC on all procurements undertaken pursuant to

its delegated authority. The BAC shall, based on the quarterly reports, make an annual assessment of the performance by the AS/AO relative to compliance with the procurement law and rules.

Concerns and issues not resolved at the AS/AO level shall be elevated to the BAC for policy decision in writing.

40.4.5. Negotiated Procurement

40.4.5.1. Legal Reference

Section 53 of the IRR of RA 9184 provides for the basis of this alternative method of procurement of goods.

40.4.5.2. Definition

It is a method of procurement of goods whereby the PE directly negotiates a contract with a technically, legally and financially capable supplier.

40.4.5.3. Participants

1. HOPE;
2. BAC;
3. TWG;
4. BAC Secretariat; and
5. End-user unit or PMO.

40.4.5.4. Conditions

40.4.5.4.1. *Two Failed Biddings.*

Where there has been failure of public bidding for the second time provided in Section 35 of R.A. 9184;

40.4.5.4.1.1. Procedural Requirements

- a. After the BAC's declaration of a second failure of bidding, the Procuring Entity shall conduct a mandatory review of the terms, conditions, specifications, and cost estimates, as prescribed in Section 35 of the IRR of RA 9184.
- b. Based on the findings arising from the mandatory review, the BAC shall revise and agree on the minimum technical specifications as well as the minimum terms and conditions of the contract or project. The review includes a mandatory consultation with all interested parties.
- c. If necessary, the ABC can also be adjusted, subject to the required approvals. The ABC, however,

cannot be increased by more than twenty percent (20%) of the ABC for the last failed bidding.

It may be stressed, however, that even though the technical specifications may be revised and the ABC adjusted up to twenty per cent (20%) after the review and consultations, the quantity of the items subject for procurement shall remain unchanged.

- d. Since the original mode of procurement in the approved APP is public bidding but cannot ultimately be pursued, the BAC, with the assistance of the BAC Secretariat, shall prepare a resolution recommending to the HOPE, the change in mode of procurement to Negotiated Procurement (Two-Failed Biddings) and revision of the APP.
- e. The HOPE then approves the BAC recommendation to adopt Negotiated Procurement (Two-Failed Biddings) and the revised or supplemental APP.
- f. The BAC shall invite and engage in negotiations with a sufficient number of suppliers to ensure effective competition.
 1. The PE shall maintain a registry of suppliers as basis for drawing up the short list and/or selecting the suppliers for negotiations.
 2. Even those who did not participate in the previous failed biddings may be invited.
 3. All interested parties, including those who respond to the posting in PhilGEPS, PE's website and conspicuous places in the premises of the PE shall be accommodated;
- g. The BAC, through the Secretariat, posts for information purposes the procurement opportunity, for a period of seven (7) calendar days, in:
 1. PhilGEPS website;
 2. PE's website; and
 3. Any conspicuous place reserved for this purpose in the premises of the PE.
 - a. The technical specifications, the ABC, and the quantity shall be attached to the invitation
 - b. All common standards, including the valuation of add-ons, if any, and other relevant information shall be

communicated on an equal basis to all those who have been invited;

- h. Any requirements, guidelines, documents, clarifications, or other information relative to the negotiations shall be communicated by the PE on an equal basis to all suppliers invited and engaged in the negotiations.
 - 1. Any changes in the technical specifications and the ABC made after the consultations, but prior to the issuance of the invitation, shall be communicated on an equal basis to all those consulted.
 - 2. No changes in the technical specifications and the ABC shall be allowed after the issuance of the invitation.
 - 3. The review/consultation process must be properly documented (i.e. minutes, etc.).
 - 4. Negotiations must be properly documented and the results thereof, including clarifications and other relevant information shall be communicated on an equal basis to all parties involved.
- i. Following completion of the negotiations, the PE shall request all suppliers remaining in the proceedings to submit, on a specified date, a best and final offer with respect to all aspects of their proposals.
- j. The PE shall select the successful offer on the basis of such best and final offers which should meet the PE's minimum technical requirements and should not exceed the ABC.
 - 1. Successful offer must comply with both the minimum technical specifications & ABC, and, at the same time, have the lowest price; and
 - 2. In case of a tie, the one offering add-ons shall be selected.
- k. In all stages of the negotiations, observers shall be invited.
- l. Award notices shall also be posted in the PhilGEPS website, PE's website, if any, and conspicuous place reserved for this purpose in the premises of the PE.

40.4.5.4.2. *Emergency Cases.*

This may be resorted to in the following cases:

- a. In case of imminent danger to life or property during a state of calamity; or
- b. When time is of the essence arising from actual or man-made calamities; or
- c. Other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities.

40.4.5.4.2.1. Procedure

- a. The item subject for procurement and the applicable mode of procurement shall be expressly indicated in the approved APP. If it is not yet included in the APP, the BAC, with the assistance of the BAC Secretariat, shall prepare a resolution recommending to the HOPE, the resort to Negotiated Procurement (Emergency Cases) and the revision of the APP.
- b. The HOPE then approves the BAC recommendation to adopt Negotiated Procurement (Emergency Cases) and the revised or supplemental APP.
- c. Direct negotiation with any legally, technically and financially capable supplier.
- d. Award notices shall also be posted in the PhilGEPS website, PE's website, if any, and conspicuous place reserved for this purpose in the premises of the PE.

40.4.5.5. *Take-Over of Contracts.*

Take-over of contracts, which have been rescinded or terminated for causes provided for in the contract and existing laws, where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities.

40.4.5.6. Procedure

- a. The item subject for procurement and the applicable mode of procurement shall be expressly indicated in the approved APP. If it is not yet included in the APP, the BAC, with the assistance of the BAC Secretariat, shall prepare a

resolution recommending to the HOPE, the Negotiated Procurement (Take-Over of Contracts) and revision of the APP.

- b. The HOPE then approves the BAC recommendation to adopt Negotiated Procurement (Take-Over of Contracts) and the revised or supplemental APP.
- c. The contract may be negotiated starting with the second lowest calculated/highest rated bidder for the project under consideration at the bidder's original bid price.
- d. If negotiation fails, then negotiation shall be done with the third lowest calculated/highest rated bidder at his original price.
- e. If the negotiation fails again, a short list of at least three (3) eligible contractors shall be invited to submit their bids, and negotiation shall be made starting with the lowest calculated/highest rated bidder.
- f. Authority to negotiate contracts for projects under these exceptional cases shall be subject to prior approval by the HOPEs concerned, within their respective limits of approving authority.
- g. Award notices shall also be posted in the PhilGEPS website, PE's website, if any, and conspicuous place reserved for this purpose in the premises of the PE.

40.4.5.7. *Agency-to-Agency.*

Procurement of infrastructure projects, consulting services, and goods from another agency of the GOP, such as the PS-DBM, which is tasked with a centralized procurement of Common-Use Supplies for the GOP in accordance with LOI No. 755 and EO No. 359, series of 1989.

The term "agency," however, shall exclude GOCCs incorporated under *Batas Pambansa Blg. 68*, otherwise known as the "Corporation Code of the Philippines".

1. Conditions

- a) Conduct of a Cost-benefit Analysis by the PE indicating that entering into an Agency-to-Agency Agreement with the Servicing Agency is more efficient and economical for the Government;
- b) Total amount of all goods, consulting, and infrastructure projects undertaken or to be undertaken through Agency-to-Agency Agreements shall not exceed twenty-five percent (25%) of the PE's total procurement budget for

each category (i.e., goods, infrastructure, or consulting) as reflected in its approved APP;

- c) Servicing Agency has the mandate to deliver the goods and services required to be procured or to undertake the infrastructure project or consultancy required by the PE;
- d) Servicing Agency owns or has access to the necessary tools and equipment required for the project;
- e) Subject to appropriate guidelines, the PE may require the Servicing Agency to post a performance and/or warranty security under Sections 39 and 62 of RA 9184 and its IRR;
- f) All procurement to be undertaken by the Servicing Agency, including those required for the project, shall continue to be governed by the provisions of RA 9184;
- g) All projects undertaken through Agency-to-Agency Agreements shall be subject to pertinent budgeting, accounting, and auditing rules;
- h) In addition, for procurement of infrastructure projects under Agency-to-Agency agreements, the Servicing Agency must comply with the following conditions:
 - 1. It must have a track record of having completed, or supervised a project, by administration or by contract, similar to and with a cost of at least fifty percent (50%) of the project at hand;
 - 2. It shall not directly or indirectly engage private contractors to undertake the project and may only implement the infrastructure project in-house, by job-order, or through the “pakyaw” contracting system; and
 - 3. In-house labor is undertaken if the workers are employees or personnel occupying regular plantilla positions in the Servicing Agency. Job-order contracts shall be governed by the applicable rules of the Commission on Audit and/or Civil Service Commission. “Pakyaw” Contracting System shall be governed by Section 4 of the GPPB Revised Guidelines for the Implementation of Infrastructure Projects by Administration.

2. Procedure

- a) The end-user unit shall undertake a Cost-benefit analysis, taking into consideration the following factors: prevailing standard cost for the project in the market,

absorptive capacity of the Servicing Agency, and such other factors.

- b) It shall likewise secure a certificate from the relevant officer of the Servicing Agency that the latter complies with all the conditions.
- c) Based on the assessment and recommendation of the end-user unit, the BAC shall issue a resolution recommending the use of Agency-to-Agency Agreement to the HOPE. It shall likewise recommend the revision of the APP.
- d) The HOPE shall approve the BAC recommendation to adopt Negotiated Procurement (Agency-to-Agency) and revision of the APP.
- e) Upon approval of the BAC resolution, the PE shall enter into a Memorandum of Agreement (MOA) with the Servicing Agency.
- f) For purposes of transparency, the PE shall post for a period of seven (7) calendar days, general information pertaining to the procurement activity conducted, in the following areas:
 - 1. PhilGEPS website;
 - 2. PE's website, if any; and
 - 3. Any conspicuous place reserved for this purpose in the premises of the PE.

40.4.5.8. ***Procurement Agent.***

In order to hasten project implementation, PEs which may not have the proficiency or capability to undertake a particular procurement, as determined by the HOPE concerned, may request other GOP agencies to undertake such procurement for them, or at their option, recruit and hire consultants or procurement agents to assist them directly and/or train their staff in the management of the procurement function. The GPPB shall issue guidelines to implement this provision.

40.4.5.8.1. **Procedure**

- a. The item subject for procurement and the applicable mode of procurement shall be expressly indicated in the approved APP. The BAC, with the assistance of the BAC Secretariat, shall prepare a resolution recommending to the HOPE, the Negotiated Procurement (Procurement Agent) and revision of the APP.

b. The HOPE then approves the BAC recommendation to adopt Negotiated Procurement (Procurement Agent) and the revised or supplemental APP.

c. Upon approval of the BAC resolution, the PE shall enter into a MOA with the agency acting as a procurement agent.

d. Award notices shall also be posted in the PhilGEPS website, PE's website, if any, and any conspicuous place reserved for this purpose in the premises of the PE.

40.4.5.9. *Highly Technical Consultants.*

In the case of individual consultants hired to do work that is (i) highly technical or proprietary; or (ii) primarily confidential or policy determining, where trust and confidence are the primary consideration for the hiring of the consultant: Provided, however, That the term of the individual consultants shall, at the most, be on a six (6) month basis, renewable at the option of the appointing HOPE, but in no case shall exceed the term of the latter.⁶³

40.4.5.9.1. *Procedure*

- a. The item subject for procurement and the applicable mode of procurement shall be expressly indicated in the approved APP. The BAC, with the assistance of the BAC Secretariat, shall prepare a resolution recommending to the HOPE, the Negotiated Procurement (Procurement Agent) and revision of the APP.
- b. The HOPE then approves the BAC recommendation to adopt Negotiated Procurement (Procurement Agent) and the revised or supplemental APP.
- c. Upon approval of the BAC resolution, the BAC, with the assistance of the BAC Secretariat, shall request for a curriculum vitae of the identified individual consultant. It shall likewise prepare the contract and secure an approval from the HOPE.

⁶³ Amended through GPPB Resolution 06-2009, dated 30 September 2009, published in the Manila Times on 20 October 2009.

- d. Award notices shall also be posted in the PhilGEPS website, PE's website, if any, and conspicuous place reserved for this purpose in the premises of the PE.

40.4.5.10. ***Small Value Procurement.***

It is a method of Negotiated Procurement where the procurement does not fall under Shopping in Section 52 of the IRR and the amount involved does not exceed Five Hundred Thousand Pesos (PhP500,000.00).

40.4.5.10.1. Procedure

- a. The decision to resort to Negotiated Procurement (Small Value) shall be reflected in the approved APP and must take into consideration the annual procurement requirements of the item to be procured and other market factors, such as fluctuations in prices.

If the subject item of procurement and its mode are not yet reflected in the approved APP, the BAC, with the assistance of the BAC Secretariat, amends the APP. It prepares a resolution recommending the adoption of Negotiated Procurement (Small Value) as a mode of procurement for approval of the HOPE.

- b. The BAC, with the assistance of the BAC Secretariat, prepares the Request for Quotation which shall indicate the following:
 - i. Technical specifications;
 - ii. Quantity;
 - iii. ABC;
 - iv. Terms and conditions of the item to be procured;
 - v. Manner by which price quotations shall be submitted *i.e.*, by sealed or open quotation; and
 - vi. Deadline for the submission of quotations.
- c. Request for Quotation shall be sent to at least three (3) suppliers, contractors, or consultants of known qualifications. However, during unforeseen contingencies requiring immediate purchase under Section 52.1(a) of the IRR, the Request for Quotation may be sent to only one (1) supplier.

- d. Except for Request for Quotations amounting to Fifty Thousand Pesos (PhP50,000.00), it generally, shall be posted for a period of seven (7) calendar days in the following:
 - i. PhilGEPS website;
 - ii. PE's website; and
 - iii. Any conspicuous place reserved for this purpose in the premises of the PE.
- e. After the deadline for submission of price quotations, an Abstract of Quotations shall be prepared setting forth the names of those who responded to the Request for Quotation, their corresponding price quotations, and the lowest quotation (for goods or infrastructure projects) or highest rated offer (for consulting services) submitted.
- f. The deadline for submission may be extended if none or less than the required number of price quotations is received. Extensions of deadline shall be posted in the PhilGEPS website, PE's website, if available, and at any conspicuous place of the PE.
- g. Award of contract shall be made to the lowest quotation (for goods or infrastructure projects) or, after successful negotiations, the highest rated offer (for consulting services) which complies with the specifications and other terms and conditions stated in the Request for Quotation.
- h. Except for those with ABCs equal to Fifty Thousand Pesos (PhP50,000.00) and below, all award notices shall be posted, for information purposes, in the following:
 - i. PhilGEPS website;
 - ii. PE's website, if available; and
 - iii. Any conspicuous place reserved for this purpose in the premises of the PE.
- i. The PE must validate whether it is entering into a contract with a technically, legally and financially capable supplier, by requiring the submission of relevant documents or through other means.

40.4.5.11. ***Lease of Real Property.*** Lease of privately owned real property and venue for official use, shall be subject to the guidelines to be issued by the GPPB.

40.4.5.11.1. **Procedure**

- a. The end-user unit shall conduct a cost-benefit analysis to assess the feasibility of leasing a privately owned real estate or venue as

against purchasing or leasing from a government-owned real estate or venue.

- b. The recommendation of the end-user unit to lease a privately owned real estate or venue shall also indicate the proposed location/s, the justifications for it, and the result of the market analysis of the prevailing rates of lease contracts within the vicinity of the selected location/s.
- c. The ABC shall be set using the mid-point of the range obtained from the results of the market analysis on the prevailing lease rates for real estates or venue within the vicinity of the selected location complying with the criteria and technical specifications of the end-user unit. In no case shall the rental rates, including additional expenses, such as association dues in the case of lease of real estate, exceed the ABC.
- d. The decision to resort to Negotiated Procurement (Lease of Real Property/Venue) shall be reflected in the approved APP and must take into consideration the annual procurement requirements of the item to be procured and other market factors, such as fluctuations in prices. If the subject item of procurement and its mode are not yet reflected in the approved APP, the BAC, with the assistance of the BAC Secretariat, amends the APP. It prepares a resolution recommending the adoption of Negotiated Procurement (Lease of Real Property/Venue) as a mode of procurement for approval of the HOPE.
- e. The APP of the PE shall reflect the proposed lease of real estate or venue specifying the approved mode of procurement, the ABC, and the general description of the lease.
- f. Selection of the lessor following the procedures prescribed in Items 6 and 7 of the Implementing Guidelines for Lease of Privately-Owned Real Estate and Venue,⁶⁴ may be delegated to the appropriate bureau, committee, or support unit duly authorized by the BAC.
- g. Prospective lessors need not submit eligibility documents. The PE must nevertheless

⁶⁴ GPPB Resolution No. 08-2009, dated 3 November 2009.

validate whether the lessor to be awarded the contract is technically, legally and financially capable through other means.

- h. Except for lease contracts amounting to Fifty Thousand Pesos (PhP50,000.00), Request for Quotations, generally, shall be posted for a period of seven (7) calendar days in the following:
 - i. PhilGEPS website;
 - ii. PE's website; and
 - iii. Any conspicuous place reserved for this purpose in the premises of the PE.
- i. Except for lease contracts amounting to Fifty Thousand Pesos (PhP50,000.00), award notices shall be posted for a period of seven (7) calendar days in the following:
 - i. PhilGEPS website;
 - ii. PE's website; and
 - iii. Any conspicuous place reserved for this purpose in the premises of the PE.

40.4.5.11.2. Guidelines: Lease of Real Property

- a. The draft contract and the technical specifications for the lease shall be prepared taking into consideration the rating factors under Appendix A of the Implementing Guidelines for Lease of Privately-Owned Real Estate and Venue, provided under GPPB Resolution No. 08-2009, dated 3 November 2009.
- b. Thereafter, at least three (3) prospective lessors shall be invited to submit sealed price quotations.
- c. On a specified date, submitted price quotations shall be opened to determine the LCB. The real estate being offered by the lessor with the LCB shall be rated in accordance with the technical specifications prepared pursuant to Appendix A, and the reasonableness of its price quotation shall be determined in accordance with the methodology prescribed in Appendix B of Implementing Guidelines for Lease of Privately-Owned Real Estate and Venue.
- d. If the LCB is determined to be responsive and reasonable, said bid shall be declared as the LCRB. If not, then the second LCB shall be

evaluated and its reasonableness determined pursuant to Item 6.3 of the Implementing Guidelines for Lease of Privately-Owned Real Estate and Venue. This procedure shall be repeated for the next LCB until the LCRB is determined.

- e. Lease contract shall be awarded to the LCRB. If no LCRB has been determined, then another round of prospective lessors shall be invited to submit sealed price quotations in accord with Item 6.2 of the Implementing Guidelines for Lease of Privately-Owned Real Estate and Venue until an LCRB has been determined and awarded the contract.

40.4.5.11.3. Specific Guidelines: Lease of Venue

- a. Technical specifications shall be prepared taking into consideration the rating factors under Appendix C of the Implementing Guidelines for Lease of Privately-Owned Real Estate and Venue.
- b. Once technical specifications have been finalized, at least three (3) price quotations shall be obtained within the vicinity of the selected location.
- c. The venue being offered by the lessor with the LCB shall then be rated in accordance with the technical specifications prepared pursuant to Appendix C. Compliance rating with technical specifications may be conducted through ocular inspection, interviews, or other forms of due diligence.
- d. If the LCB is determined to be responsive, said bid shall be declared as the LCRB. If not, then the second LCB shall be evaluated and its responsiveness determined pursuant to Item 7.3 of the Implementing Guidelines for Lease of Privately-Owned Real Estate and Venue. This procedure shall be repeated for the next LCB until the LCRB is determined.

40.4.5.11.4. Terms and Conditions of Lease Contracts

- a. The PE shall ensure that the lease contract provides the most advantageous terms and conditions to the Government.
- b. Lease contracts may be entered into on a multi-year basis, subject to the application of

any set of guidelines that governs multi-year contracts.

40.4.5.12. ***NGO Participation.***

When an appropriation law or ordinance earmarks an amount to be specifically contracted out to Non-Governmental Organizations (NGOs), the PE may enter into a MOA with an NGO, subject to guidelines to be issued by the GPPB.

40.4.5.12.1. **Procedure**

- a. The procurement opportunity shall be posted for a period of seven (7) calendar days in the following:
 - i. PhilGEPS website;
 - ii. PE's website; and
 - iii. Any conspicuous place reserved for this purpose in the premises of the PE.
- b. After the required posting period, the PE shall invite at least three (3) prospective NGOs to submit sealed price quotations.
- c. The PE shall likewise require submission of the complete project proposal together with supporting feasibility studies, designs, plans, blueprints, budgets and charts.
- d. On the date specified in the notice, the PE shall open the price quotations and determine the LCB. Consistent with the nature of an NGO, no profit should be included in its bid. Thus, the PE shall ensure that the LCB does not include any profit margin or mark-up.
- e. After determination that the proposal submitted by the NGO with the LCB complies with the technical requirements of the project, the PE shall require submission of the following eligibility documents to ensure that said NGO is technically, legally, and financially capable to undertake the proposed project:

40.4.5.12.2. **Legal Documents**

- a) SEC or CDA registration certificate;
- b) Latest articles of incorporation;

- c) Valid and current mayor's permit/municipal license;
- d) Certificate of government electronic procurement registration;
- e) Taxpayer's Identification Number; and
- f) Latest tax returns and tax clearance pursuant to EO No. 398, s. of 2005;

40.4.5.12.3. Technical Documents

- a) Statement of all its ongoing and completed government and private contracts within the relevant period, where applicable, including contracts awarded but not yet started, if any, in accordance with Section 23.6 (f) of the IRR-A of RA 9184; and
- b) In the case of procurement of infrastructure projects, the prospective bidder's statement of:
- c) Availability of its key personnel, such as project managers, project engineers, materials engineers and foremen, that may be used for construction contracts;
- d) Personnel performing functions that are regulated by laws of the Philippines are registered professionals authorized by the appropriate regulatory body to practice those and allied professions
- e) Availability of equipment that it owns, has under lease, and/or has under purchase agreements that may be used for construction contracts, provided that ownership of equipment is not a requisite for eligibility.

40.4.5.12.4. Financial Documents

- a) Audited financial statements for the past three (3) years, stamped "received" by the BIR or its duly accredited and authorized institutions, for the immediately preceding calendar year, showing,

among others, its total and current assets and liabilities.

- b) After submission of the eligibility documents, the PE shall enter into a MOA with the NGO which prescribes:
 - i. Project's TOR;
 - ii. Commitment to comply with technical requirements of the project;
 - iii. Systems and procedures for project monitoring and implementation;
 - iv. Timelines, such as, but not limited to, date of completion, periodic inspection or evaluation schedule, and reporting;
 - v. Terms of payment.
- c) To guarantee its faithful performance, the selected NGO shall post a Performance Security upon the signing of the MOA
- d) After performance of its obligations under the MOA, the selected NGO shall likewise submit a warranty security

IV. ACCOUNTING

1. General Accounting System

1.1. Organization and Functions

- 1.1.1. The Finance and Accounting Division (FAD) shall be the department responsible for the process of analyzing, recording, classifying, summarizing and communicating all transactions involving the receipts and disposition of the agency's funds and property and interpreting its results.
- 1.1.2. The FAD is directly in-charge of the general accounting system. Specifically, its functions are:
 - 1.1.2.1. Records financial transactions and maintains the books of accounts;
 - 1.1.2.2. Prepare financial statements, reports schedules and analyses for management's consideration and decision-making
 - 1.1.2.3. Undertake reconciliation of bank accounts and reciprocal accounts regularly
 - 1.1.2.4. Analyzes various nominal and real accounts; prepares necessary schedules
 - 1.1.2.5. Corrects/Adjust/Reclassifies erroneous entries in the accounting books arising from reconciliation of various accounts

1.2. Accounting Method

- 1.2.1. The accrual basis of accounting shall be adopted. Under this method, all expenses/costs are recognized when they are incurred.
- 1.2.2. OGCC shall prepare its financial statements and reports in conformity with the Generally Accepted Accounting Principles and the established Philippine Statement of Financial Accounting Standards.

1.3. Periodicity and Cut-off Date

- 1.3.1. OGCC shall use the calendar year as its accounting period. Cut-off date for all transactions shall be the last day of the month. Transactions after the said cut-off date shall be included in the succeeding month.

1.4. Accounts Chart

- 1.4.1. OGCC shall use the Standard Government chart of accounts as prescribed by the Commission on Audit. It is designed to achieve uniformity in accounting and reporting and later adaptability to computerized accounting system.
- 1.4.2. A coding system is incorporated to distinguish items within a given classification. The purposes are:
 - 1.4.2.1. To save time in journalizing and recording;
 - 1.4.2.2. To facilitate location of accounts in general and subsidiary ledgers;
 - 1.4.2.3. To facilitate systematic arrangement and classification of accounts; and
 - 1.4.2.4. To comply with requirements of mechanized accounting.

1.5. Accounting Records

- 1.5.1. OGCC shall maintain and preserve the following accounting records:

- 1.5.1.1. Duplicate copy of documents such as DVs, JVs, advices, Ors, and check vouchers which serve as basis for recording transactions and should be retained for a period of at least ten (10) years;
 - 1.5.1.2. Books of original entry which consist of the general journal and special journals; and
 - 1.5.1.3. Books of final entry which consists of the general, subsidiary and sub-subsidary ledgers.
- 1.5.2. Disposal of books consisting of journal and ledgers are not authorized pursuant to the General Records Disposition Schedule.
- 1.5.3. Accounting books and records cited in section A shall be under the custody and accountability of the Accounting Division. The accountable officers must ensure that these records are intact and physically safeguarded from insect infestation, flood, tampering and all forms of destruction/harm.

1.6. Book of Accounts

- 1.6.1. The following are set of books of accounts to be maintained:

1.6.1.1. Books of Originally Entry

- 1.6.1.1.1. Cash Receipts Journal (CsRJ)
- 1.6.1.1.2. Cash Disbursement Journal (CDJ)
- 1.6.1.1.3. Check Disbursement Journal (CkDJ)
- 1.6.1.1.4. General Journal

1.6.1.2. Book of Final Entry

- 1.6.1.2.1. General Ledger (GL)
- 1.6.1.2.2. Subsidiary Ledger (SL)
- 1.6.1.2.3. Sub-subsidary ledger (SSL)

1.7. Recording of Transactions

- 1.7.1. The source document prepared or received is the evidence or legal proof of each transaction that provides support/bases for the preparation of a journal entry in an accounting from (DV and JV) and finally recording in the books of original entry.
- 1.7.2. Based on the journalized accounting form specified for each journal book, each transaction is recorded in chronological order in the following books of original entry:
- 1.7.2.1. Cash Receipts Journal (CRJ) - This journal shall be used to record all collections and deposits reported during the month. The sources of entries are the Report of Collection and Deposits (RCD) submitted by the collecting officer.
 - 1.7.2.2. Cash Disbursement Journal (CsDJ) - This journal shall be used to record liquidation of cash advances.
 - 1.7.2.3. Check Disbursement Journal (CkDJ) - This journal shall be used to record check disbursement made by the Disbursing Officer; Basis for entry shall be the disbursement voucher and check voucher summarized in the Report of Checks issued.
 - 1.7.2.4. General Journal - This journal shall be used to record summary of the special books. Basis for entry shall be the Journal Voucher for the summary of the special books.
 - 1.7.2.5. General Journal A - This journal shall be used to record adjustments for corrections on previously recorded transactions or transactions that are unique and not recurring in the ordinary course of operations.

1.8. Closing of Accounts

- 1.8.1. Closing journal entries are recorded in the general journal book, which close out the balance of all nominal/temporary accounts at the end of the year. The following procedures are done to nominal account to be closed at the end of the year.

1.9. Posting to Books of Final Entry

- 1.9.1. Summaries of totals in the journals shall be posted to the respective accounts in the General and Subsidiary Ledgers at the end of the month. No entry shall be made in the ledger unless said entry originates from these journals.
- 1.9.2. Subsidiary ledger containing the details or breakdown of controlling accounts shall tally/reconcile with their respective GL at the end of each month.
- 1.9.3. Schedule of real accounts and other accounts as may be required shall be prepared every end of the month such as cash in bank, receivables, liabilities, etc.

1.10. Financial Reports

- 1.10.1. The final stage of the accounting process is the preparation of the trial balance and financial statements. This shall be prepared to provide management with the means of interpreting the Agency's financial condition and the results of operations.
- 1.10.2. The financial reports shall be prepared as follows:

1.10.2.1. Trial Balance

- 1.10.2.1.1. Adjusted Trial Balance - After all transactions for the period have been posted to the ledger accounts, the balance of each account is determined. Every account will have a debit, credit columns to check the General and Subsidiary Ledger. The equality provides an interim proof of accuracy of the records but it does not signify the absence of errors.
- 1.10.2.1.2. Post Closing Trial Balance -When post closing trial balance, all nominal accounts from the adjusted year end trial balance shall be closed to Retained Operating Surplus. The Ending Balance shall contain only the Balance Sheet Items such as Assets, Liabilities and Capital Accounts.

Post closing trial balances shall be prepared at the end of the calendar year.

1.10.2.2. Financial Statements

- 1.10.2.2.1. The financial statements (*i.e.* Balance Sheet, Income Statement, and Statement of Cash Flow) shall be prepared based on the trial balance.
- 1.10.2.2.2. For Cash Flow Statement, it shall be prepared and presented as an integral part of the Financial Statement for each period where financial statements are presented. The primary purpose is to provide relevant information about the cash receipts and cash payments of the corporation during a specific period. This shall be done by analyzing the transactions involving cash and other related adjustments affecting such transactions.

1.10.2.3. Notes to Financial Statements

- 1.10.2.3.1. These are integral parts of financial statements, which pertain to additional information necessary for fair presentation in conformity with Generally Accepted Accounting Principles. These explain the headings, captions or amounts in the statements of present information that cannot be expressed in money terms, and description of accounting policies.
- 1.10.2.3.2. Information shall be presented in a way that will facilitate understanding and avoid erroneous implications. The headings, captions and amounts shall be supplemented by enough additional data so that their meaning would be clear.

2. Financial Transactions

2.1. General Policies

- 2.1.1. No money shall be paid out of any public treasury or depository except in pursuance of an appropriation law or other specific statutory authority.
- 2.1.2. Government funds or property shall be spent or used solely for public purposes.
- 2.1.3. Trust funds shall be available and may be spent only for the specific purpose for which the trust was created or the funds received.
- 2.1.4. Fiscal responsibility shall, to the greatest extent, be shared by all those exercising authority over the financial affairs, transactions, and operations of the government agency.
- 2.1.5. Disbursements or disposition of government funds or property shall invariably bear the approval of the proper officials.
- 2.1.6. Claims against government funds shall be supported with complete documentation.
- 2.1.7. All laws and regulations applicable to financial transactions shall be faithfully adhered to.
- 2.1.8. Generally accepted principles and practices of accounting as well as of sound management and fiscal administration shall be observed, provided that they do not contravene existing laws and regulations.

2.2. General Requirements

- 2.2.1. Certificate of Availability of Funds issued by the chief accountant;
- 2.2.2. Existence of lawful and sufficient allotment duly obligated as certified by authorized officials (except for GOCCs/GFIs);
- 2.2.3. Legality of transaction and conformity with laws, rules and regulations;
- 2.2.4. Approval of expenditure by Head of Office or his authorized representative; and
- 2.2.5. Sufficient and relevant documents to establish validity of claim.

Additional Requirements except for travels

- 2.2.6. Authority of the accountable officer issued by the Head of the Agency or his duly authorized representative indicating the maximum accountability and purpose of cash advance (for initial cash advance);
- 2.2.7. Certification from the Accountant that previous cash advances from all funds and accounts have been liquidated and accounted for in the books; and
- 2.2.8. Approved application for bond and/or Fidelity Bond for the year.

2.3. Specific Policies

2.3.1. Cash Advances

- 2.3.1.1. No cash advance shall be given unless for a legally authorized specific purpose.

- 2.3.1.2. No additional cash advances shall be allowed to any official or employee unless the previous cash advance given him is first liquidated and accounted for in the books.
- 2.3.1.3. No cash advance shall be granted for payments on account of infrastructure projects or other undertaking on a project basis.
- 2.3.1.4. Payroll fund for salaries, wages, allowances, honoraria and other similar expenses shall be equal to the net amount of the payroll for the pay period.

Additional Documentary Requirements

- 2.3.1.5. Approved Payroll or list of payees indicating their net payments
Approval/authority to pay any allowance/salaries/wages/fringe benefits issued by the GOCCs/GFIs governing boards

2.3.2. Petty Cash Fund (PCF)

- 2.3.2.1. The PCF shall be set up at the beginning of every year.
- 2.3.2.2. The PCF shall be sufficient for the recurring petty operating expenses of the agency for one month.
- 2.3.2.3. The cash advance shall not be utilized for payment of regular expenses, such as rentals, subscriptions, light and water bills and the like.
- 2.3.2.4. Payments out of PCF, which shall be made through a Petty Cash Voucher, shall be allowed only for amounts not exceeding P10,000 for each transaction, except when a higher amount is allowed by law and/or specific authority by the Commission on Audit.
- 2.3.2.5. Splitting of transactions to avoid exceeding the ceiling shall not be allowed.

Additional Documentary Requirements for initial cash advances

- 2.3.2.6. Approved estimates of expenses for one month
- 2.3.2.7. Copy of Office Order for maintaining PCF under the imprest system

2.3.3. Traveling Allowance

- 2.3.3.1. Travel allowance shall cover only those that are urgent and extremely necessary involving minimum expenditure and shall be beneficial to the agency concerned and/or the country.
- 2.3.3.2. No government fund shall be utilized to defray foreign travel expenses of any government official or employee, except in the case of training, seminar or conference abroad when the officials or other personnel of the foreign mission cannot effectively represent the country therein, and travels necessitated by international commitments; provided that no official or employee, including uniformed personnel of the DILG and DND will be sent to foreign training, conferences or attend international commitments when they are due to retire within one year after the said foreign travel.
- 2.3.3.3. The grant of clothing allowance in all categories of trips shall be held in abeyance.
- 2.3.3.4. Traveling allowances granted shall be treated and accounted for as cash advances. No additional cash advance shall be granted to any official or employee unless the previous cash advance given to him for travel is first liquidated and accounted for in the books.

Documentary Requirements for Local Travel

- 1) Duly approved Office Order/Travel Order;
- 2) Duly approved itinerary of travel; and

- 3) Certification from the accountant stating previous cash advance has been liquidated and accounted for in the books.

2.3.4. Liquidation of Cash Advances

2.3.4.1. The accountable officer shall liquidate cash advances within the following period:

- 2.3.4.1.1. For Salaries, Wages, Allowances, Honoraria and Other Similar Payments – within five (5) calendar days after the end of the pay period
- 2.3.4.1.2. For Petty Cash Fund - as soon as the disbursements reaches 75% or as needed, the PCF shall be replenished which shall be equal to the total amount of expenditures made therefrom. In case of termination, resignation, retirement or dismissal of the PCF custodian, immediately thereafter.
- 2.3.4.1.3. Traveling Expenses – within 30 days after the return of the official/employee concerned to his official station for local travel and within 60 days after the return of the official/employee concerned to the Philippines in the case of foreign travel.
- 2.3.4.1.4. Special purpose - as soon as the purpose of the cash advance has been served.

2.3.4.2. Documentary Requirements

2.3.4.2.1. Payroll Fund for Salaries, Wages, etc.

- 2.3.4.2.1.1. Report of disbursements certified correct by the accountable officer;
- 2.3.4.2.1.2. Approved payrolls/vouchers duly acknowledged/signed by the payee;
- 2.3.4.2.1.3. Approved DTRs or Certificate of Service;
- 2.3.4.2.1.4. Approved application for leave;
- 2.3.4.2.1.5. In case of payment of personnel under the “job order” status, duly verified/accepted accomplishment report;
- 2.3.4.2.1.6. Official Receipt (OR) in case of refund for unclaimed salaries;
- 2.3.4.2.1.7. Authority from the claimant and identification documents, if claimed by person other than the payee; and
- 2.3.4.2.1.8. Other pertinent supporting documents as required by the nature of expense.

2.3.4.2.2. Petty Cash Fund

- 2.3.4.2.2.1. Summary of Petty Cash Vouchers;
- 2.3.4.2.2.2. Report of disbursements;
- 2.3.4.2.2.3. Approved purchase request with certificate of Emergency Purchase, if necessary;
- 2.3.4.2.2.4. Bills, receipts, sales invoices;
- 2.3.4.2.2.5. Certificate of inspection and acceptance;
- 2.3.4.2.2.6. Report of Waste Materials in case of replacement/repair;
- 2.3.4.2.2.7. Approved trip ticket, for gasoline expenses;
- 2.3.4.2.2.8. Canvass from at least three suppliers for purchases involving P1,000 and above, except for purchases made while on official travel;
- 2.3.4.2.2.9. Summary/Abstract of Canvass;
- 2.3.4.2.2.10. Duly accomplished and signed Petty Cash Vouchers;
- 2.3.4.2.2.11. OR in case of refund;
- 2.3.4.2.2.12. For reimbursement of toll receipts;

- 2.3.4.2.2.13. Toll Receipts
- 2.3.4.2.2.14. Trip tickets
- 2.3.4.2.2.15. Other supporting documents that may be required by the concerned unit/department.

2.3.4.2.3. Local Travel Expenses

- 2.3.4.2.3.1. Paper/electronic plane, boat or bus tickets, boarding pass, terminal fee;
- 2.3.4.2.3.2. Certificate of appearance/attendance;
- 2.3.4.2.3.3. Copy of previously approved itinerary of travel;
- 2.3.4.2.3.4. Revised or supplemental Office Order or any proof supporting the change of schedule;
- 2.3.4.2.3.5. Revised Itinerary of Travel if the previous approved itinerary was not followed;
- 2.3.4.2.3.6. Certification by the Head of Agency as to the absolute necessity of the expenses together with the corresponding bills or receipts, if the expenses incurred for official travel exceeded the prescribed rate per day. (Certification or affidavit of loss shall not be considered as an appropriate replacement for the required hotel /lodging bills and receipts.);
- 2.3.4.2.3.7. Liquidation Report;
- 2.3.4.2.3.8. OR, in case of refund of excess cash advance;
- 2.3.4.2.3.9. Certificate of travel completed; and
- 2.3.4.2.3.10. Hotel room/lodging bills with official receipts in the case of official travel to places within 50 kilometer radius from the last city or municipality covered by the Metro Manila Area, or the city or municipality where their permanent official station is located in the case of those outside the Metro Manila Area, if the travel allowances being claimed includes the hotel room/lodging rate.

2.3.4.2.4. Salary

- 2.3.4.2.4.1. Personnel benefits costs of government officials and employees shall be charged against the funds from which their salaries are paid. All authorized supplemental or additional compensation, fringe benefits and other personal services costs of officials and employees whose salaries are drawn from special accounts or special funds shall similarly be charged against the corresponding fund from which their basic salaries are drawn.
- 2.3.4.2.4.2. In no case shall personnel benefits costs be charged against the General Fund of the National Government.
- 2.3.4.2.4.3. Personnel benefits costs shall include salary increases, step increment, incentive and service fees, commutation of vacation and sick leaves, retirement and life insurance premiums, compensation insurance premiums, health insurance premiums, HDMF contributions, hospitalization and medical benefits, scholarship and educational benefits, training and seminar expenses, all kinds of allowances, whether commutable or reimbursable, in cash or in kind, and other personnel benefits and privileges authorized by law, including the payment of retirement gratuities, separation pay and terminal leave benefits.
- 2.3.4.2.4.4. If the personnel benefits costs of government officials and employees, in whatever form, are partly sourced from the General Fund and partly from other sources, then in determining the fund source for payment of

retirement gratuity and terminal leave benefits, only the portion attributed to personnel benefits cost charged against the General Fund shall be sourced from such. In no case shall personnel benefits costs charged against another source be charged against the General Fund.

Documentary Requirements

For General Claims (All Employees)

1. Salary Payroll;
2. Payroll Register (hard and soft copy);
3. Letter to the Bank to credit employees account of their salaries or other claims; and
4. Deposit slips.

For Individual Claims

First salary

1. Duly certified copy of approved Appointment;
2. Assignment Order;
3. Duly certified photocopy of Oath of Office;
4. Certificate of Assumption;
5. Statement of Assets, Liabilities and Net Worth;
6. Approved Daily Time Record (DTR);
7. BIR withholding certificates (Forms 1902 and 2305);
8. Payroll information on New Employee (PINE) (for Agencies with computerized payroll systems); and
9. Authority from the claimant and identification documents, if claimed by person other than the payee.

Last salary

1. Clearance from money, property and legal accountabilities
2. Duly approved DTR
3. Salary Differentials due to Promotion and/or Step Increment
4. Duly certified photocopy of approved appointment in case of promotion or Notice of Salary Adjustment in case of step increment/salary increase;
5. Certificate of assumption; and
6. Approved DTR or certification that the employee has not incurred leave without pay.

Salary due to heirs of deceased employee

1. Same requirements as those for last salary
2. Additional requirements:
3. Death Certificate authenticated by NSO
4. Marriage Contract authenticated by NSO
5. Birth Certificate of surviving legal heirs authenticated by NSO
6. Designation of next-of-kin
7. Waiver of right of children 18 years old and above

Additional Requirements

a. For Transferees

1. Clearance from money, property and legal accountabilities from the previous office;

2. Certified true copy of pre-audited disbursement voucher of last salary from previous agency and/or Certification by the Chief Accountant of last salary received from previous office duly verified by the assigned auditor thereat;
 3. BIR Form 2316 (Certificate of Compensation Payment/Tax Withheld);
 4. Certificate of Available Leave Credits; and
 5. Service Record.
- b. If deleted from payroll
1. Approved DTR; and
 2. Notice of Assumption.
- 2.3.4.2.4.5. When authorized to, and within limits of their respective appropriations, agencies may hire casual and contractual personnel as part of the organization. Casual personnel are hired to perform essential and necessary services where there are not enough regular staff to meet the demands of the service while contractual personnel are hired to undertake a specific work or job for a limited period not to exceed one year. An appointment issued in accordance with pertinent laws and rules shall take effect immediately upon its issuance by the appointing authority and assumption of duties of the position by the appointee.
- 2.3.4.2.4.6. An appointment shall be submitted to the CSC within thirty (30) calendar days from the date of issuance, which shall be the date indicated below the signature of the appointing authority. Otherwise, it shall be made effective thirty (30) days prior to date of submission to CSC. In case of appointments issued by accredited agencies, the Report of Personnel Actions (ROPA) together with photocopies of appointments issued during the month shall be submitted within 15 days of the succeeding month. Appointments not submitted within the prescribed period shall be made effective 30 days prior to date of submission.

Documentary Requirements

For accredited agencies (for first claim)

1. Duly certified photocopy of the pertinent contract/appointment/job order; and
2. Copy of the ROPA of the pertinent contract/appointment marked received by the CSC.

For other agencies (for first claim)

1. Certified copy of the pertinent contract/appointment/job order marked received by the CSC;
2. Certification by the LCE/Personnel Officer that the activities/services cannot be provided by regular or permanent personnel of the agency (for first claim);
3. Accomplishment Report; and
4. DTR.

2.3.4.2.5. Maternity Leave

- 2.3.4.2.5.1. Female permanent/regular employees of the OGCC who have rendered an aggregate of two (2) or more years of service shall, in addition to the vacation and sick leave granted them, be entitled to maternity leave of sixty (60) calendar days with full pay. Those who have rendered one (1) year or more but less than two (2) years of service shall be entitled to 60

days maternity leave with payment in proportion to their length of service, while those who have served for less than one (1) year shall be entitled to 60 days maternity leave with half pay.

- 2.3.4.2.5.2. When a female employee wants to report back to duty before the expiration of her maternity leave, she may be allowed to do so provided that she presents a medical certificate that she is physically fit to assume the duties of her position.
- 2.3.4.2.5.3. The commuted money value of the unexpired portion of the leave need not be refunded and that when the employee returns to work before the expiration of her maternity leave, she may receive both the benefits granted under the maternity leave law and the salary for actual services rendered effective the day she reports for work.

Documentary Requirements

1. Certified photocopy of approved application for leave;
2. Certified photocopy of Maternity leave clearance;
3. Medical certificate for maternity leave; and
4. Marriage Certificate (first claim).

Additional Requirements (for Unused Maternity Leave upon assumption before the expiration of the 60-day maternity leave)

1. Medical certificate that the employee is physically fit to work;
2. Certificate of assumption; and
3. Duly approved DTR.

2.3.4.2.6. Allowance, Honoraria and Other Forms of Compensation

No government funds shall be utilized for payment of honoraria and other allowances to any government official or employee except those specifically authorized by law.

2.3.4.2.7. Personnel Economic Relief Allowance (PERA)

The PERA shall be paid only when basic pay (salary, wages or base pay) is also paid. It shall be paid to OGCC personnel provided they render full-time service for eight (8) hours per working day, twenty-two (22) working days per month, inclusive of leaves of absence with pay. The guidelines on the grant of PERA are provided under DBM Budget Circular No. 2009-003 dated August 18, 2009.

Documentary Requirements

1. Same requirements as those for payment of salaries

2.3.4.2.8. Representation and Transportation Allowance (RATA)

- 2.3.4.2.8.1. The officials/employees who are entitled to receive RATA shall be in accordance to the pertinent sections of the GAA for the year. Transportation allowances shall not be granted to officials who are assigned or who are presently using government motor transportation.

- 2.3.4.2.8.2. The grant of RATA are officials and employees duly designated by competent authority as Officer-In-Charge of positions entitled to commutable RATA for one full calendar month or more may be authorized to collect the RATA authorized for the said positions, provided it is so specified in the Order designating them as Officer-in-Charge except for the instances defined under Section 3.5 of DBM NCC 67 dated 1 January 1992, in relation to Section 4.4 of DBM NBC 548 dated 15 May 2013.
- 2.3.4.2.8.3. An official who is on official leave of absence with or without pay for one full calendar month or more is not entitled to collect RATA. However, official and employees who are on authorized attendance at a training course/scholarship grant/seminar or any other similar activity, which is tantamount to the performance of their regular duties and responsibilities, may be authorized to continue to collect RATA on a reimbursable basis subject to the availability of funds.
- 2.3.4.2.8.4. For positions without incumbents, a designation may be made only for a maximum of one (1) year.

Documentary Requirements

For Individual Claims

1. Copy of Office Order/Appointment (1st payment);
2. 1. Certificate of Assumption (1st payment);
3. Certification that the official/employee did not use government vehicle and is not assigned any government vehicle; and
4. Certificate or evidence of service rendered.

For General Claims

1. RATA Payroll;
2. Payroll Register (hard and soft copy);
3. Letter to the Bank to credit employees account of their RATA claims; and
4. Deposit slip.

2.3.4.2.8.5. Procedure

Officers entitled to RATA shall submit the approved Travel Order or Official Business Form and Daily Time Record for each month not later than the tenth (10th) day of the following month with the Personnel Section. The Personnel or Human Resources Section shall prepare the monthly summary report of attendance of the concerned officer and indicate how much RATA each is entitled based on DBM NBC 548. The summary report shall be forwarded to the Accounting Section, which shall prepare the payroll for RATA and shall secure the signatures of the authorized officials. The signed payroll shall then be forwarded to the Cash Section for the preparation of the check and Authority to Debit Agency Account (ADAA) for the signatures of the authorized officers. The Cash Section shall prepare the Advice of Checks Issued and Cancelled (ACIC), and encode each amount of RATA on the payroll for the account of each officer.

2.3.4.2.9. Uniform or Clothing Allowance

- 2.3.4.2.9.1. OGCC personnel who are expected to render at least six (6) consecutive months of service in a particular year including leaves of absence with pay shall be entitled to clothing allowance.
- 2.3.4.2.9.2. Newly hired personnel shall be entitled to the clothing allowance after they have rendered six (6) consecutive months of service or in the next grant thereof whichever comes later.
- 2.3.4.2.9.3. The clothing allowance of OGCC personnel who are on detail with other government agencies/GOCCs shall be borne by the mother agency.
- 2.3.4.2.9.4. Government personnel who transferred to other agencies during the first six (6) months of a particular year and were not granted clothing allowance, whether in cash or in kind, by their former agencies, shall be granted clothing allowance by their new agencies. If they transferred to other agencies within the last six months of a particular year, they shall no longer be granted clothing allowance by their new agencies as by then they are deemed to have been granted clothing allowance by their former agencies.
- 2.3.4.2.9.5. Under Section 40 of FY 2012 GAA, the appropriations provided for each agency may be used for uniform or clothing allowance of employees at not more than P5,000 each per annum. In case of deficiency or in the absence of appropriation for the purpose, the requirements shall be charged against available savings of the agency.

Documentary Requirements for newly hired personnel

For Individual Claims

1. Certified true copy of approved appointment of new employees;
2. Certificate of Assumption of new employees; and
3. Certificate of non-payment from previous agency, for transferees.

For General Claims

1. Clothing/Uniform Allowance Payroll;
2. Payroll Register (hard and soft copy);
3. Letter to the Bank to credit employees account of their salaries or other claims; and
4. Deposit slips.

2.3.4.2.10. Productivity Incentive Allowance (PIB)

- 2.3.4.2.10.1. The PIB is given to government personnel in recognition of the government employees' productivity and performance. The guidelines on the grant of PIB are provided under DBM National Compensation Circular (NCC) No. 73 dated December 27, 1994 as supplemented by NCC No. 73A dated March 1, 1995, DBM Circular Letter No. 3-96 dated January 15, 1996, DBM Circular Letter No. 2001-06 dated March 2, 2001 and DBM Circular Letter No. 2002-03 dated January 2, 2002.

Documentary Requirements

For Individual Claims

1. Certification that the performance ratings for the two (2) semesters given to the personnel of the concerned division/office is at least satisfactory;
2. Certification from the Legal Office that the employee has no administrative charge;
3. List of personnel who were suspended either preventively or as a penalty as a result of an administrative charge within the year for which PIB is paid, regardless of the duration (except if the penalty meted out is only a reprimand);
4. List of personnel dismissed within the year; and
5. List of personnel on AWOL.

For General Claims

1. PIB Payroll;
2. Payroll Register (hard and soft copy);
3. Letter to the Bank to credit employees account of their PIB claims; and
4. Deposit slips.

2.3.4.2.11. Attorney's Fees and Other Benefits

- 2.3.4.2.11.1. OGCC is authorized to receive the attorney's fees adjudged in favor of their client government-owned and controlled corporations, their subsidiaries/other corporate offspring's and government acquired asset corporations. Attorney's fees awarded to government corporations shall be forthwith paid to this Office. The fees may come in the form of a judgment award by a court of arbitral panel, or through a judgment based on a compromise between the contending parties.
- 2.3.4.2.11.2. These attorney's fees shall accrue to a Special Fund of the OGCC, and shall be deposited in an authorized government depository as a trust liability and shall be made available for expenditures without the need for a Cash Disbursement Ceiling, for purposes of upgrading facilities and equipment, granting of employees' incentive pay and other benefits, and defraying such other incentive expenses not provided for in the General Appropriations Act as may be determined by the Government Corporate Counsel.
- 2.3.4.2.11.3. As further incentives to the lawyers who judiciously and consciously handle cases for government corporations, a percentage of the attorney's fees thus collected shall be equitably distributed to the handling lawyers, to be determined by the GCC upon recommendation of the Team Leader, taking into account the degree of participation and time devoted by each handling lawyer *vis-à-vis* the complexity of the case, the effort and skill required in litigating the same, and the attorney's fees actually collected.

The GCC may also allocate the awarded fees to a fund for employee incentive pay and other benefits, as well as office expenses.

- 2.3.4.2.11.4. The guidelines in the grant of attorney's fee to OGCC are prescribed under Executive Order No. 878, dated March 4, 1983 and Executive Order No. 292 of Administrative Code of 1987.

- 2.3.4.2.11.5. Section 5 of Republic Act 6000,¹ reiterated by Section 6 of Executive Order 878,² grants additional benefits to OGCC lawyers, which may be in the form of allowances and reimbursement of expenses.

In granting allowances and reimbursement of actual expenses, the following rules shall apply:

1. The allowance of each lawyer shall be subject to appropriate tax; and,
2. Any reimbursement of actual expenses incurred shall be supported by receipts or, when applicable, a certification duly signed by an officer of the government corporation.

2.3.4.2.12. Honoraria

- 2.3.4.2.12.1. Government personnel performing activities or discharging duties in addition to, or over and above their regular functions may be granted honoraria.

- 2.3.4.2.12.2. The guidelines in the grant of honoraria to government personnel involved in government procurement are prescribed under DBM Budget Circular No. 2004-5A as amended by DBM Budget Circular No. 2007-3 dated November 29, 2007.

- 2.3.4.2.12.3. The honoraria shall be sourced from the following:

1. Collections from successfully completed procurement projects limited however, to activities prior to awarding of contracts to winning bidders:
 - a) Proceeds from sale of bid documents
 - b) Fees from contractor/supplier registry
 - c) Fess charged for copies of minutes of bid openings, BAC resolutions and other BAC documents
 - d) Protest fees
 - e) Proceeds from bid security forfeiture
2. Savings realized from the current year's specific budget of the agency under the GAA
3. In the case of GOCCs, savings from the DBM-approved corporate operating budgets
4. In the case of LGUs, savings from the local budgets approved by their respective Sanggunian subject to the pertinent provisions of the Local Government Code of 1991 (RA 7160).

¹Any law to the contrary notwithstanding, the government-owned or controlled corporations, or corporations the majority stock of which is owned or controlled by the Government, and instrumentalities of the Government performing proprietary functions, are hereby authorized to extend to the personnel of the Office of the Government Corporate Counsel such benefits and privileges as are given to their corporate employees.

² x x x Whenever a member of the legal staff of the OGCC is assigned/designated to perform additional or special tasks in any of the client corporations, he is allowed to receive such additional compensation and privileges as may be granted them by the government corporations concerned.

2.3.4.2.12.4. Payment of honoraria shall be limited to:

1. Successfully completed procurement project. A procurement project shall be considered successfully completed once the contract has been awarded to the winning bidder.
2. Procurement that involves public bidding. Public bidding activities are present only in:
3. Competitive bidding
4. Limited source bidding
5. Negotiated procurement, only when resorted to after there has been failure of bidding for the second time
6. The honoraria per completed procurement project shall not exceed PhP3,000 for BAC Chair, PhP2,500 for BAC members and PhP2,000 for each TWG Chair and Members. The average amount of honoraria per month over one year shall not exceed 25% of the basic monthly salary.

Documentary Requirements

1. Office Order creating and designating the BAC composition and authorizing the members to collect honoraria;
2. Minutes of BAC Meeting;
3. Notice of award to the winning bidder of procurement activity being claimed;
4. Certification that the procurement involves competitive bidding; and
5. Attendance Sheet listing names of attendees to the BAC meeting.

Special Projects

Payments of honoraria to officials and employees assigned to special projects are subject to the guidelines prescribed under DBM Budget Circular No. 2007-2 dated October 1, 2007. Honoraria received from all special projects shall not exceed twenty-five percent (25%) of the annual basic salary.

Documentary Requirements

1. Performance evaluation plan formulated by project management used as basis for rating the performance of members;
2. Office Order designating members of the special project;
3. Terms of Reference;
4. Certificate of completion of project deliverables;
5. Special Project Plan;
6. Authority to collect honorarium; and
7. Certificate of acceptance by the agency head of the deliverables per project component.

2.3.4.2.13. Longevity Pay

- 2.3.4.2.13.1. Longevity Pay or Length of Service Incentive shall be given to an employee who has rendered at least three years of continuous

satisfactory service to a particular position and which shall consist of step increments.

- 2.3.4.2.13.2. For purposes of computing the length of service for the grant of step increment, approved vacation leave without pay for an aggregate of 15 days shall not interrupt the continuity of the three-year service requirement for the grant of step increment. However, if the total number of authorized vacation leave without pay included within the three-year period exceeds 15 days, the grant of one-step increment will only be delayed for the same number of days that an official or employee was absent without pay.

Documentary Requirements

1. Service Record; and
2. Certification issued by the Personnel Officer that the claimant has not incurred more than 15 days of vacation leave without pay.

2.3.4.2.14. Overtime Pay

- 2.3.4.2.14.1. Overtime work should be avoided by adequate planning of work activities. It should not be resorted to in the performance of regular/routine work and activities except in cases when unforeseen events and emergency situations will result in any of the following:

1. Financial loss to the government or its instrumentalities;
2. Embarrassment to the government due its inability to meet its commitments; and
3. Negate the purpose for which the work or activity was conceived.

- 2.3.4.2.14.2. As a general rule, the total overtime pay of the employee for a given calendar year shall not exceed fifty percent (50%) of his annual basic salary.

- 2.3.4.2.14.3. The updated guidelines and procedures on the rendition of overtime services are prescribed under DBM Budget Circular No 10 dated March 29, 1996.

Documentary Requirements

- 1) Overtime authority stating the necessity and urgency of the work to be done, and the duration of overtime work;
- 2) Overtime work program;
- 3) Quantified Overtime accomplishment duly signed by the employee and supervisor; and
- 4) Certificate of service or duly approved DTR.

2.3.4.2.15. Year-End Bonus (YEB) and Cash Gift (CG)

The guidelines on the grant of YEB and CG are provided under DBM Budget Circular No. 2010-1 dated April 28, 2010 which is applicable for FY 2010 and years thereafter.

Documentary Requirement

For Individual Claims

- 1) Same requirements as last salary for retirees

General Claims

- 1) YEB and CG Payroll
- 2) Payroll Register (hard and soft copy)
- 3) Letter to the Bank to credit employees account of their YEB and CG claims
- 4) Deposit slips

2.3.4.2.16. Terminal Leave Benefits

- 2.3.4.2.16.1. Terminal leave is applied for by an official or an employee who intends to sever his connection with his employer. Accordingly, the filing of application for terminal leave requires as a condition precedent, the employee's resignation, retirement or separation from the service. It must be shown first that public employment ceased by any of the said modes of severances.
- 2.3.4.2.16.2. Any official or employee of the government who retires, voluntarily resigns, or is separated from the service and who is not otherwise covered by special law, shall be entitled to the commutation of his leave credits exclusive of Saturdays, Sundays and Holidays without limitation and regardless of the period when the credits were earned.
- 2.3.4.2.16.3. Request for payment of terminal leave benefits must be brought within ten (10) years from the time the right of action accrues upon an obligation created by law. Payment of terminal leave for purposes of retirement or voluntary resignation shall be based on the highest monthly salary received at any time during his period of employment in the government service and not on his latest salary, unless the latter is the highest received by the retiree.

Documentary Requirements

- 1) Page Clearance from money, property and legal accountability from the Central Office and from Regional Office of last assignment;
- 2) Certified photocopy of employees leave card as at last date of service duly audited by the Personnel Division and COA / Certificate of leave credits issued by the Admin/HRMO;
- 3) Approved leave application;
- 4) Complete service record;
- 5) Statement of assets and liabilities;
- 6) Certified photocopy of appointment/Notice of Salary Adjustment (NOSA) showing the highest salary received if the salary under the last appointment is not the highest;
- 7) Computation of terminal leave benefits duly signed/certified by the accountant
- 8) Applicant's authorization (in affidavit form) to deduct all financial obligations with the employer/agency/LGU;
- 9) Affidavit of applicant that there is no pending criminal investigation or prosecution against him/her; and
- 10) In case of resignation, employee's letter of resignation duly accepted by the Head of the Agency.

Additional requirements in case of death of claimant

- 1) Death certificate authenticated by NSO;
- 2) Marriage contract authenticated by NSO;
- 3) Birth certificates of all surviving legal heirs authenticated by NSO
- 4) Designation of next-of-kin; and
- 5) Waiver of rights of children 18 years old and above.

2.3.4.2.17. Monetization

2.3.4.2.17.1. Officials and employees in the career and non-career service, whether permanent, temporary, casual or coterminous, who have accumulated fifteen (15) days of vacation leave credits shall be allowed to monetize a minimum of ten (10) days: Provided that at least five (5) days is retained after monetization and provided further that a maximum of thirty (30) days may be monetized in a given year.

2.3.4.2.17.2. Monetization of fifty percent (50%) or more of accumulated leave credits may be allowed for valid and justifiable reasons, such as:

- 1) Health, medical and hospital needs of the employee and the immediate members of his family;
- 2) Financial aid and assistance brought about by force majeure events such as calamities, typhoons, fire, earthquake and accidents that affect the life, limb and property of the employee and his/her immediate family;
- 3) Educational needs of the employee and the immediate members of his/her family;
- 4) Payment of mortgages and loans which were entered into for the benefit or which inured to the benefit of the employee and his/her immediate family;
- 5) In cases of extreme financial needs of the employee or his/her immediate family where the present sources of income are not enough to fulfill basic needs such as food, shelter and clothing; and
- 6) Other analogous cases as may be determined by the Civil Service Commission.

Documentary Requirements

1. Approved leave application (10 days) with leave credit balance certified by the Human Resource Office;
2. Request for leave covering more than 10 days duly approved by the Head of Agency;
3. For monetization of 50% or more
4. Clinical abstract / medical procedures to be undertaken in case of health, medical and hospital needs; and
5. Barangay Certification in case of need for financial assistance brought about by calamities, typhoons, fire, etc.

2.3.4.2.18. Loyalty Cash Award/Incentive

2.3.4.2.18.1. A loyalty award is granted by the head of agency to all officials and employees who rendered ten (10) years of continuous and satisfactory service in the government.

2.3.4.2.18.2. An official or employee who incurred an aggregate of not more than 50 days authorized vacation leave without pay within the 10-year

period shall be considered as having rendered continuous service for purposes of granting the loyalty award. In the same way, an official or employee who incurred an aggregate of not more than twenty-five (25) days authorized vacation leave without pay within the 5-year period may qualify for the 5-year milestone loyalty award.

- 2.3.4.2.18.3. Effective January 1, 2002, continuous and satisfactory services in government for purposes of granting loyalty award shall include services in one or more government agencies without any gap. Services rendered in other government agencies prior to January 1, 2002 shall not be considered for purposes of granting the loyalty award.

Documentary Requirements

Individual Claims

- 1) Service Record;
- 2) Certificate of non-payment (for transferee); and
- 3) Certification from the HR that the claimant has not incurred more than fifty (50) days authorized vacation leave without pay within the 10 year period or aggregate of more than twenty-five (25) days authorized vacation leave without pay within the 5 year period, as the case may be.

General Claims

- 1.) Loyalty Cash Advance Payroll;
- 2.) Payroll Register (hard and soft copy);
- 3.) Letter to the Bank to credit employees account of their salaries or other claims; and
- 4.) Deposit slips.

2.3.4.2.19. Collective Negotiation Agreement (CNA) Incentive

The guidelines on the grant of CNA incentives including the allocation of savings generated from cost-cutting measures as a result of the joint efforts of labor and management and the conditions for payment thereof are prescribed under DBM Budget Circular No. 2006-1 dated February 1, 2006.

Documentary Requirements

- 1) Resolution signed by both parties incorporating the guidelines/criteria for granting CNA incentive;
- 2) Comparative statement of DBM approved level of operating expenses and actual operating expenses;
- 3) Copy of CAN;
- 4) Certificate issued by the Head of the Agency on the total amount of unencumbered savings generated from cost-cutting measures identified in the CNA which resulted from the joint efforts of labor and management and systems / productivity / income improvement; and
- 5) Proof that the planned programs/activities/projects have been implemented and completed in accordance with targets for the year.

2.3.4.2.20. Other Expenditures

- 2.3.4.2.20.1. The amounts programmed, particularly for, but not limited to, petroleum, oil and lubricants as well as for water, illumination and power services, telephone and other communication services, rent, retirement gratuity and terminal leave requirements shall be disbursed solely for such items of expenditures. Any savings generated from these items after taking into consideration the agency's full year requirements may be realigned only in the last quarter.
- 2.3.4.2.20.2. Use of funds in violation of this section shall be void, and shall subject the erring officials and employees to disciplinary actions in accordance with Section 43, Chapter 5 and Section 80, Chapter 7, Book VI of EO No. 292, and to appropriate criminal action under existing penal laws.

Documentary Requirements

For Water, Illumination and Power Services

- 1) Statement of Account / Bill (for pre-audit purposes); and
- 2) Invoice / Official Receipt or machine validated statement of account/bill (for post-audit purposes).

For Telephone/Communication Services

- 1) Statement of Account;
- 2) Invoice/ Official Receipt or machine validated statement of account (for post-audit activities); and
- 3) Certification by Agency Heads or his authorized representatives that all National Direct Dial (NDD), National Operator Assisted Calls and International Operator Assisted Calls are official calls.

2.3.4.2.21. Extraordinary and Miscellaneous Expenses

- 2.3.4.2.21.1. The amount fixed under the GAA for National Government offices and officials shall be the ceiling in the disbursement of extraordinary and miscellaneous expenses. It shall cover extraordinary and miscellaneous expenses and other similar expenses, such as discretionary, business development expenses, representation expenses and the like. The audit guidelines on disbursement for these expenses in National Government Agencies are prescribed under COA Circular No. 89-300 dated March 21, 1989.
- 2.3.4.2.21.2. Appropriations for extraordinary and miscellaneous expenses may be used for the following purposes, among others:
 - 1) Meetings, seminars and conferences;
 - 2) Official entertainment;
 - 3) Public relations;
 - 4) Educational, athletic and cultural activities;
 - 5) Contributions to civic and charitable institutions;
 - 6) Membership in government associations;
 - 7) Membership in national professional organizations duly accredited by the Professional Regulatory Commission;
 - 8) Membership in the Integrated Bar of the Philippines;

- 9) Subscription to professional technical journals and informative magazines and materials (i.e. library books and materials);
- 10) Office equipment and supplies; and
- 11) Other similar expenses not supported by the regular budget allocation.

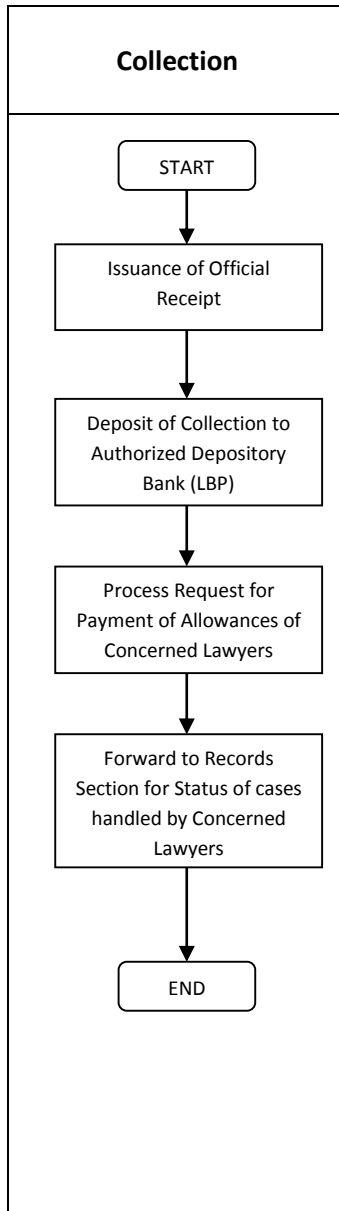
2.3.4.2.21.3. In case of deficiency, the requirements for the foregoing purposes shall be charged against savings of the agency.

Documentary Requirements

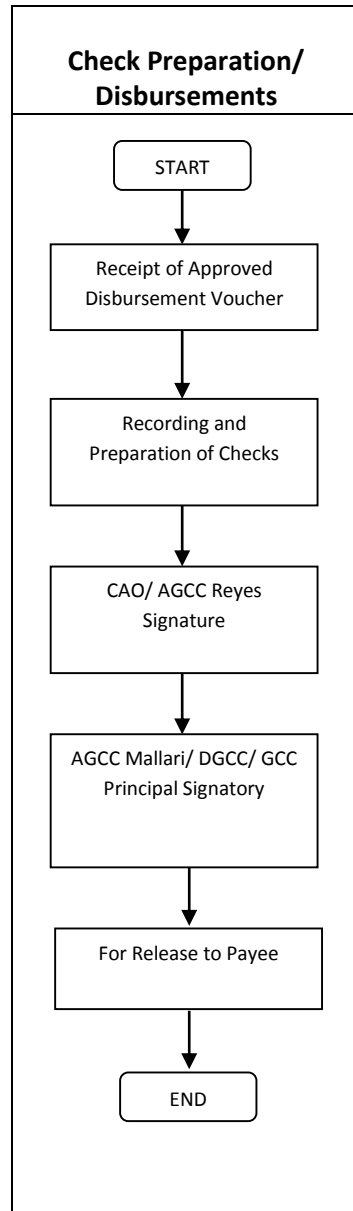
- 1) Invoices/receipts;
- 2) Certification from the entitled official; and
- 3) Other supporting documents as are necessary depending on the nature of expense charged.

6. Flow Charts

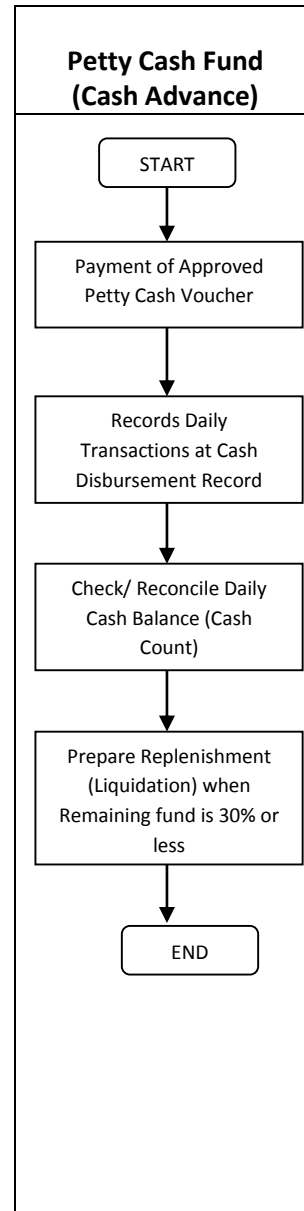
Flow Chart 1



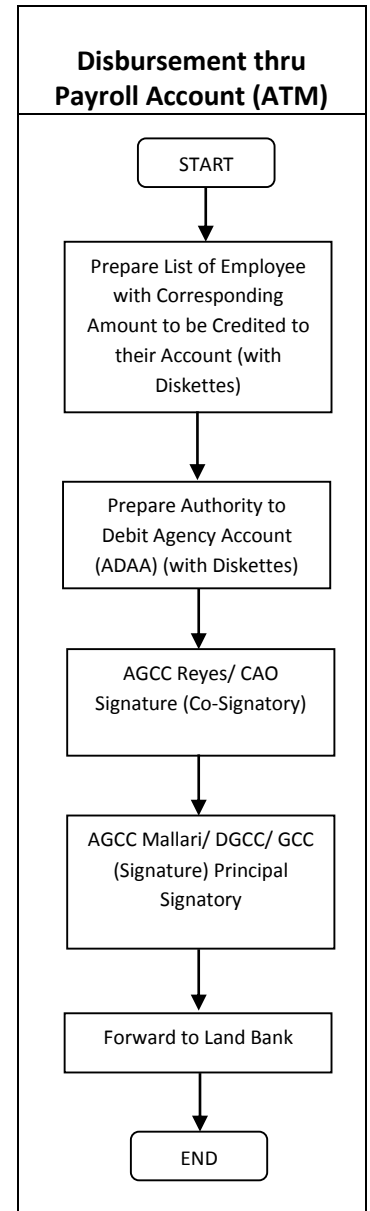
Flow Chart 2



Flow Chart 3



Flow Chart 4



V. CASHIER SECTION

The cashier is the officer designated/authorized to receive and disburse cash. The Cashier is primarily accountable and responsible for safekeeping of Government Funds also for the receipt, custody and Disbursements of funds.

1. Trust Fund

- 1.1 Upon receipt of payment of allowances, honorarium, assessment fees, legal fees, expenses reimbursed by the OGCC lawyers and any other receivables from our client corporations, cashier will issue an Official Receipt to acknowledge their payment. The Collection will be recorded to the Report of Collections and Deposits then it will be deposited to the Authorized Depository Bank which is the Land Bank.
- 1.2 The concerned team/lawyers will issue a request to process payment of their allowances. The Cashier will certify the veracity of the Official Receipt issued and the deposit of the certain claim. Then the documents will be forwarded to the Records Section for the Status of the cases handled by concerned lawyers.

2. General Fund

- 2.1 Transactions like refund of unused cash advances, unused petty cash fund at the end of the year, overpaid salaries, payment of regular assessments from Government Corporations and other similar transactions, the cashier will issue an Official receipt to acknowledge their refund/payment. The Collection will be recorded to the Report of Collections and Deposits then will be deposited to the Authorized Depository Bank which is the Land Bank for the Account of Bureau of Internal Revenue (BTR).

3. Check Preparation/Disbursements

3.1 General Fund

- 3.1.1 Upon receipt of approved Disbursement Vouchers from approving Officers Assistant Government Corporate Counsel, if the amount involved is below Two Hundred Thousand Pesos (P200,000.00), Deputy Government Corporate Counsel, if the amount involved is above P200,000.00 but below P500,000.00 and Government Corporate Counsel, if the amount involved is above P500,000.00 pursuant to Office Order No. 28 series of 2012 dated February 16, 2012, checks will be prepared and will be recorded to Warrant Register Book. Then the checks will be brought to the Co-signatory Officers, the Chief Administrative Officer or Assistant Government Corporate Counsel and to the Principal Signatories mentioned above.
- 3.1.2 An Advice of Checks Issued and Cancelled will be prepared to be submitted to the Land Bank and Bureau of the Treasury (BTR). It is transmitted through hard copy and a soft copy (diskette) both to the Land Bank and BTR.

3.2 Trust Fund

- 3.2.1 Checks are prepared upon receipt of approved Disbursement Vouchers from approving Officer no other than the Government Corporate Counsel, regardless of the amount unlike General Fund, pursuant to Office Order No. 28 series of 2012 dated February 16, 2012.

- 3.2.2 Cashier will issue check of lawyers with no back-log noted by Records Officer and retain checks of lawyers with back-log until cleared by the Records Officer pursuant to Memorandum Circular dated June 1, 2011 (MC-RCC-02 Series of 2011)

4. Petty Cash Fund/Cash Advance

- 4.1 An employee will secure a copy of Petty Cash Voucher to Cashier Section and let the Chief Administrative Officer (CAO) sign the approved portion. Once approved, the cashier will issue payment of the Petty Cash Voucher.
- 4.2 The transaction will be recorded at Cash Disbursement Record and the Cash balance will be reconciled daily by conducting Cash Count.
- 4.3 The Cashier will prepare a replenishment (liquidation) report at least once a month or when the remaining balance of Petty Cash Fund is thirty percent (30%) or less.

5. Disbursement Thru Payroll Account (ATM)

- 5.1 After issuing a check payable to OGCC PAYROLL ACCOUNT, Cashier will prepare list of employees with corresponding amount to be credited to their respective account to be submitted to LAND BANK together with a diskette.
- 5.2 Authority to Debit Agency Account (ADAA) duly signed by the Principal Signatory and Co-Signatory will be attached to the list of employees to be submitted to the LAND BANK. It is also supported with a diskette.

VI. RECORDS SECTION

1. Objectives

- 1.1 To establish a reliable records management system that will enable the systematic tracking of all incoming and outgoing documents of the office.
- 1.2 To keep and preserve the integrity of documents such as Pleadings, Orders, Resolutions, Contract Reviews, Opinions and other correspondences to client corporations.
- 1.3 To effectively and efficiently deliver all outgoing pleadings and other correspondences to different courts, agencies, law firms, client corporations and other recipient.
- 1.4 To deliver information and statistics that will aid the management in making office policies for more improved services to client corporations.
- 1.5 To provide statistics for reportorial requirements of the Department of Justice, Department of Budget and Management, and the Office of the President

2. Scope Of Work

- 2.1 Receipt of incoming documents through:
 - 2.1.1 Mail
 - 2.1.2 Personal delivery
- 2.2 Dispatch of outgoing documents
- 2.3 In custody of files of all cases handled by the office

3. Receiving

3.1 Objective

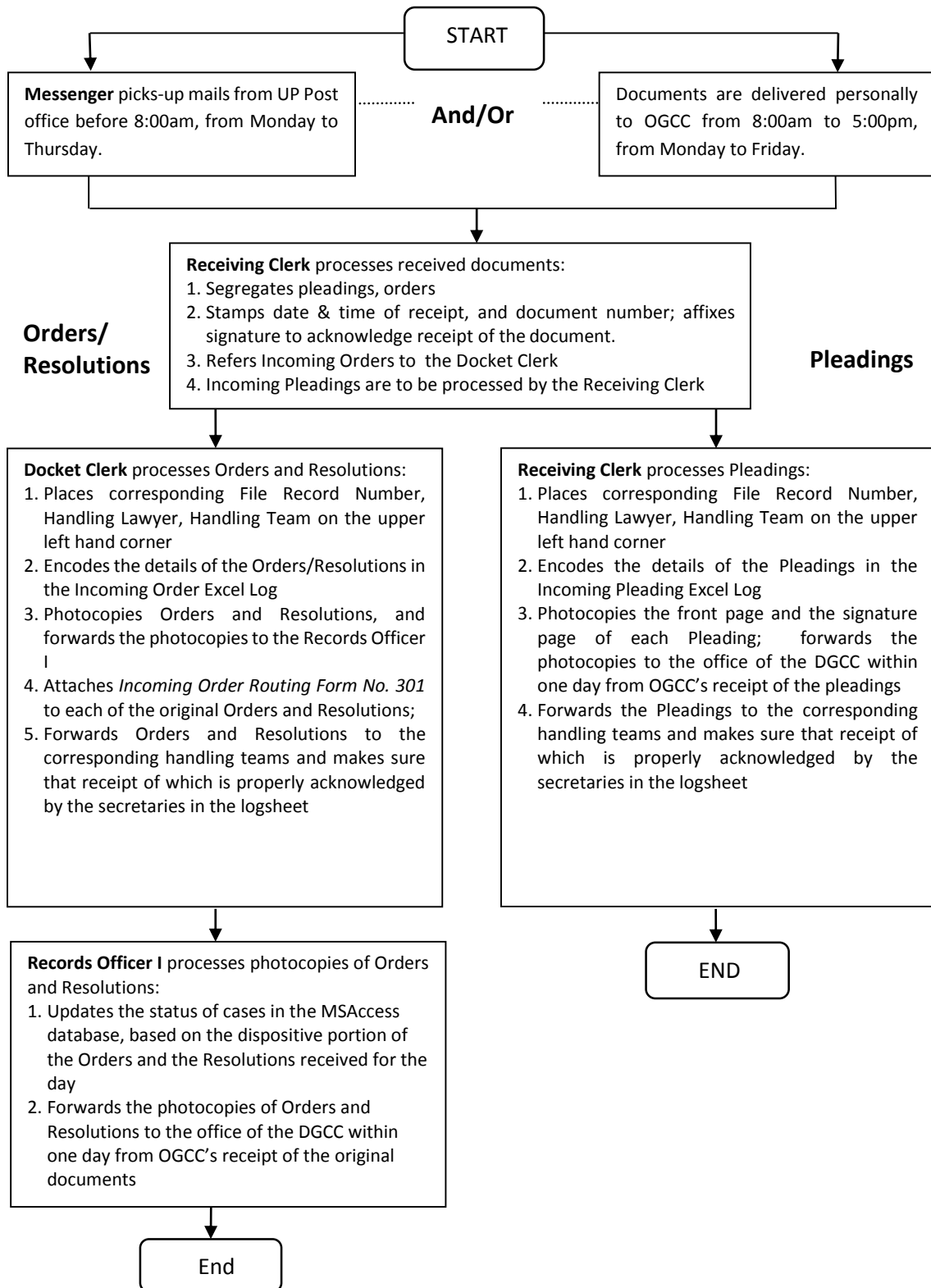
To ensure that all documents received daily are attended to accordingly, and are delivered to the proper OGCC addressee on time.

3.2 Process Flowcharts

3.2.1 Flow Chart 1

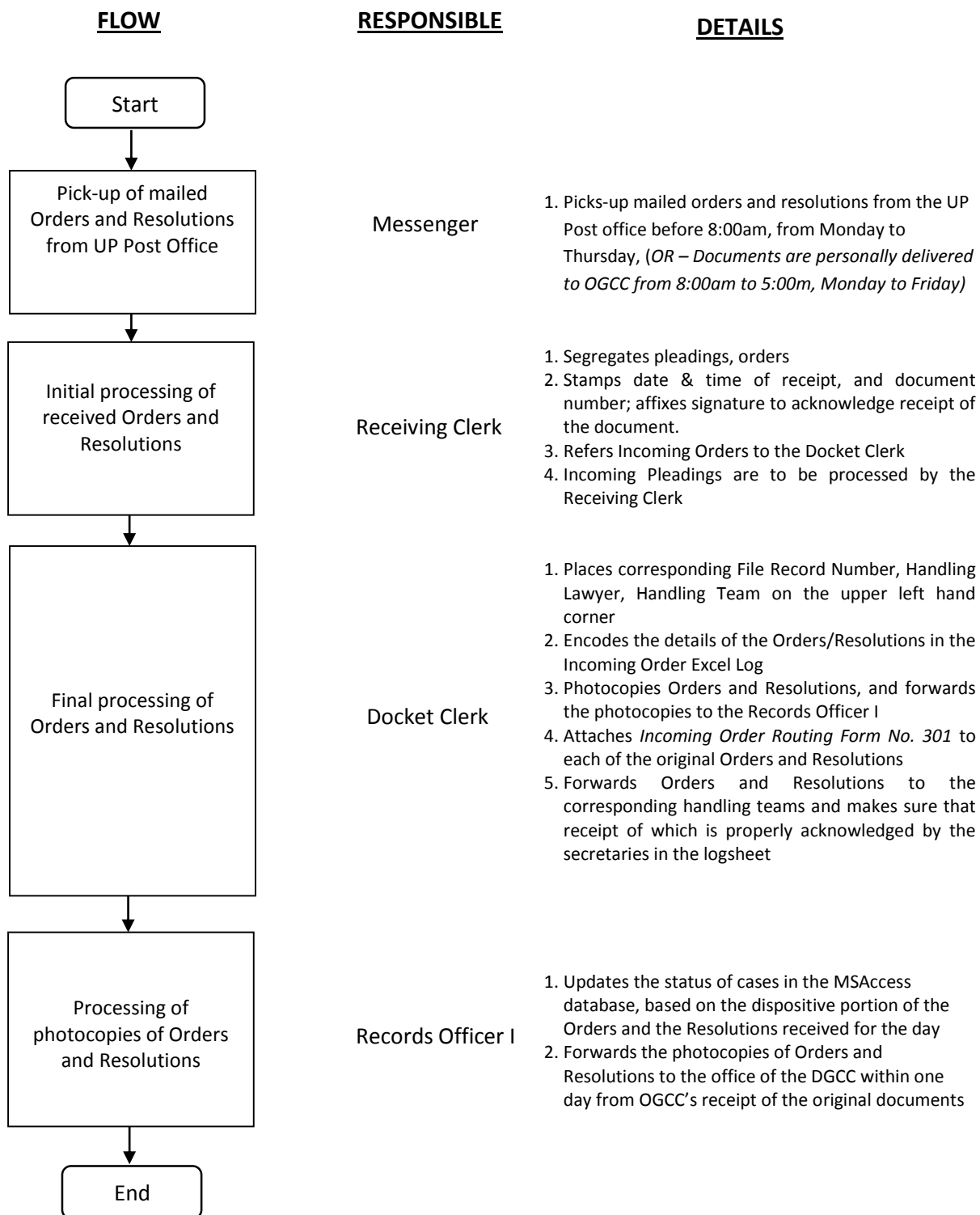
INCOMING ORDERS AND PLEADINGS

OVERVIEW OF FLOW CHART

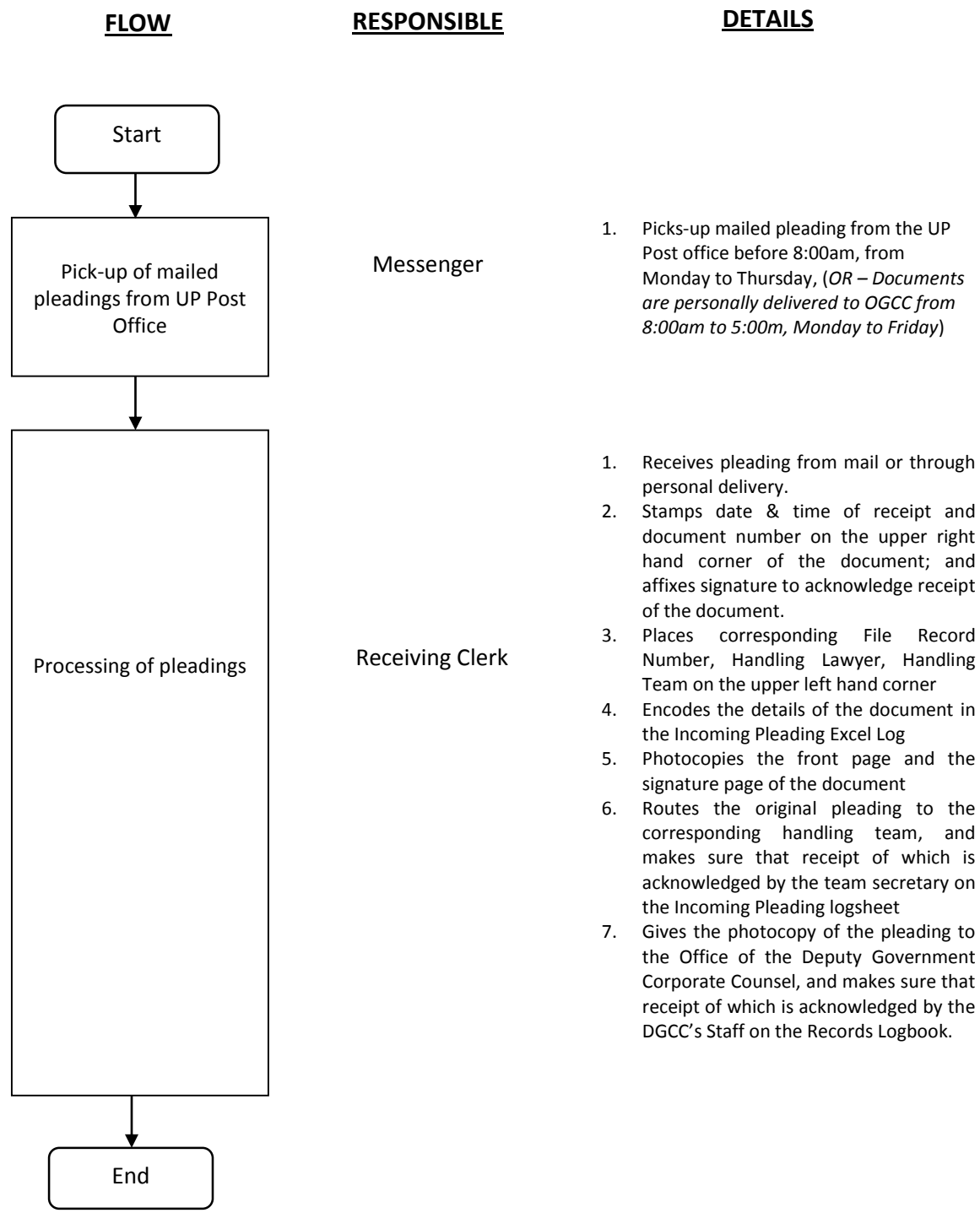


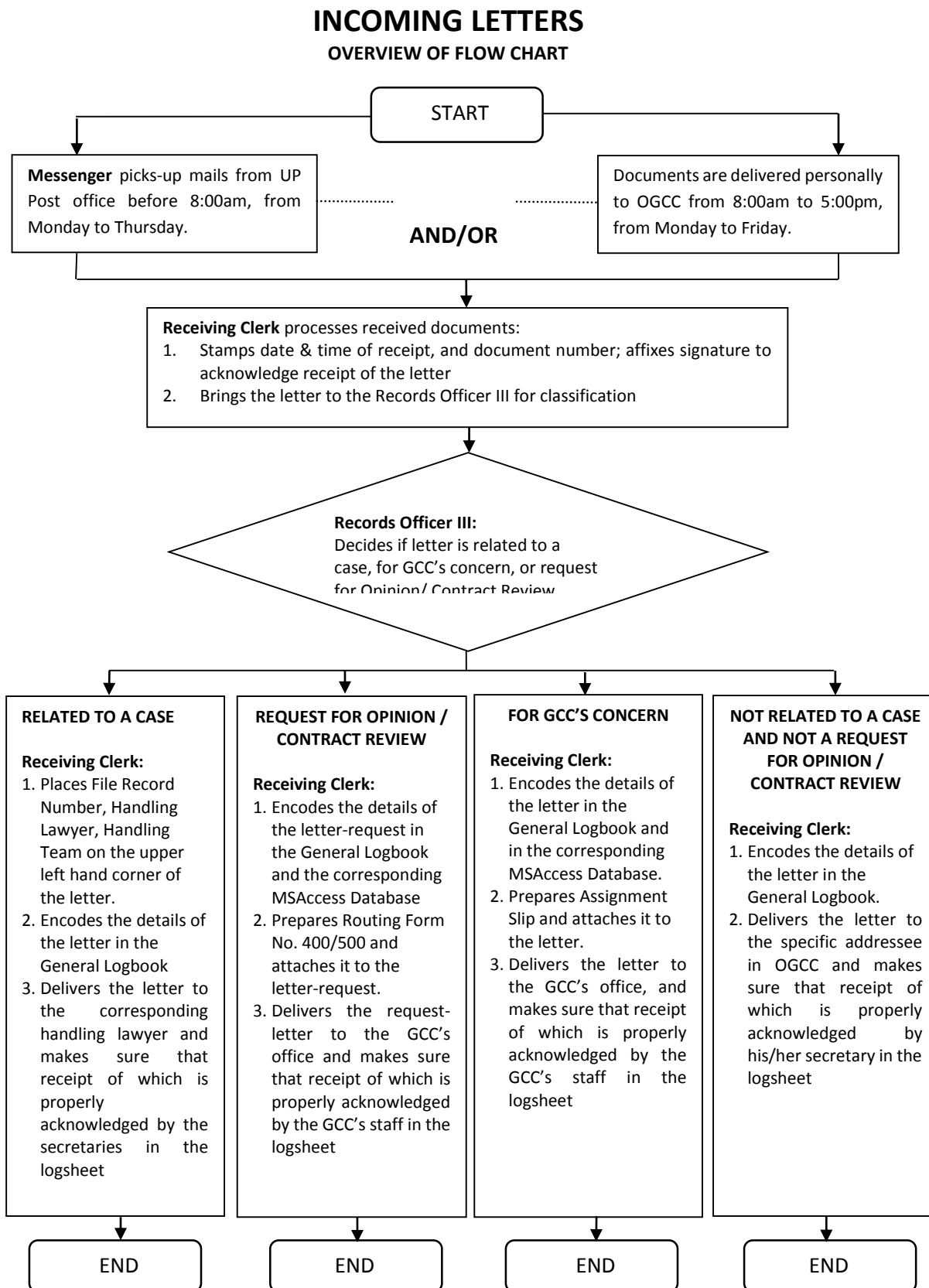
INCOMING ORDERS

DETAILED FLOW CHART

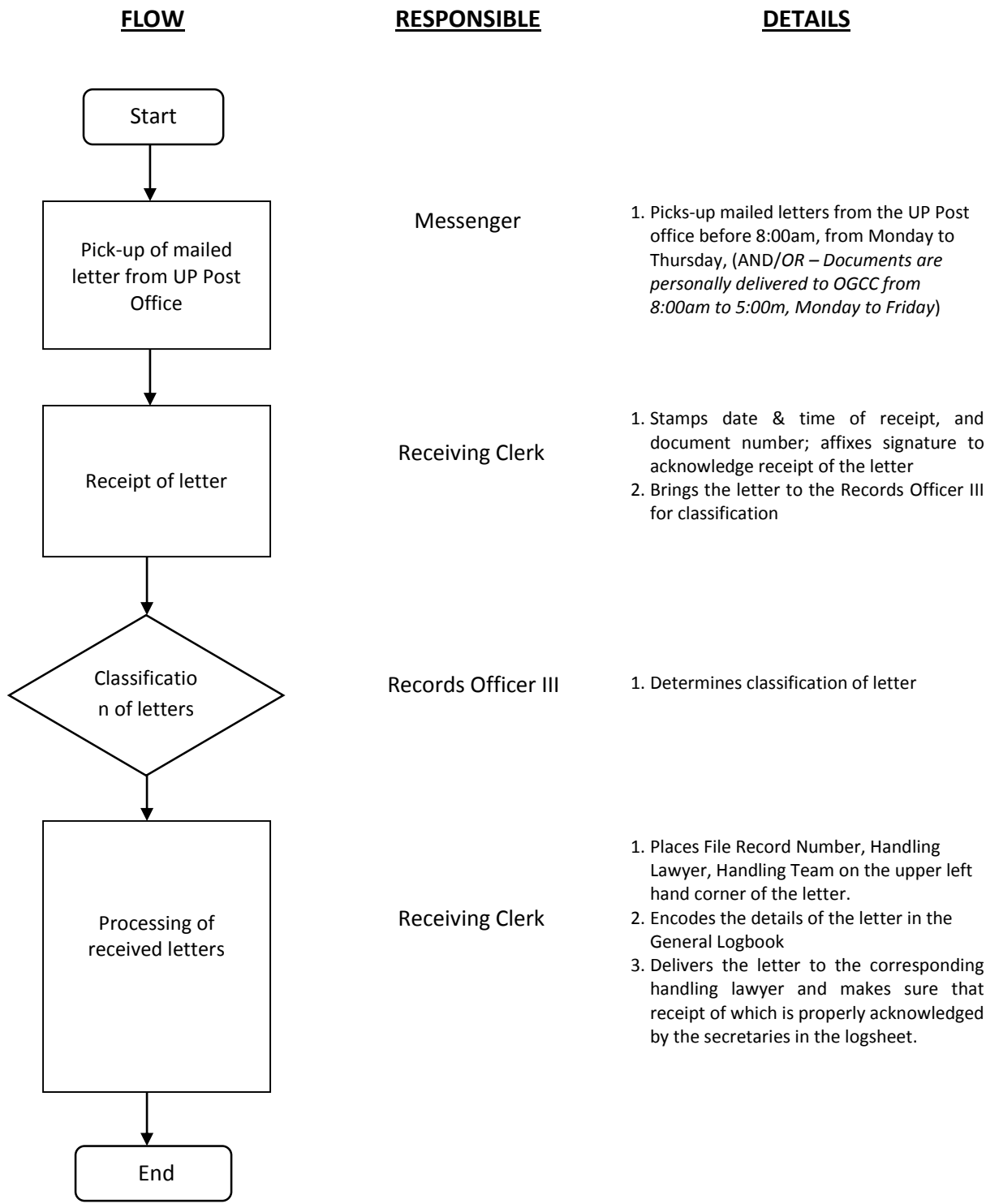


INCOMING PLEADINGS
DETAILED FLOW CHART

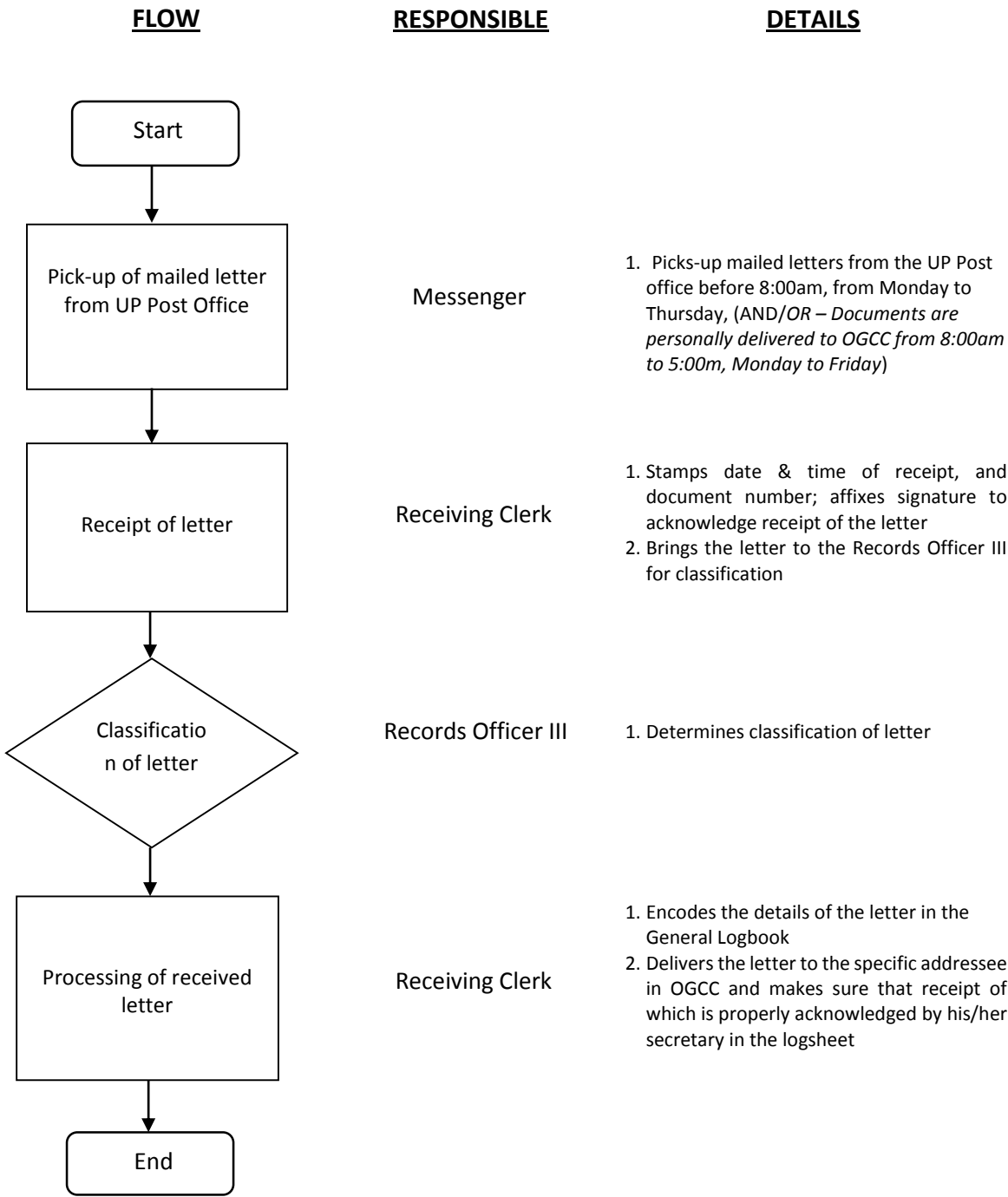




INCOMING LETTER
Case-Related
DETAILED FLOW CHART

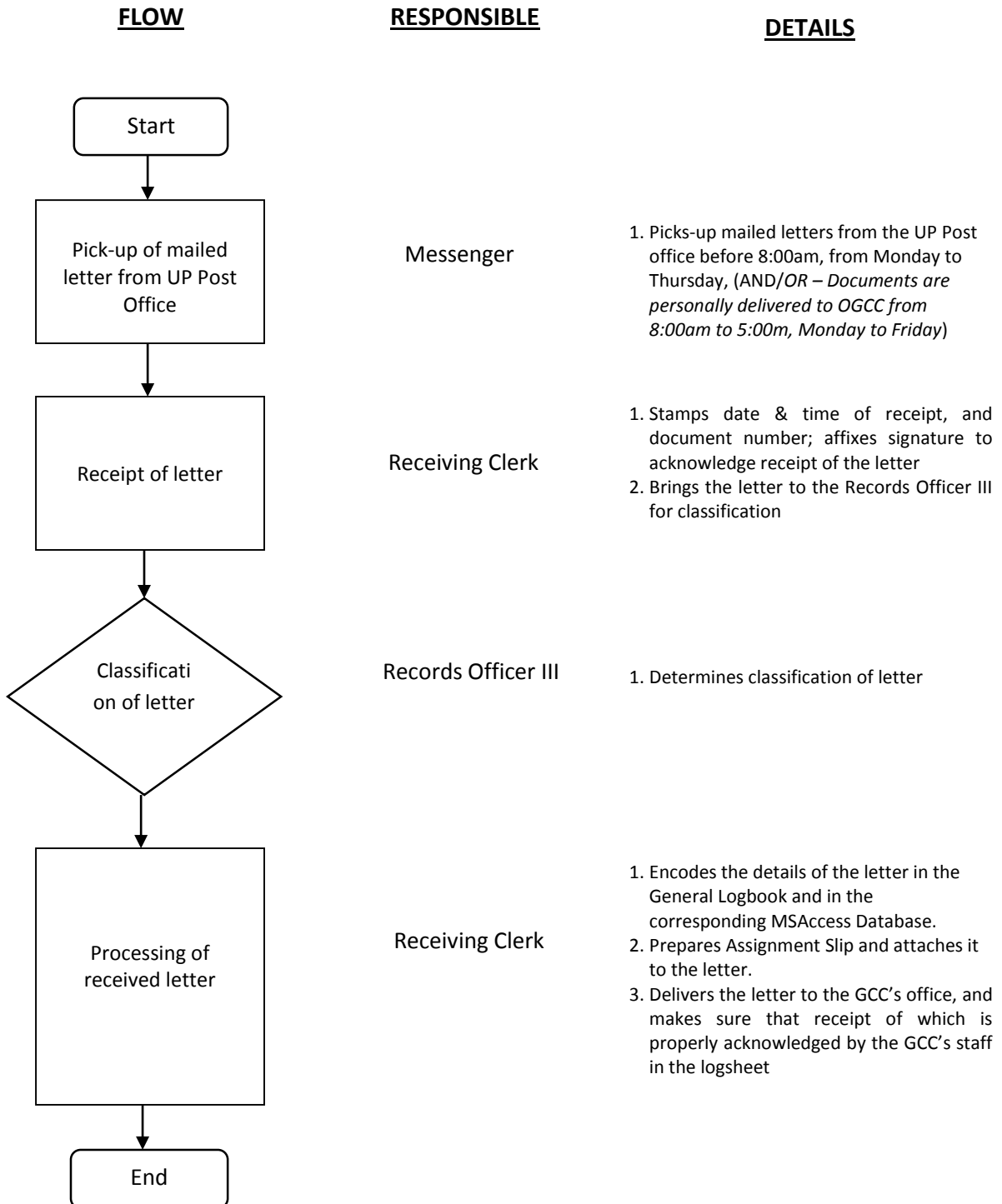


INCOMING LETTER
Not Case-Related and Not a Request for
Opinion or Contract Review
DETAILED FLOW CHART

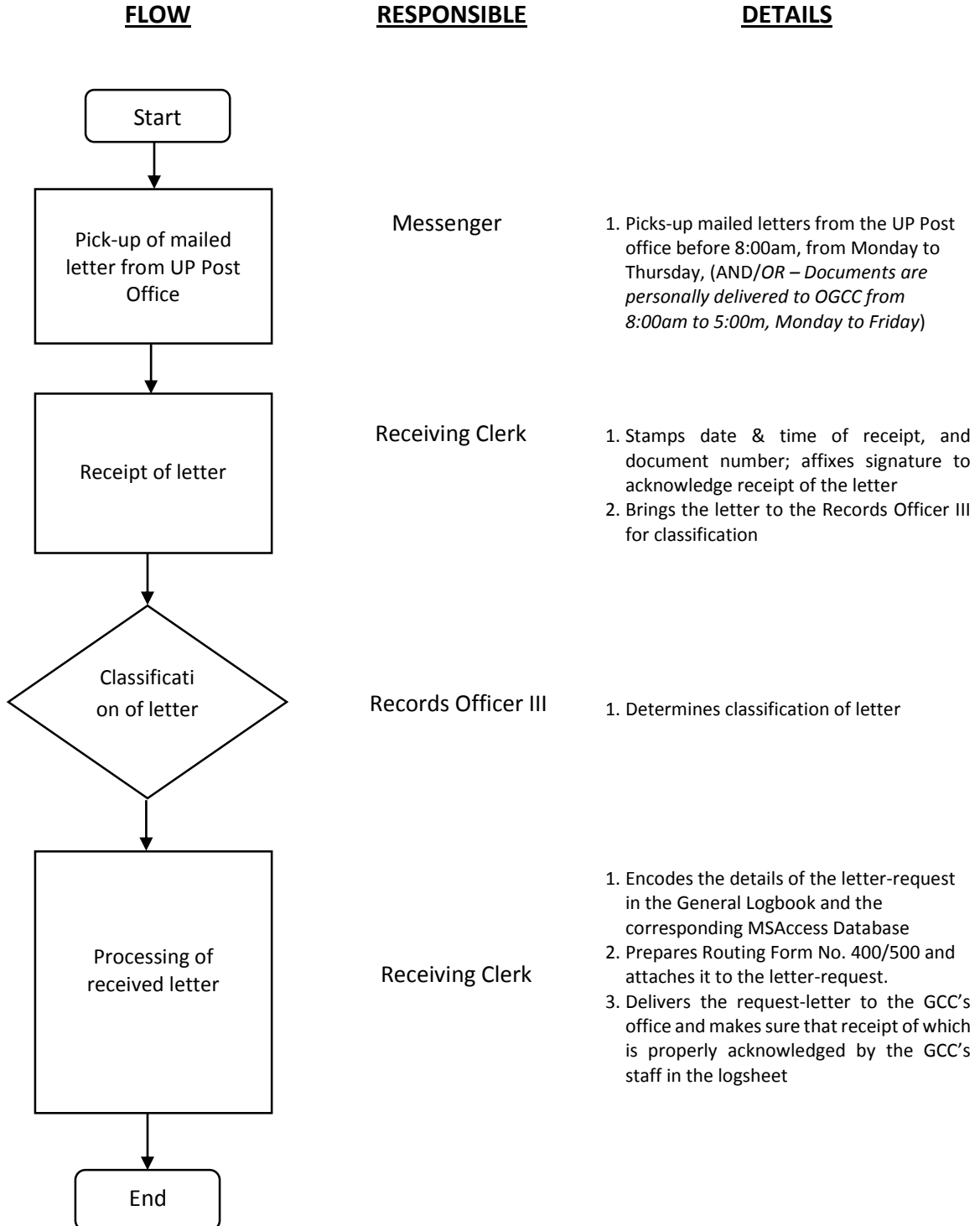


3.2.7 Flow Chart 7

INCOMING LETTER
For GCC's Concern
DETAILED FLOW CHART



INCOMING LETTER
Request for Opinion or Contract Review
DETAILED FLOW CHART



3.3 Target

PROCESS	TIME ELEMENT
Transmittal of Orders and Pleadings to appropriate handling teams	<ul style="list-style-type: none">• On or before 3:00pm of the same day of receipt ,unless documents received for the day exceed 50 in number. In which case, documents must be delivered to appropriate Teams on or before 5:00pm of the same day• On or before 5:00pm of the same day if Orders or Pleadings are received beyond 1:00pm.
Transmittal of photocopies of Orders and Pleadings to the office of the Deputy Government Corporate Counsel	Within 1 day from receipt of the original Orders and Pleadings
Transmittal of Letters to the appropriate addressees in OGCC	Within 3 hours from receipt

4. Dispatch Section

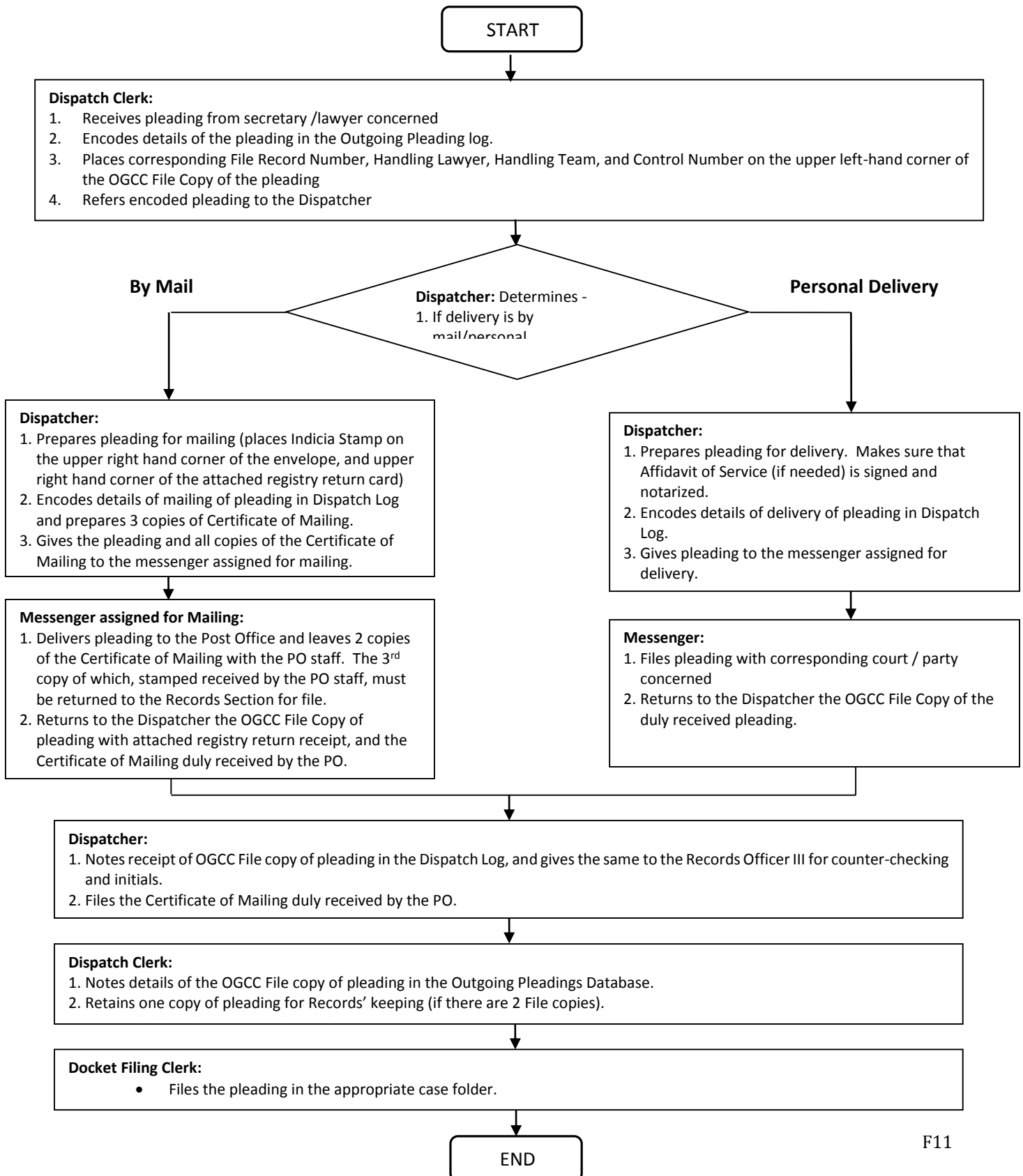
4.1 Objective

To effectively and efficiently deliver all outgoing pleadings and other correspondences to different courts, agencies, law firms, client corporations and other recipients.

4.2 Process Flowcharts

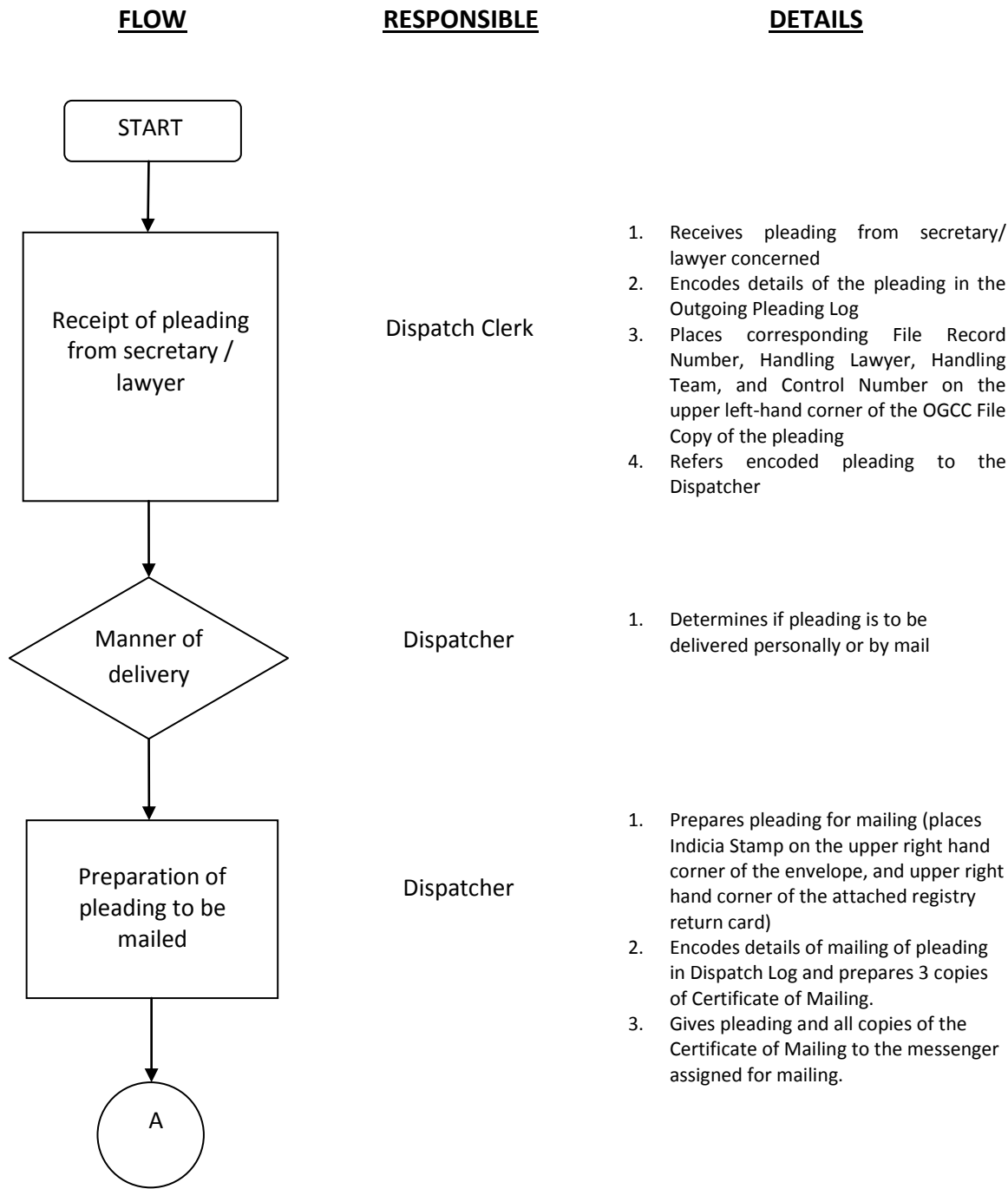
DISPATCH OF OUTGOING PLEADINGS

OVERVIEW OF FLOW CHART



DISPATCH OF OUTGOING PLEADING

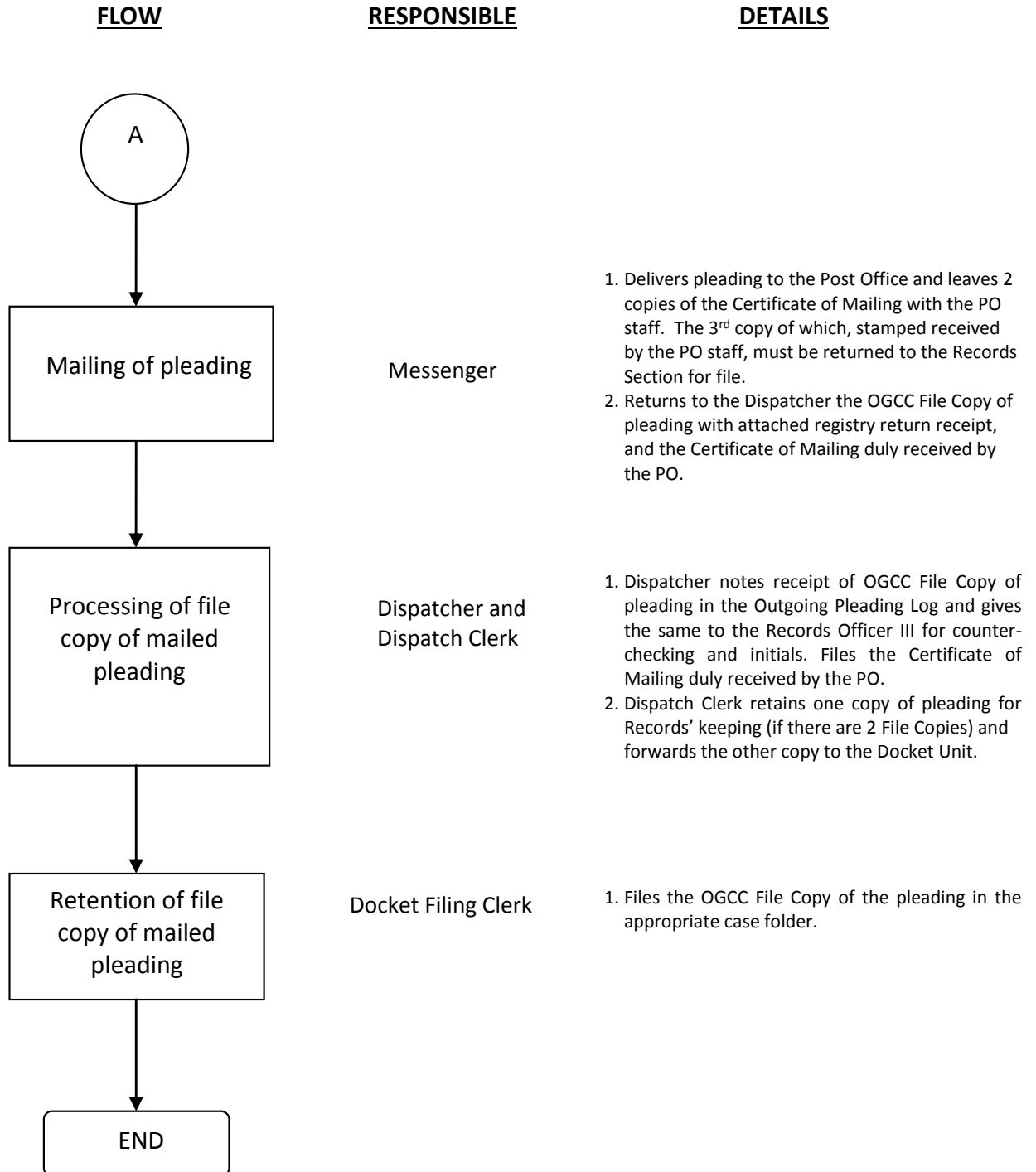
**By Mail
DETAILED FLOW CHART**



DISPATCH OF OUTGOING PLEADING

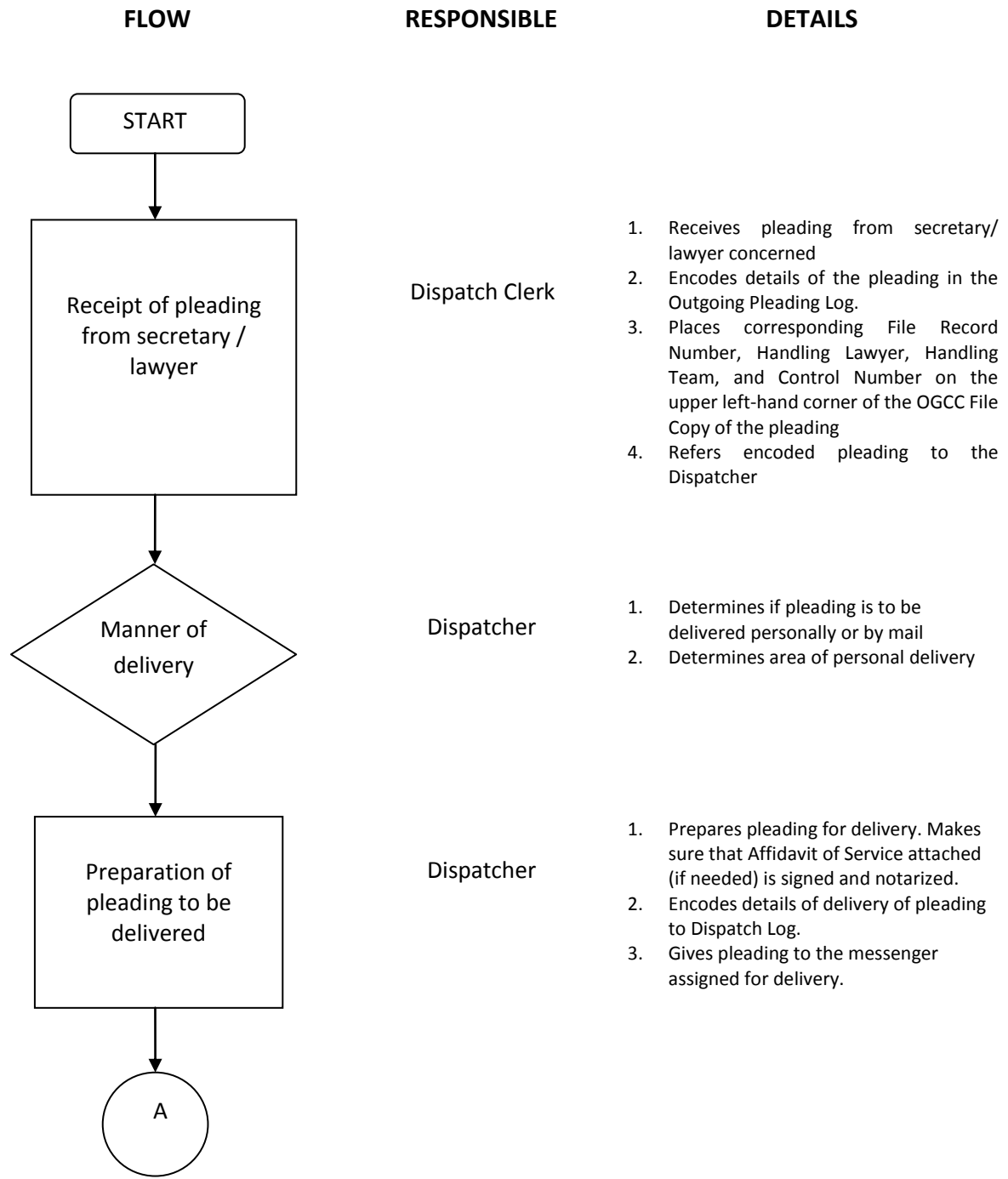
By Mail

CONTINUATION OF DETAILED FLOW CHART

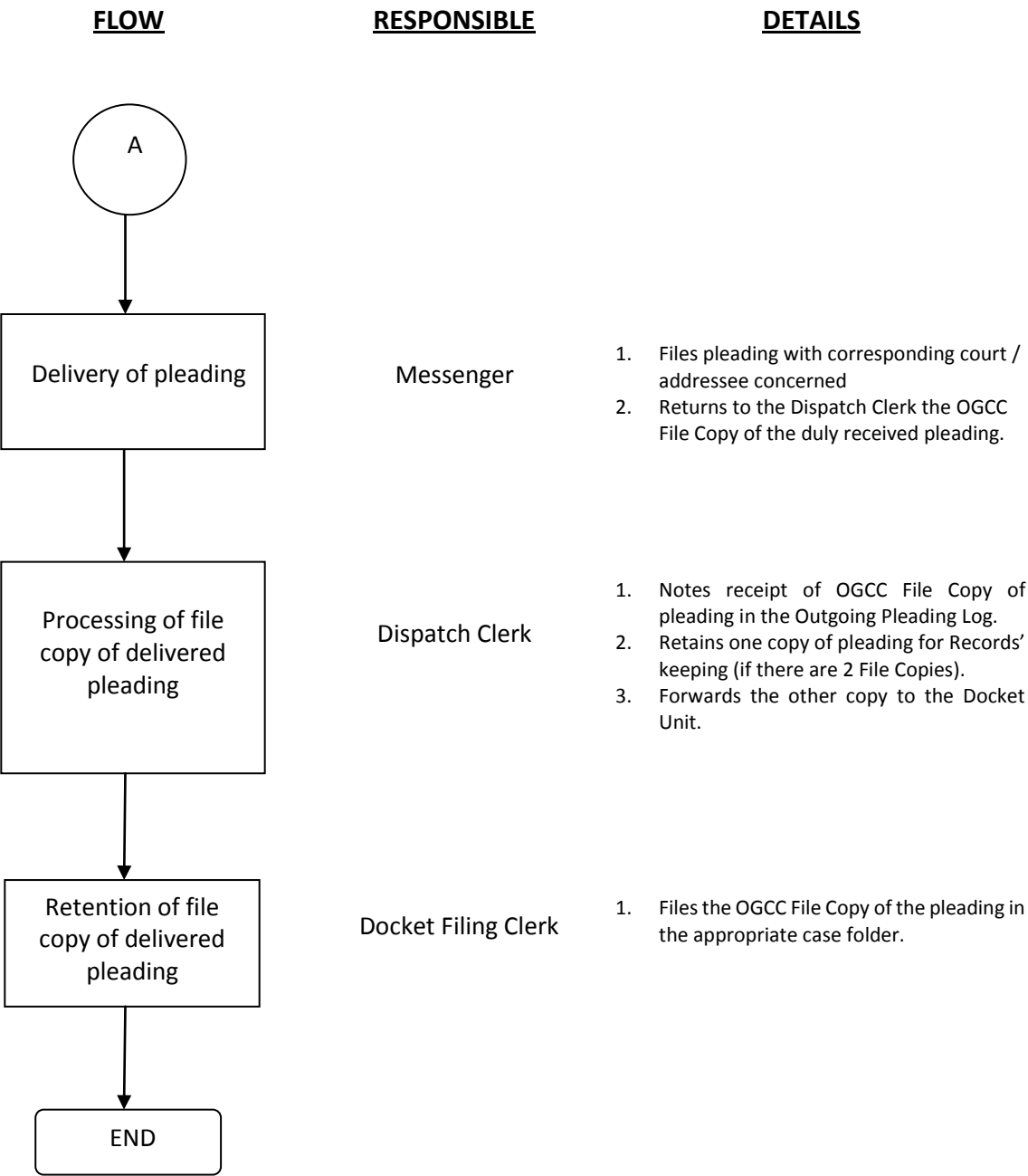


DISPATCH OF OUTGOING PLEADING

**By Personal Delivery
DETAILED FLOW CHART**

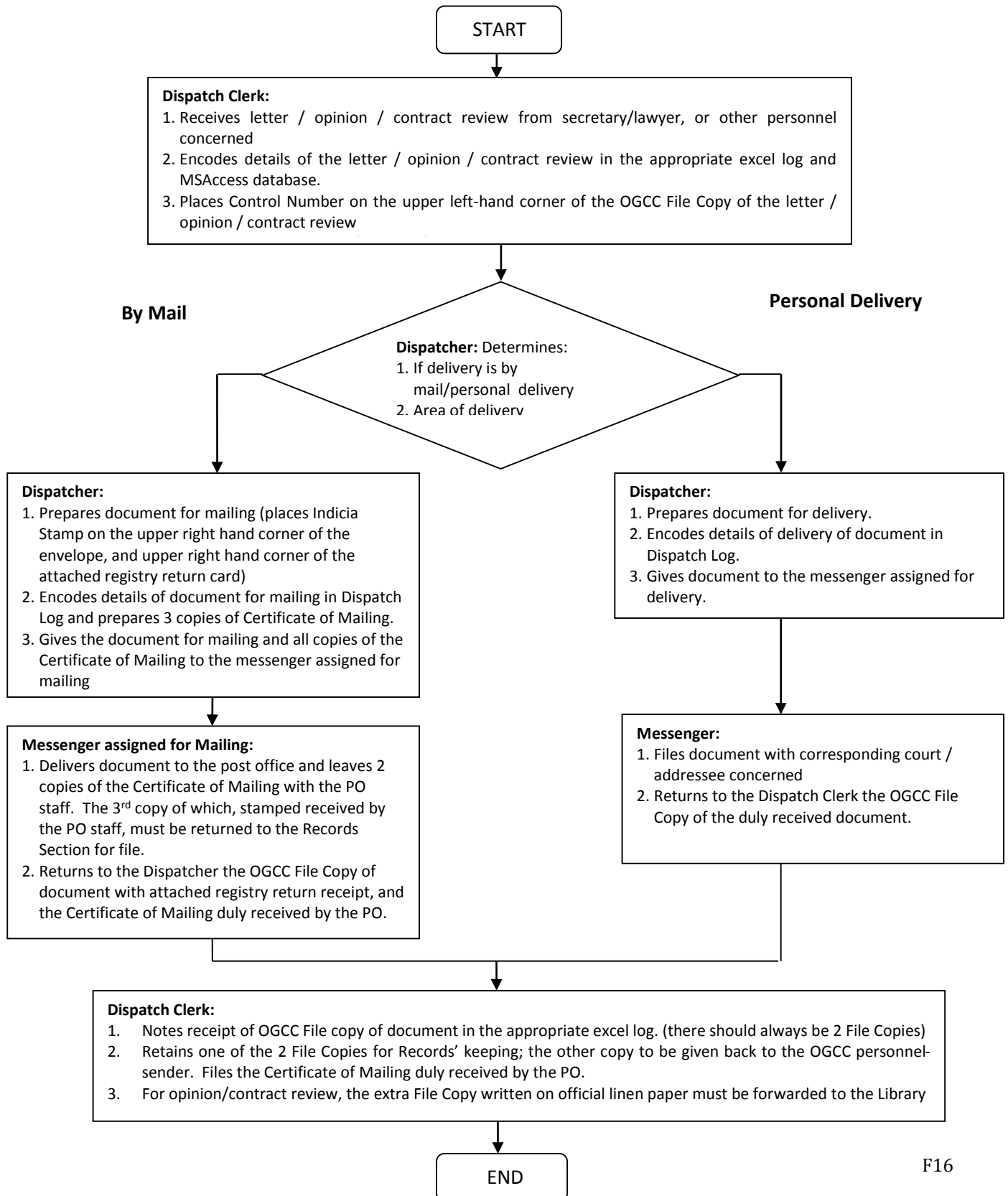


DISPATCH OF OUTGOING PLEADING
 By Personal Delivery
 CONTINUATION OF DETAILED FLOW CHART



DISPATCH OF OUTGOING LETTERS

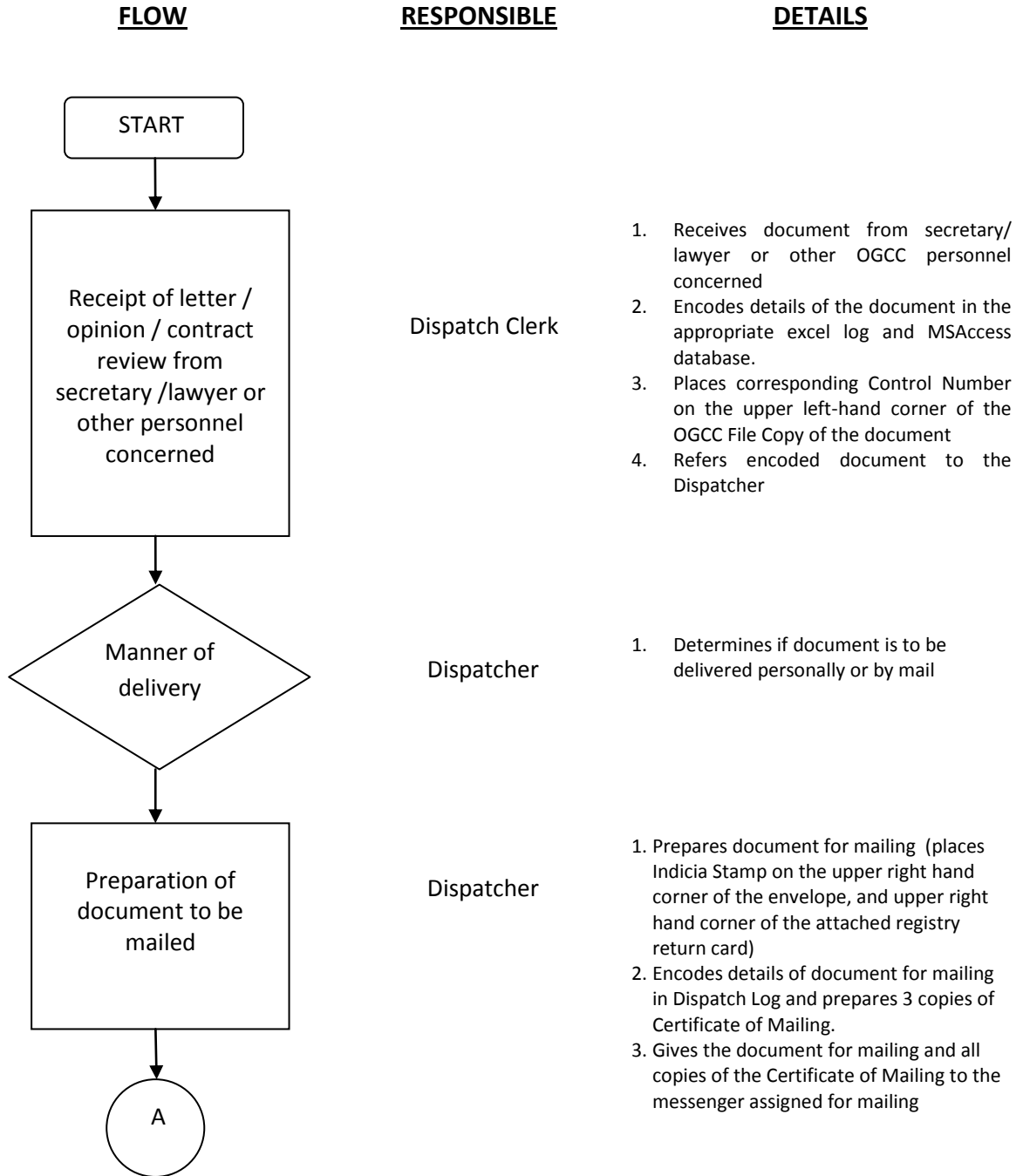
OVERVIEW OF FLOW CHART



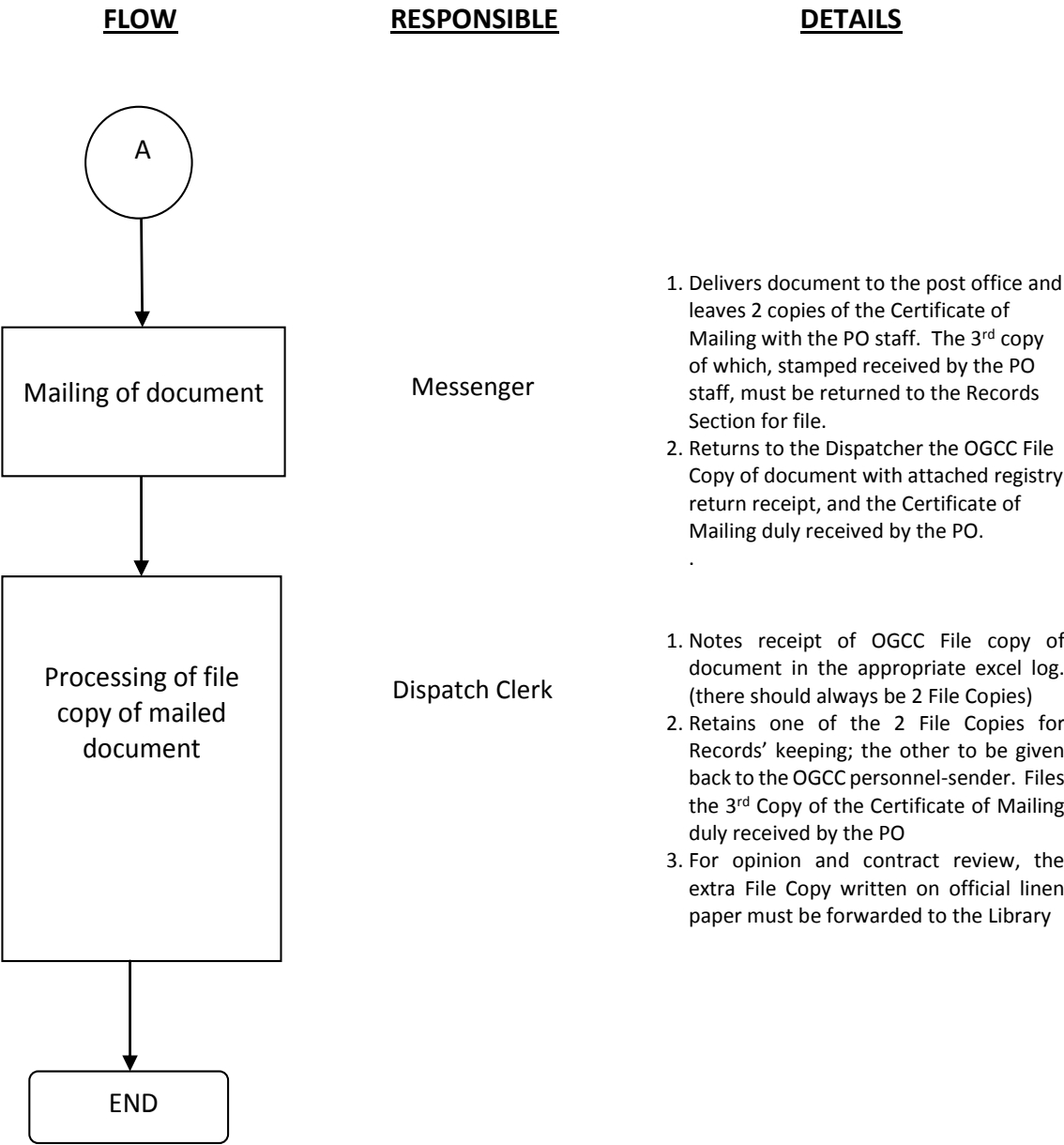
DISPATCH OF OUTGOING LETTERS

By Mail

DETAILED FLOW CHART

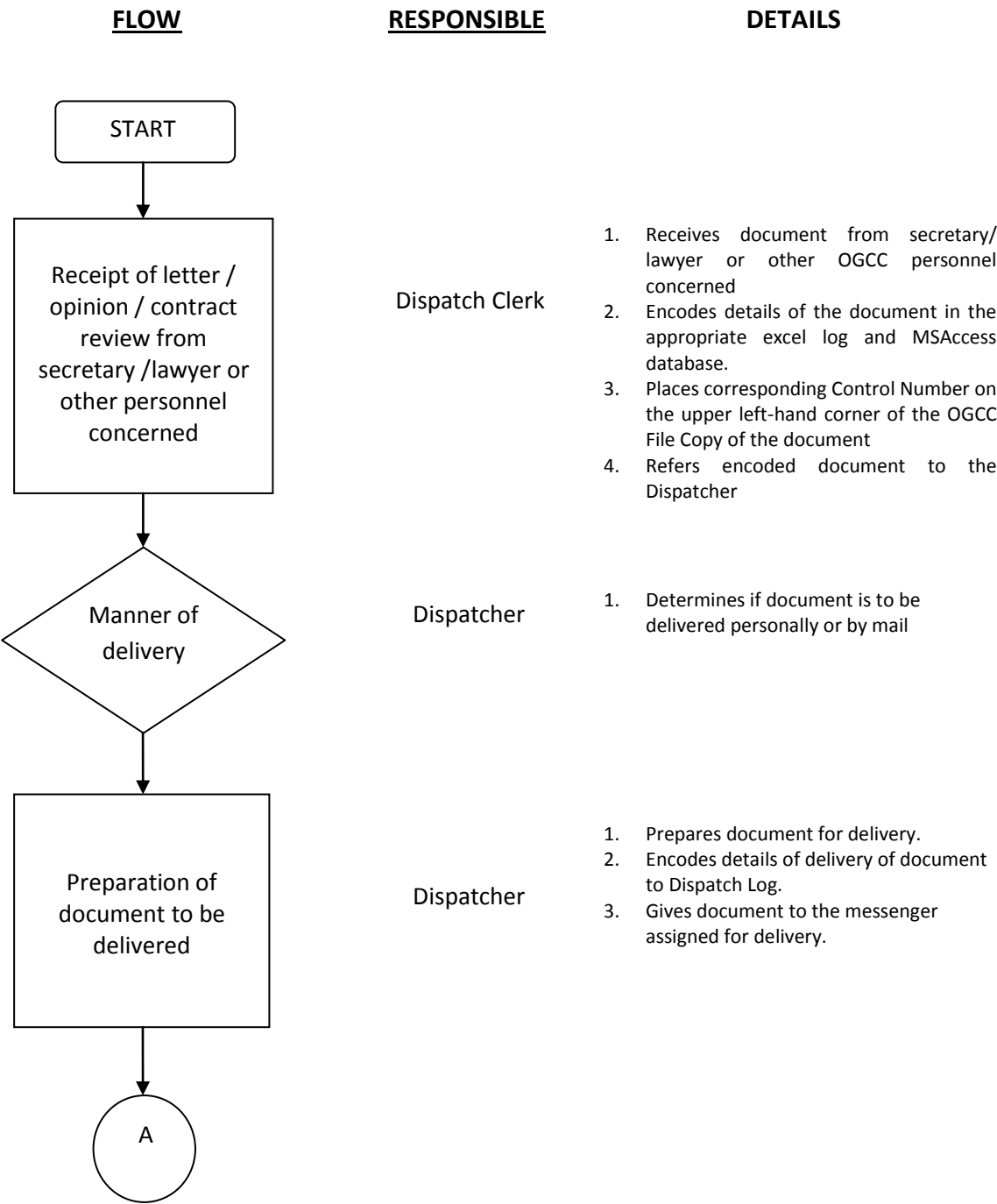


DISPATCH OF OUTGOING LETTERS
By Mail
CONTINUATION OF DETAILED FLOW CHART



DISPATCH OF OUTGOING LETTERS

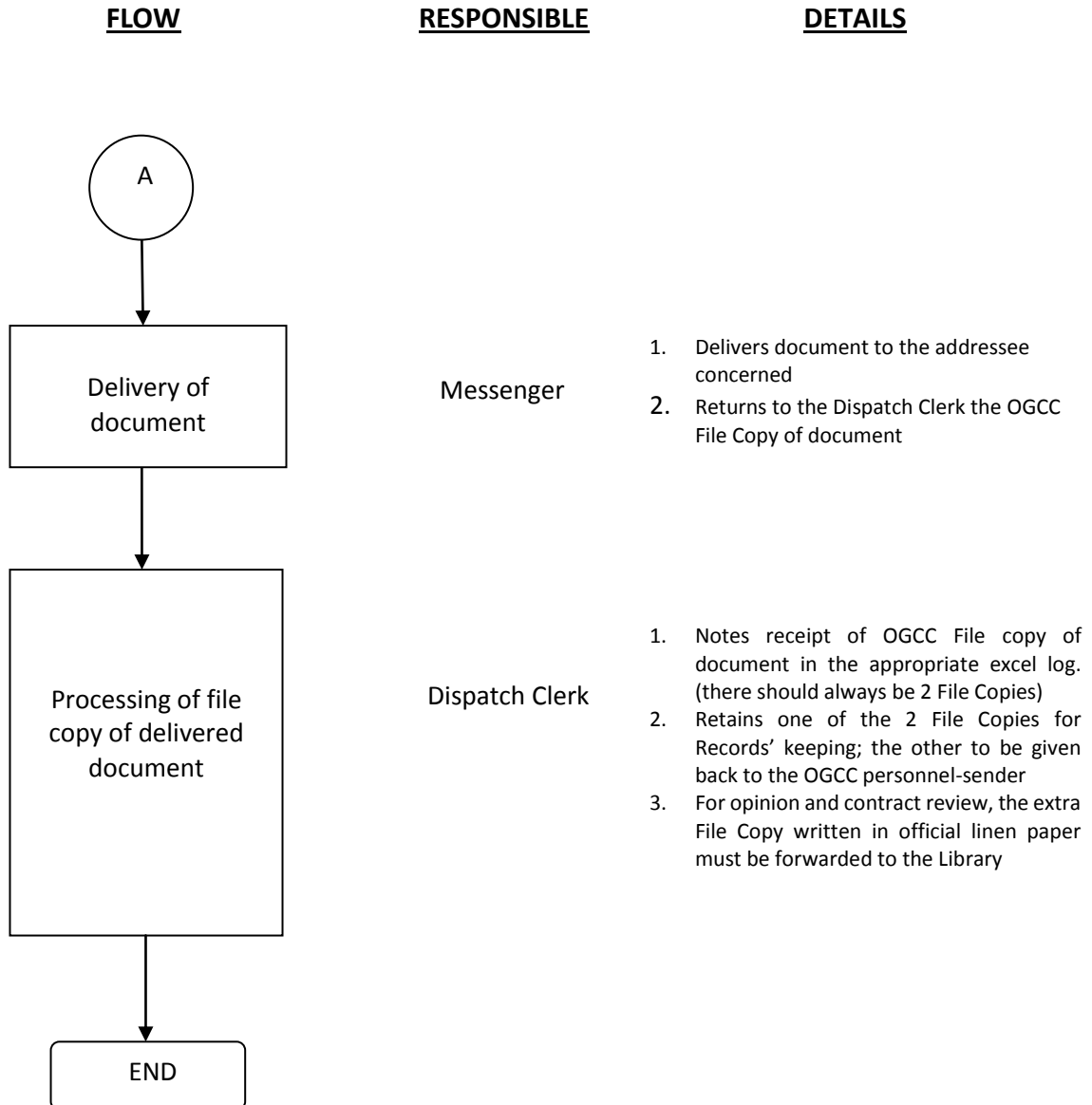
**By Personal Delivery
DETAILED FLOW CHART**



DISPATCH OF OUTGOING LETTERS

By Personal Delivery

CONTINUATION OF DETAILED FLOW CHART



4.3 TARGETS

PROCESS	TIME ELEMENT
Preparation of documents to be delivered and assignment of messengers	<ul style="list-style-type: none">• On or before 11:30am of the day of receipt, if documents are received by the Dispatch Unit in the morning.• On or before 3:30pm of the day of receipt, if documents are received by the Dispatch Unit beyond 12:00nn.
Personal Delivery and Mailing of Documents	<ul style="list-style-type: none">• Within the day of receipt by the Dispatch Unit
Return of OGCC file copy of the delivered document, to the Dispatch Clerk	<ul style="list-style-type: none">• Within one day from delivery

5. Docket

5.1 Objective

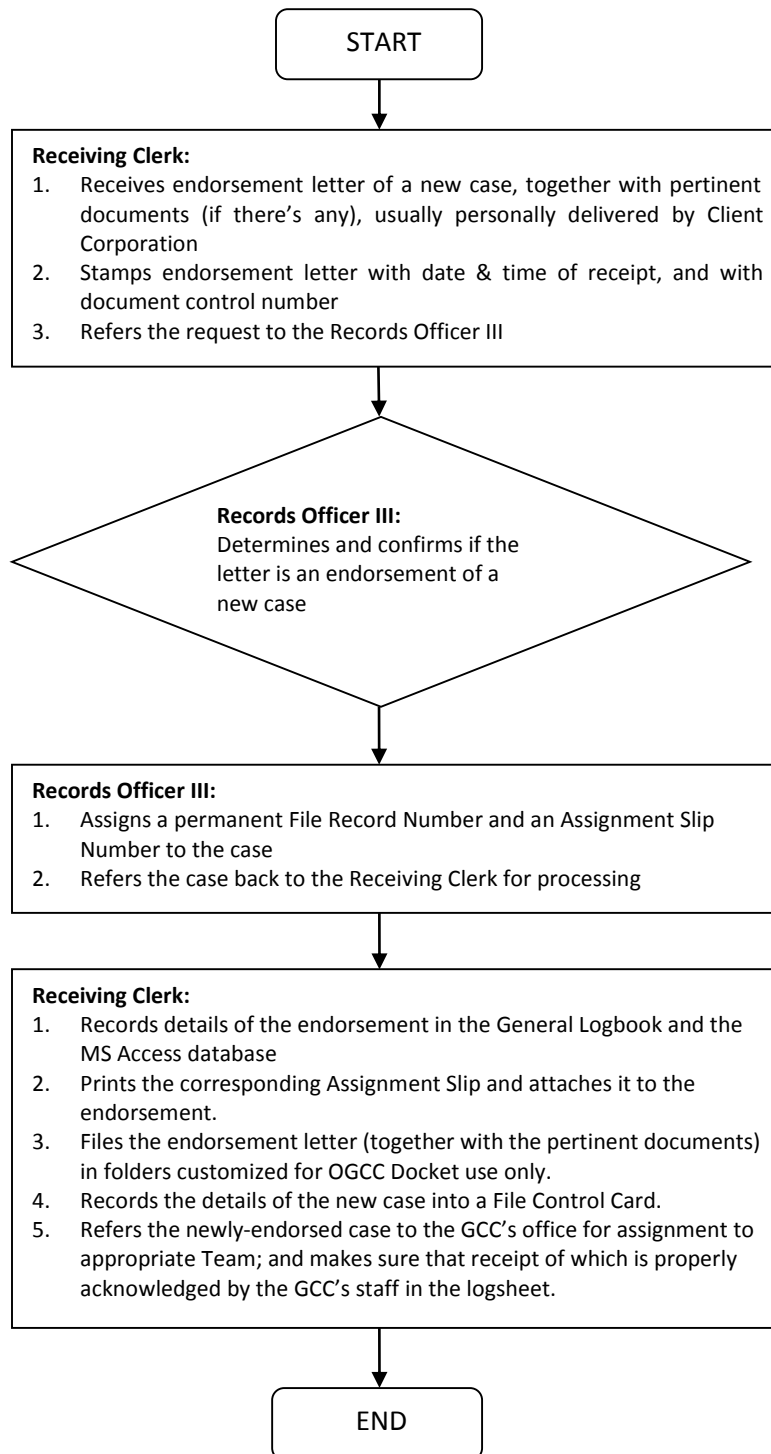
- 5.1.1 To keep and preserve the integrity of case files which includes among others, pleadings, orders and resolutions.
- 5.1.2 To centralize the custody of case files.
- 5.1.3 To restrict the availability of case files

5.2 Process Flowcharts

5.2.1 Flow Chart 1

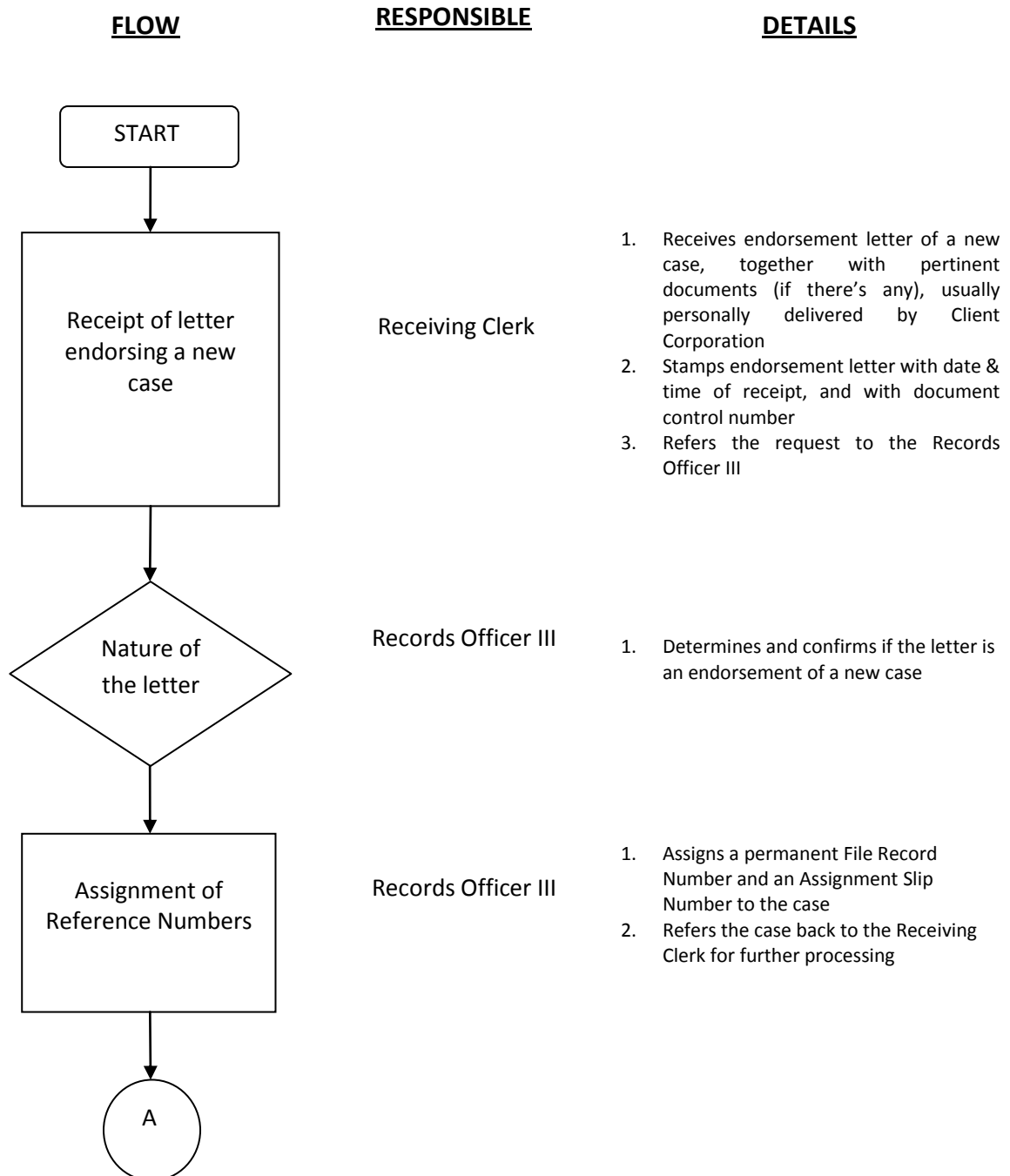
DOCKET PROCEDURE – NEW CASE

OVERVIEW OF FLOW CHART

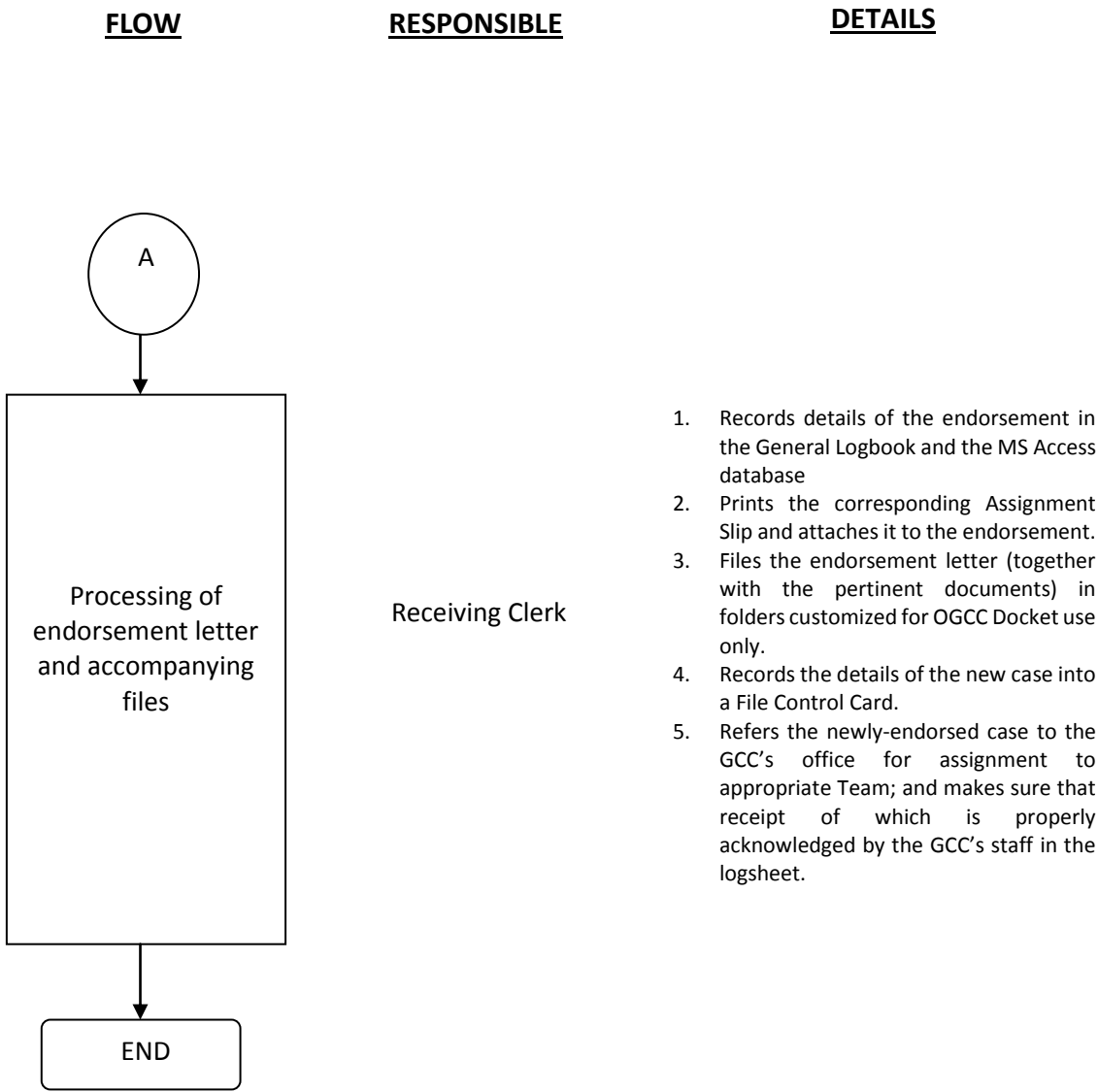


DOCKET PROCEDURE – NEW CASE

DETAILED FLOW CHART

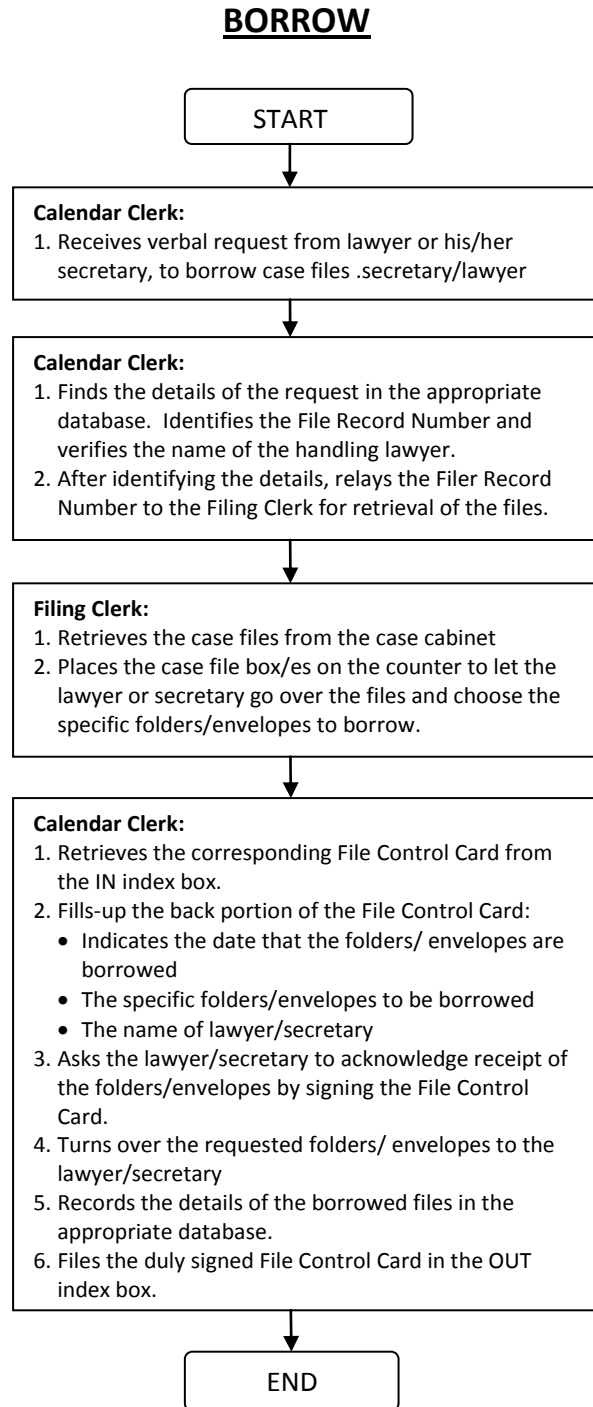


DOCKET PROCEDURE – NEW CASE
CONTINUATION OF DETAILED FLOW CHART



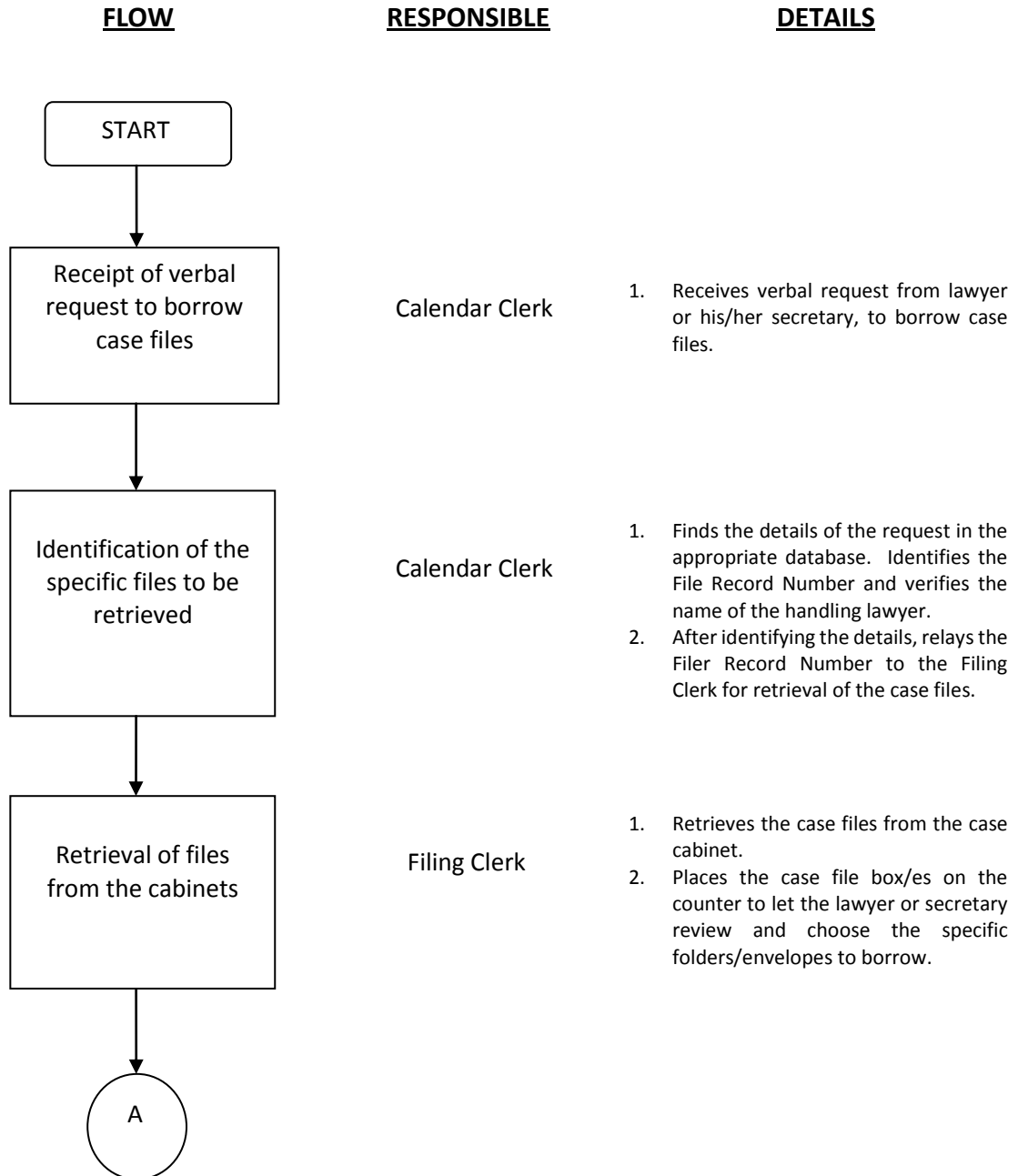
DOCKET PROCEDURE – ACCESSING FILES

Borrow OVERVIEW OF FLOW CHART



DOCKET PROCEDURE – ACCESSING FILES

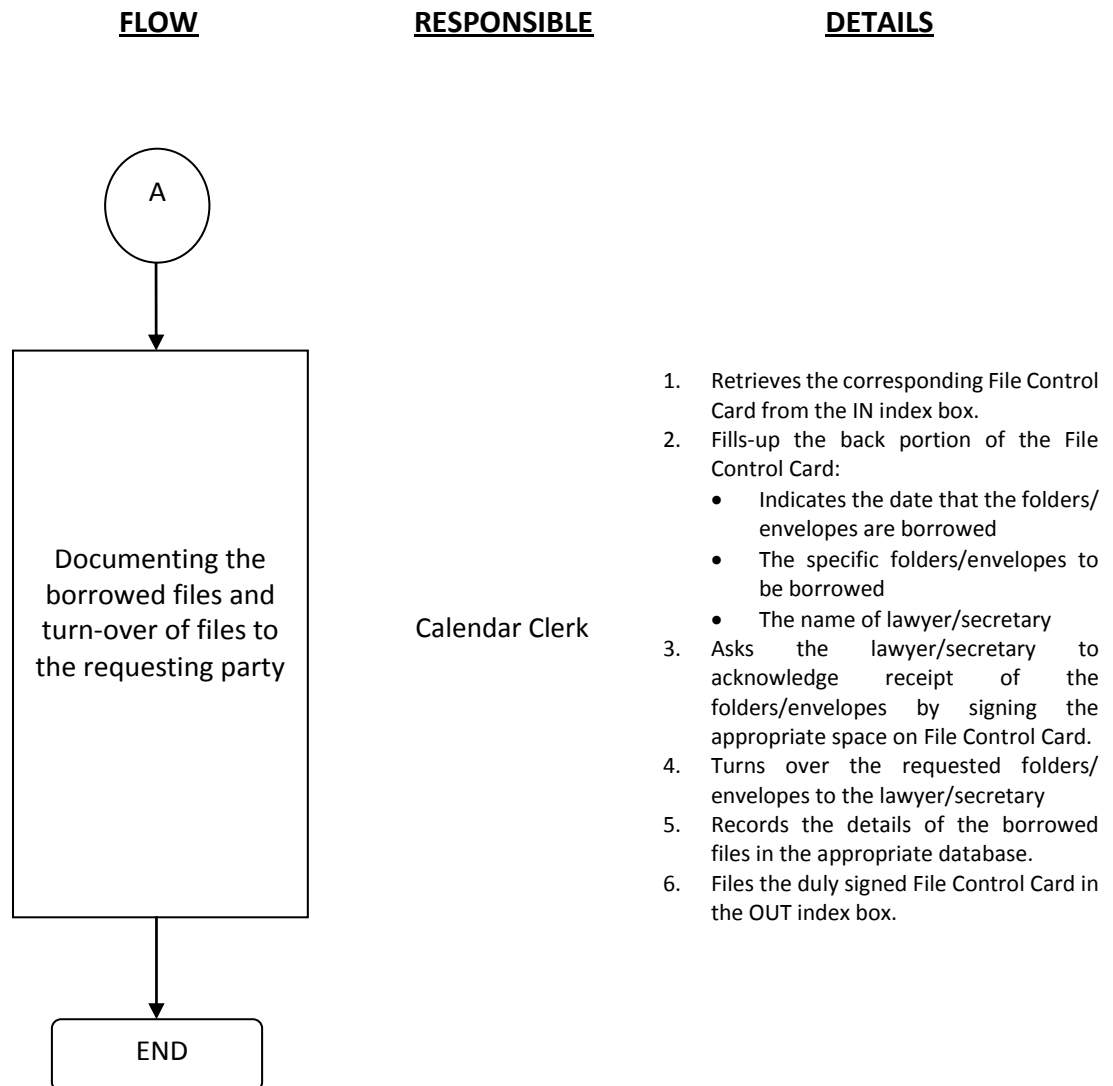
Borrow DETAILED FLOW CHART



DOCKET PROCEDURE – ACCESSING FILES

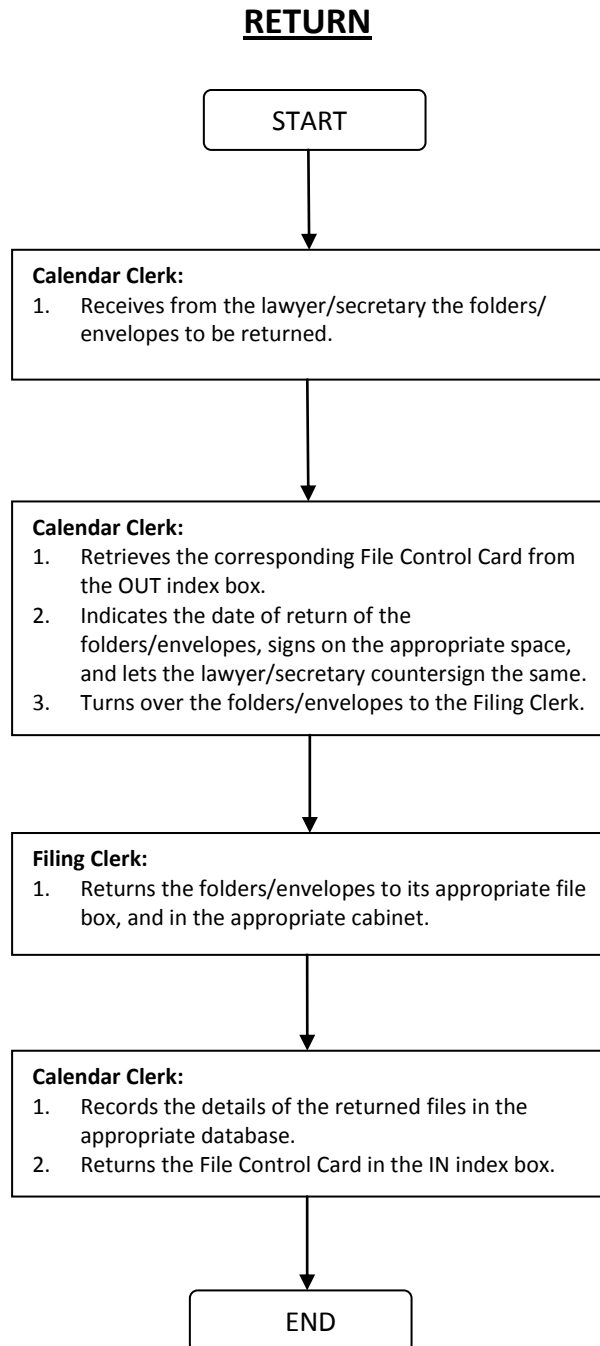
Borrow

CONTINUATION OF DETAILED FLOW CHART



DOCKET PROCEDURE – ACCESSING FILES

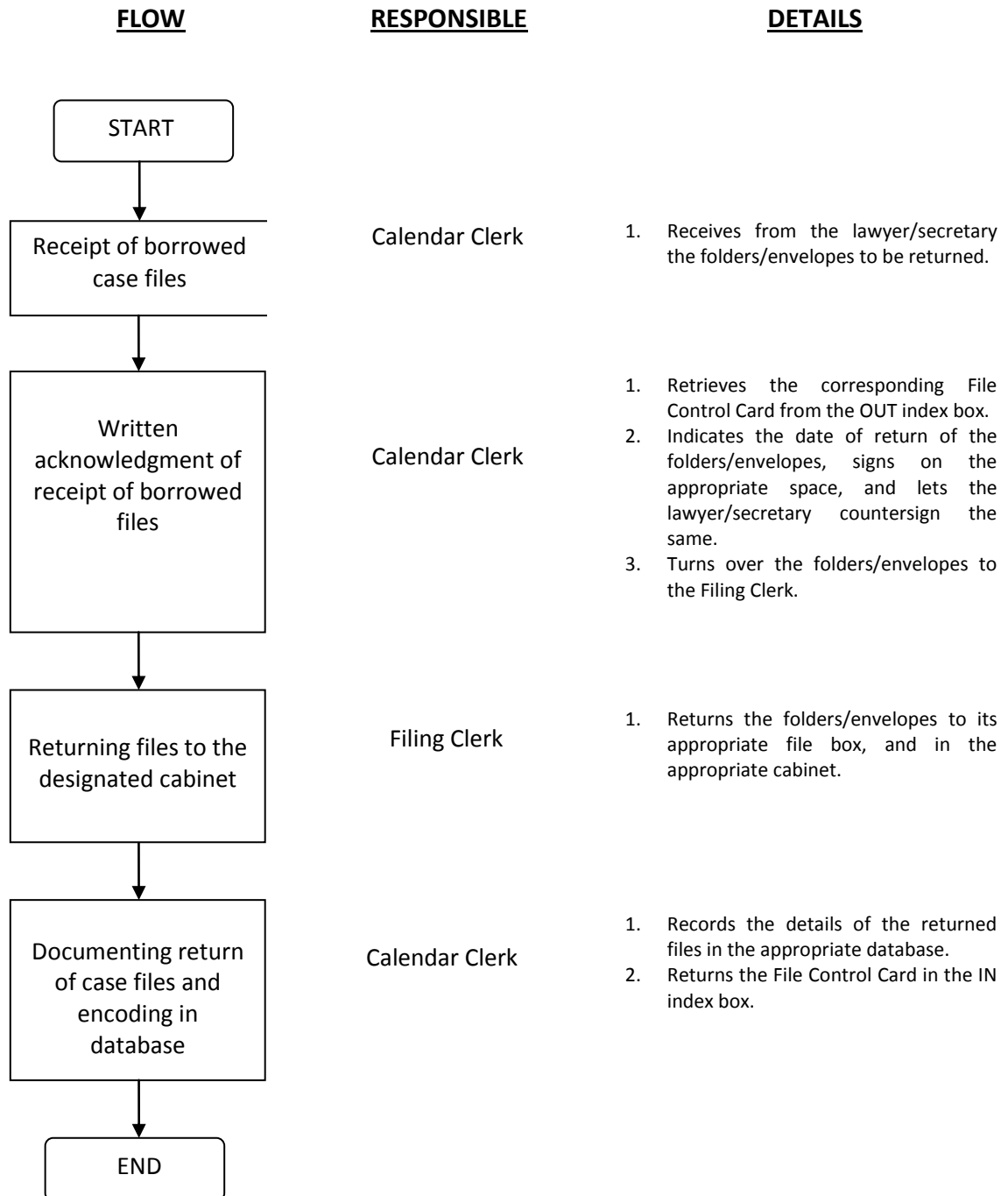
Return OVERVIEW OF FLOW CHART



5.2.6 Flow Chart 6

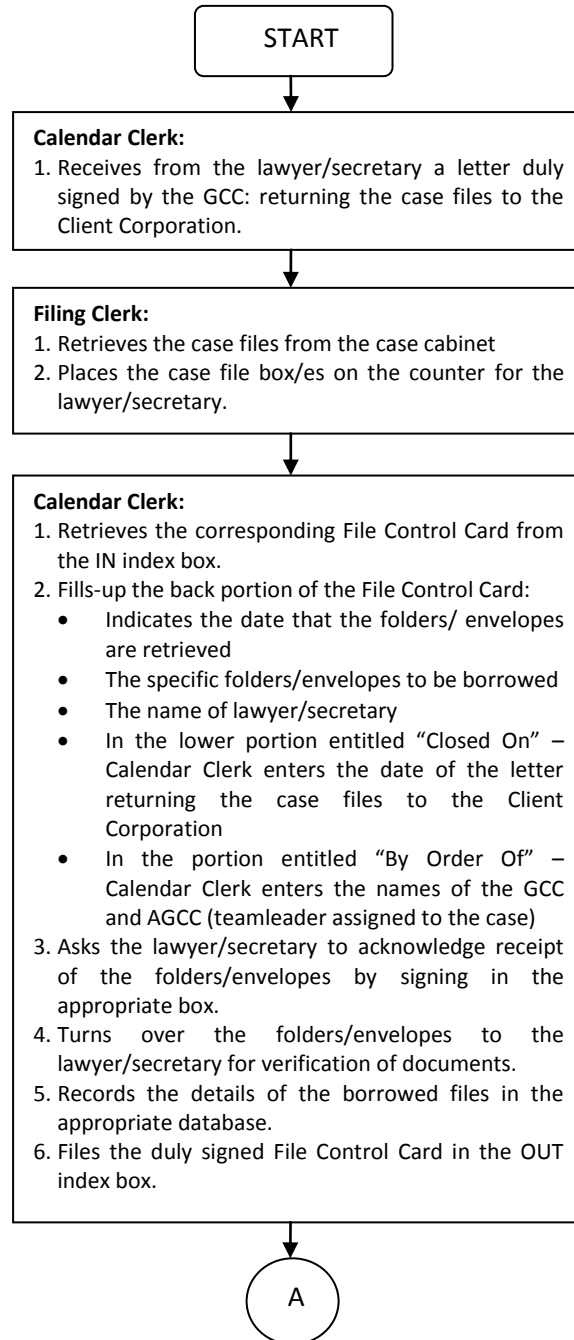
DOCKET PROCEDURE – ACCESSING FILES

Return DETAILED FLOW CHART

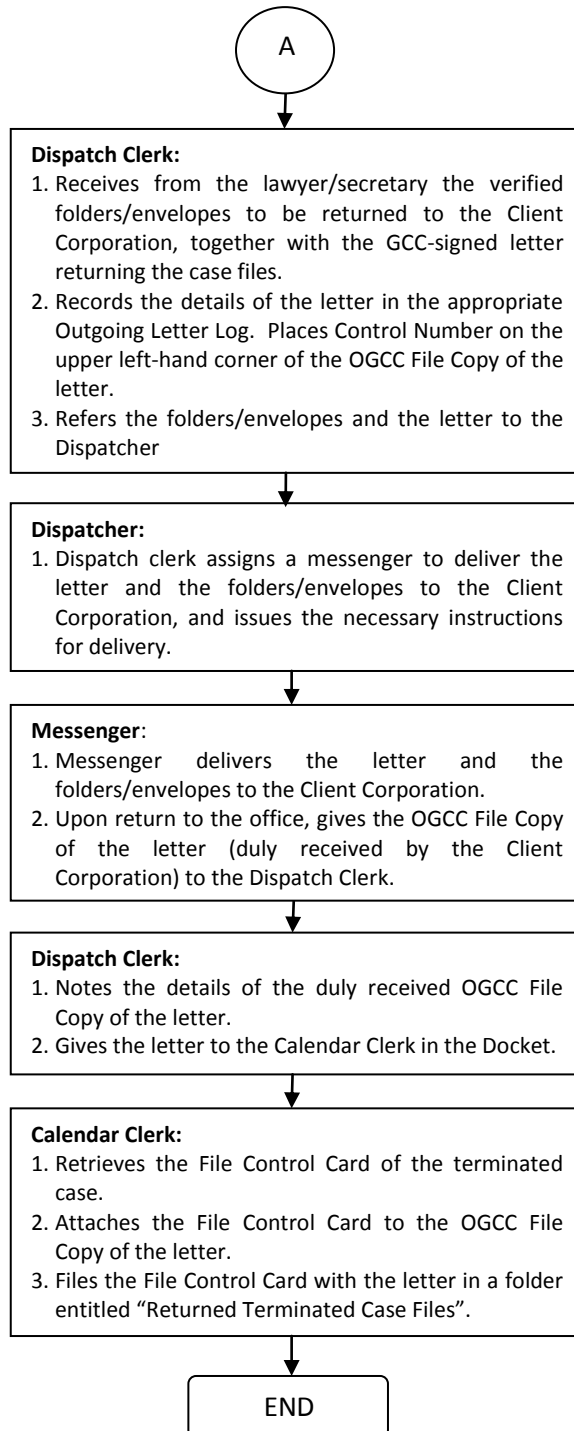


DOCKET PROCEDURE

Returning a Terminated Case OVERVIEW OF FLOW CHART



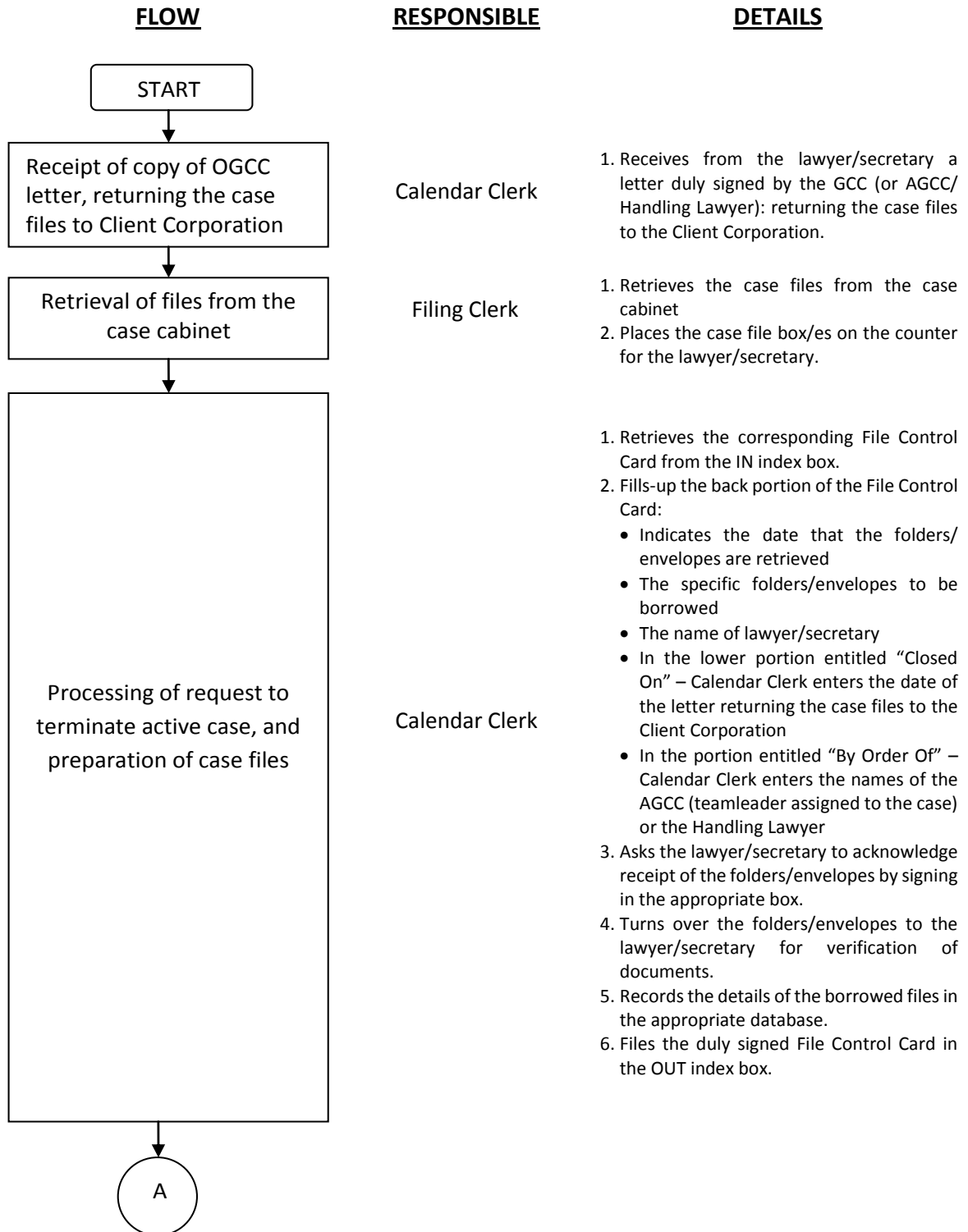
DOCKET PROCEDURE
Returning a Terminated Case
CONTINUATION OF OVERVIEW OF FLOW CHART



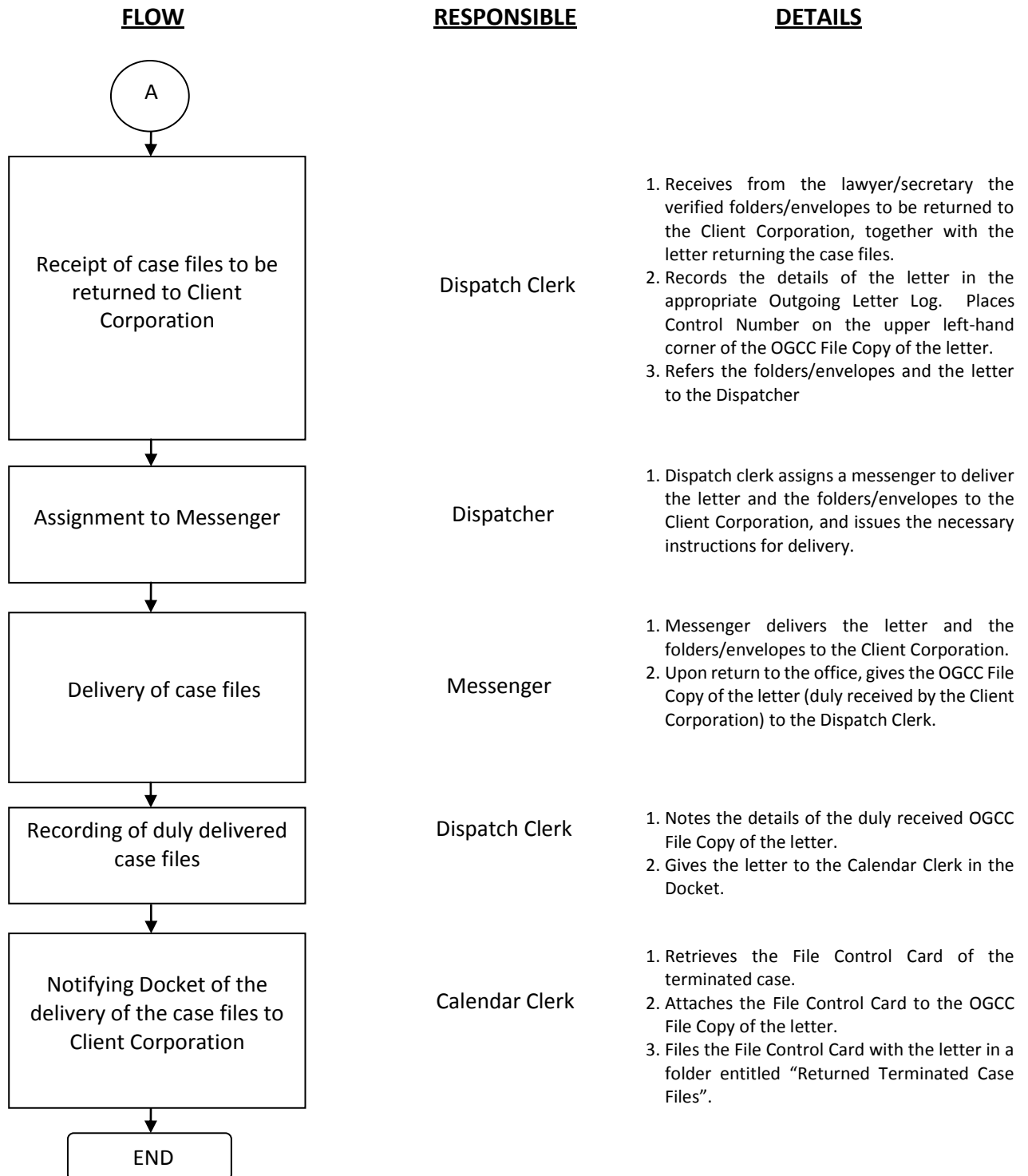
DOCKET PROCEDURE

Returning a Terminated Case

DETAILED FLOW CHART

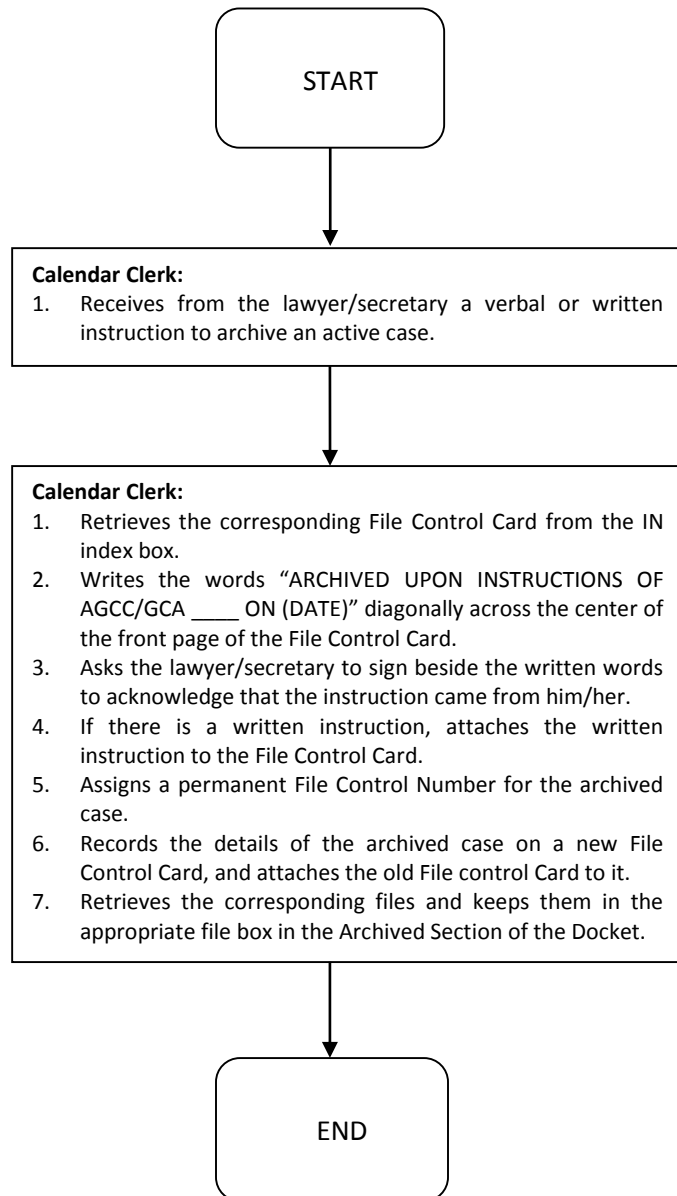


DOCKET PROCEDURE
Returning a Terminated Case
CONTINUATION OF DETAILED FLOW CHART



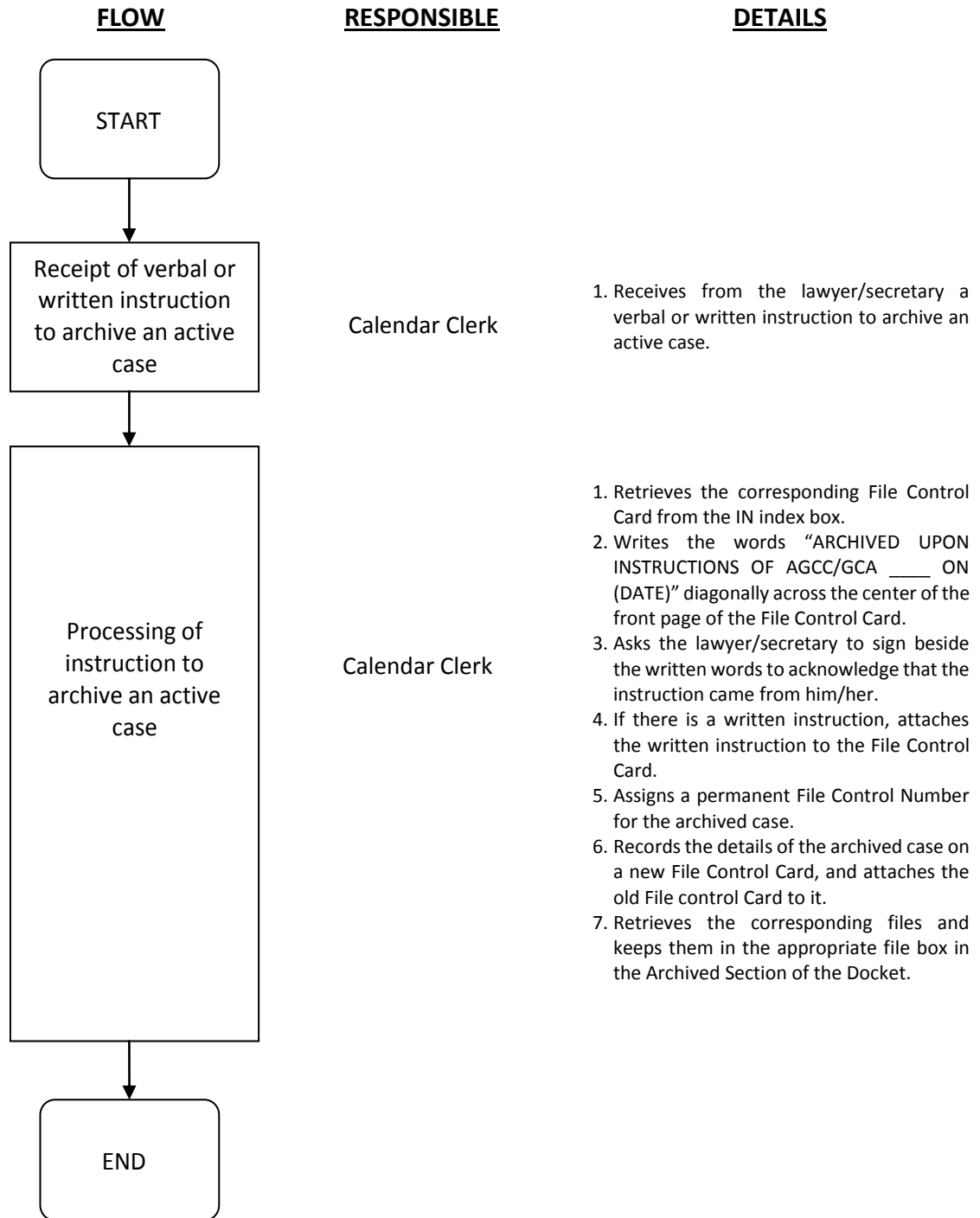
DOCKET PROCEDURE

Archiving a Case OVERVIEW OF FLOWCHART



DOCKET PROCEDURE

Archiving a Case DETAILED FLOWCHART



5.2.11 OTHER MATTERS

PROCESS	REMARKS
Borrowing of Case Folders	<p>As a general rule, case folders should remain kept in the Docket Room if there are no scheduled hearings, meetings, or pleadings to be filed.</p> <p>Once a case folder is retrieved from the Docket Room, the Handling Lawyer/Secretary may keep it under his/her custody for as long as needed.</p> <p>The Handling Lawyer/Secretary is responsible in making sure that all the documents in the case folder are intact as they were, from the time that the folder was borrowed up to the time that it will be returned to the Docket Room.</p>
Filing of loose documents	<p><u>Recently filed Outgoing Pleadings:</u></p> <ul style="list-style-type: none"> Unless document is retrieved by the Handling Lawyer/Secretary, the Filing Clerk is responsible in filing in appropriate case folders, OGCC's receiving copy of Outgoing Pleadings recently delivered to the courts. <p><u>Other loose documents:</u></p> <ul style="list-style-type: none"> The Secretary of the Handling Lawyer is primarily responsible in filing all other loose documents (except for Outgoing Pleadings) in appropriate case folders, with the assistance of the Filing Clerk.
File Log	<p>The File Log, which serves as the Table of Contents for a case folder, should be properly filled-up every time that a new document is added in the folder. Blank loose sheets of the File Log are readily available in the Docket Room.</p>

VII. LIBRARY

1. Goals and Objectives

The OGCC Library aims to support the organization in its research needs. Hence, it continually seeks to meet the following objectives:

- 1.1 To develop a collection of resources that support, enrich, and satisfy the research needs of the organization
- 1.2 To provide timely, correct, and relevant resources needed by every researcher
- 1.3 To organize library materials for efficient delivery of services
- 1.4 To keep abreast with the latest development in law and jurisprudence, library and information science, information technology, and other pertinent areas to continually improve its services

2. Users and Access Policy

The OGCC Library is accessible to OGCC employees, client corporations, and the public. However, only OGCC employees can borrow resources from the library.

Access to OGCC Opinions and Contract Reviews is strictly limited to OGCC employees and to the corporation to which a particular Opinion or Contract Review is issued; otherwise the researcher should seek the consent of the Government Corporate Counsel.

3. Collection Development Policy

The Librarian is primarily responsible in developing the collection of the library. The following are the set of guidelines for the selection of resources:

- 3.1 Recommendations from OGCC lawyers
- 3.2 Reputation of author
- 3.3 Reputation of publisher
- 3.4 Price and date of publication
- 3.5 Budget allocation

Weeding of print resources is done in consonance with existing policies on the disposal of government property.

4. Policy on the Organization of Printed Resources

Books in the OGCC Library are cataloged following the *Anglo-American Cataloguing Rules II* and are classified based on the *Dewey Decimal System*. The same are also compliant with *Machine Access Readable Cataloging 21 Standards*.

Bound periodicals are arranged chronologically while frequently used folders (i.e. compilation of materials on certain topics) are arranged in an alphabetical order.

5. Library Resources

Resources of the OGCC Library come into two formats, the print (paper-based) and the non-print (electronic).

5.1 Print (Paper-Based) Resources

- 5.1.1 Philippine Reports (Vol. 1 - Vol. 112) and Supreme Court Reports Annotated (Vol. 1 to the latest volume)

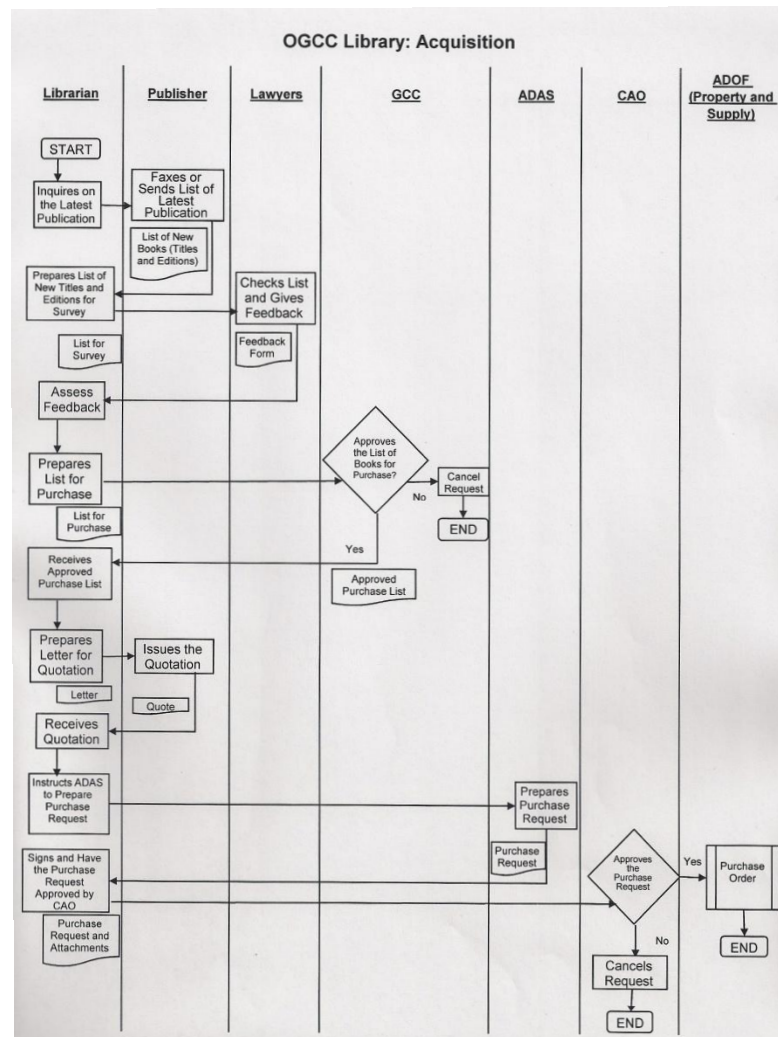
- 5.1.2 Collection of books on various aspects of Philippine Law
 - 5.1.2.1 Civil Law
 - 5.1.2.2 Criminal Law
 - 5.1.2.3 Labor Law
 - 5.1.2.4 Legal Ethics
 - 5.1.2.5 Mercantile Law
 - 5.1.2.6 Political Law
 - 5.1.2.7 Remedial Law
 - 5.1.2.8 Taxation Law
 - 5.1.2.9 Other law books penned by local authors
- 5.1.3 Foreign References
 - 5.1.3.1 American Jurisprudence
 - 5.1.3.2 American Jurisprudence Legal Forms
 - 5.1.3.3 American Jurisprudence Proof of Facts
 - 5.1.3.4 American Jurisprudence Trials
 - 5.1.3.5 Corpus Juris Secundum
 - 5.1.3.6 Words and Phrases
 - 5.1.3.7 Other law books penned by foreign authors
- 5.1.4 Special Collection
 - 5.1.4.1 Bound OGCC Opinions
 - 5.1.4.2 Bound OGCC Contract Reviews
 - 5.1.4.3 Compilation of laws and news clippings pertaining to client GOCCs
- 5.1.5 Government Documents
 - 5.1.5.1 The Official Gazette
 - 5.1.5.2 Issuances of other branches and agencies of the government
- 5.1.6 Journals and Magazines
 - 5.1.6.1 The Lawyer's Review
 - 5.1.6.2 Newsweek Magazine
 - 5.1.6.3 Time Magazine
- 5.2 Non-Print (Electronic) Resources
 - 5.2.1 Lex Libris
 - 5.2.1.1 Office of the Government Corporate Counsel: Opinions and Contract Reviews (1987-2007)
 - 5.2.1.2 Jurisprudence (The Philippine Supreme Court Reports)
 - 5.2.1.3 Philippine Law Encyclopedia
 - 5.2.1.4 Philippine Taxation Encyclopedia
 - 5.2.1.5 Bangko Sentral ng Pilipinas
 - 5.2.1.6 Department of Justice (Opinions of the Secretary of Justice)
 - 5.2.1.7 Environment and Natural Resources
 - 5.2.1.8 Labor and Social Legislation
 - 5.2.1.9 Local Autonomy and Local Government
 - 5.2.1.10 National Administrative Register
 - 5.2.1.11 Securities and Exchange Commission
 - 5.2.1.12 Trade, Commerce and Industry
 - 5.2.2 Civil Service Commission – Memorandum Circulars

6. Library Services and Processes

The OGCC Library offers four major services, viz: Collection Development Services, Technical Library Services, Reference Services, and Information Technology Services.

6.1 Collection Development Services

6.1.1 Acquisition

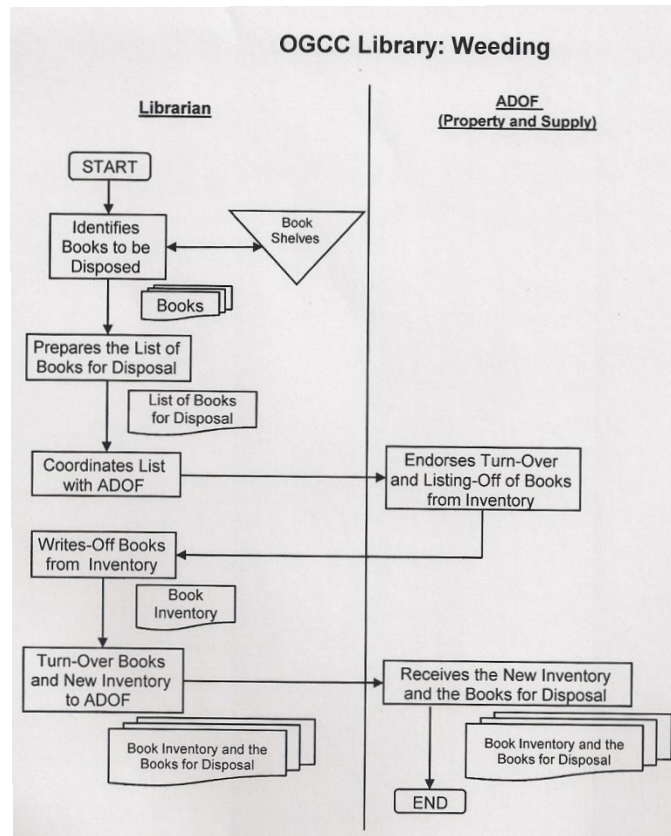


- 6.1.1.1 Annually the Librarian inquires on the latest publication on Philippine and international law with various publishing companies
- 6.1.1.2 Upon receipt of the list of publication, the Librarian collates the same and prepares the list of new titles and editions to be reviewed by OGCC lawyers
- 6.1.1.3 OGCC lawyers then gives feedbacks and recommendations
- 6.1.1.4 The Librarian prepares the list for purchase and seeks the approval of the GCC
- 6.1.1.5 The GCC approves or disapproves the list of books for purchase
- 6.1.1.6 If approved, the Librarian then requests for quotation from publishers
- 6.1.1.7 Upon receipt of the quoted list, the Librarian instructs ADAS to prepare Purchase Request based on the quotation of the publishers

6.1.1.8 CAO signs the Purchase Request

6.1.1.9 If approved, Purchase Request goes through the purchasing procedure; if disapproved, requisition is cancelled

6.1.2 Weeding



6.1.2.1 From time to time, the Librarian identifies and makes a list of books and other materials that are no longer being used by researchers

6.1.2.2 Librarian coordinates with ADOF (Property and Supply Section) for the disposal of said materials

6.1.2.3 ADOF (Property and Supply Section) endorses that the books and other materials be listed-off from the inventory of books

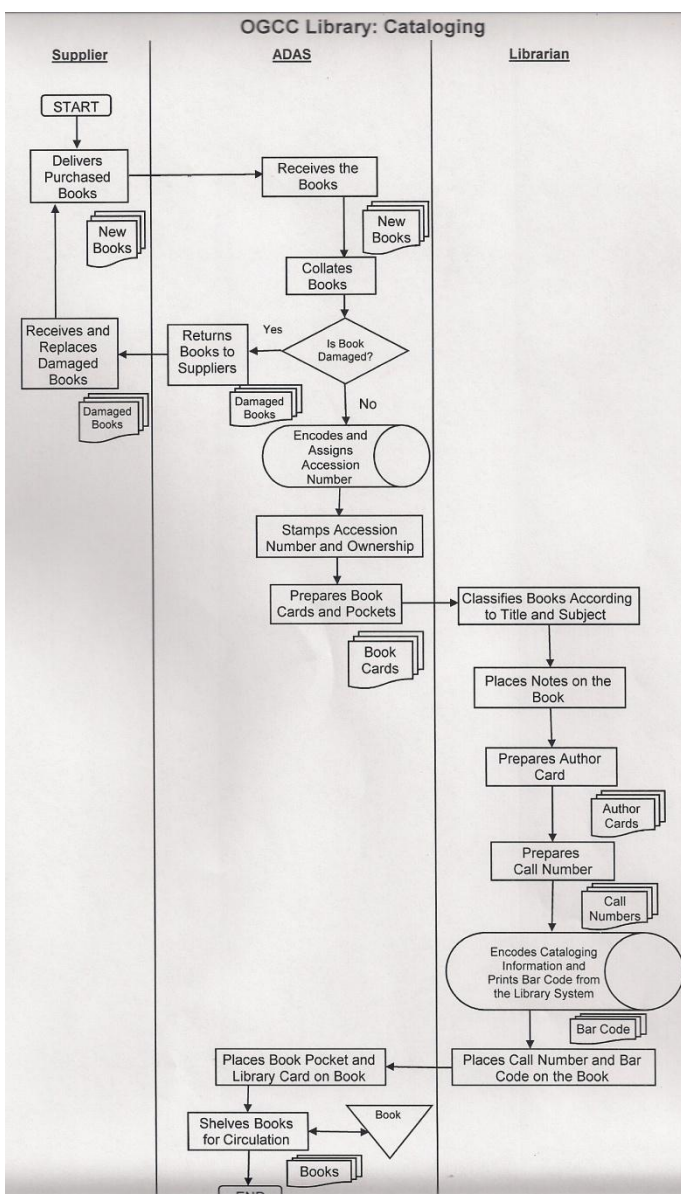
6.1.2.4 Librarian writes-off the books to be disposed from the inventory of books

6.1.2.5 Librarian turns-over the new inventory of books as well as the books to be disposed to ADOF (Property and Supply Section)

6.1.2.6 ADOF (Property and Supply Section) receives the new inventory and the books to be disposed and conducts the procedure for the disposal of government property

6.2 Technical Library Services

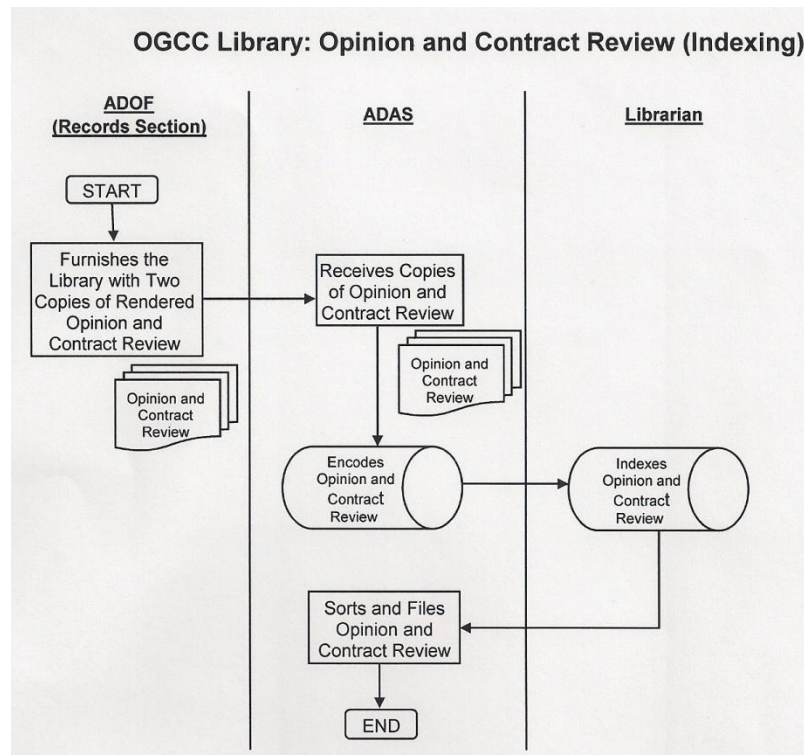
6.2.1 Cataloging and Classification



- 6.2.1.1 Upon delivery of suppliers or publishing companies, ADAS receives and inspects the books for its features and damages
- 6.2.1.2 Damaged books are returned to suppliers for replacement; while the rest are accessioned by encoding pertinent data and assigning accession number
- 6.2.1.3 ADAS marks top, bottom, and side edges of each book with the OGCC Library ownership stamp
- 6.2.1.4 ADAS prepares Book Card and book pocket
- 6.2.1.5 Librarian classifies the book according to title and subject and assigns the corresponding classification number
- 6.2.1.6 Librarian places notes (i.e. date received, vendor, and price) on the seam-side of the title page of the book
- 6.2.1.7 Librarian prepares the Author Card and Call Number of the book
- 6.2.1.8 Librarian enters all cataloging information into the Library System and prints the bar code
- 6.2.1.9 Librarian places the call number and bar code on the book

6.2.1.10 ADAS places the corresponding Book Card and its pocket at the inside-center of the back cover of the book

6.2.2 OGCC Opinion and Contract Review (Indexing)



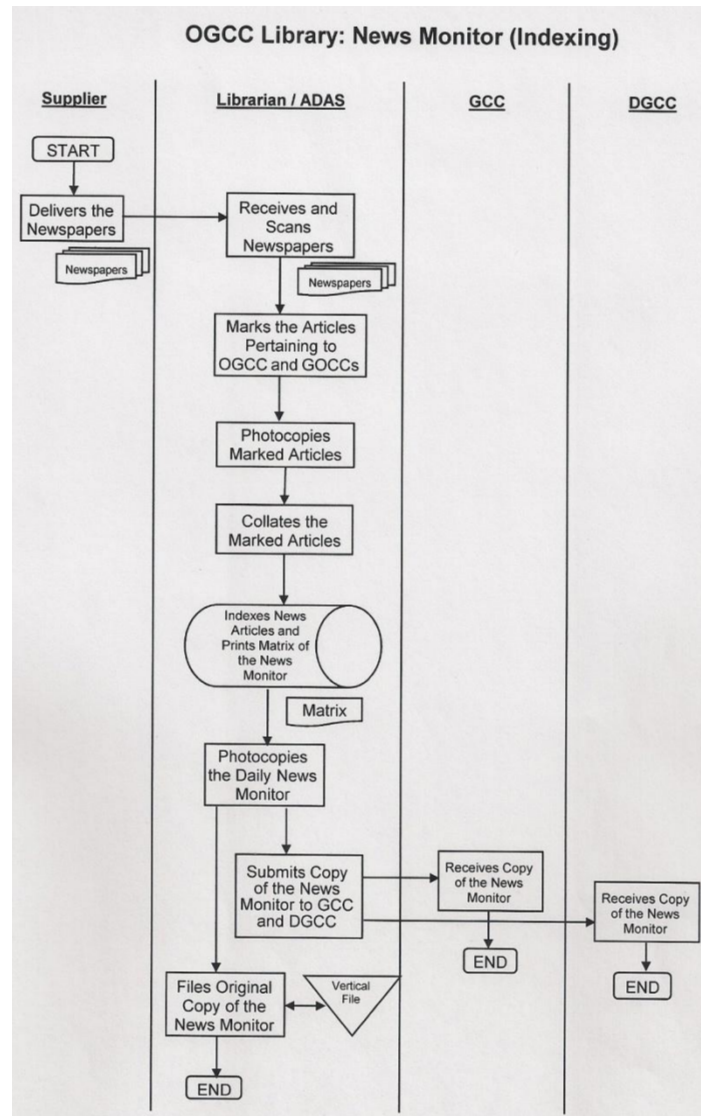
6.2.2.1 The library receives two copies of rendered OGCC Opinion and Contract Review from the Records Section

6.2.2.2 ADAS encodes pertinent information about the specific Opinion or Contract Review

6.2.2.3 Librarian indexes the Opinion or Contract Review

6.2.2.4 ADAS files all Opinion and Contract Review and prepares them for bookbinding at the end of each year

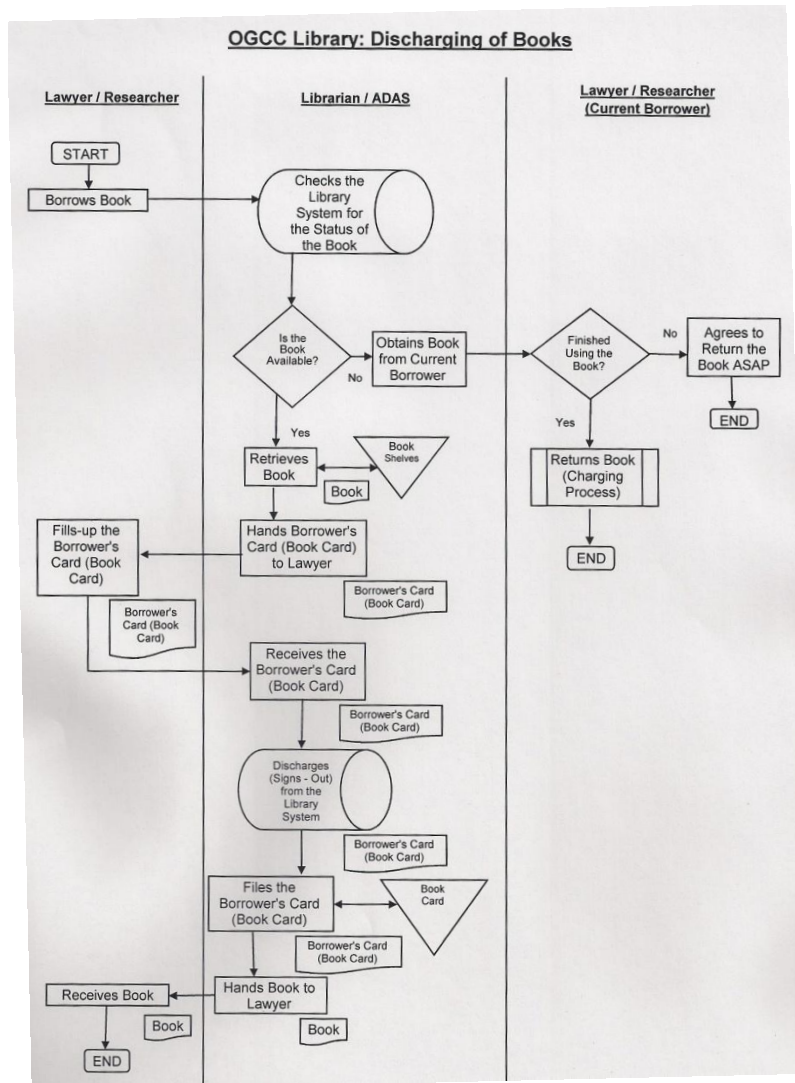
6.2.3 OGCC News Monitor (Indexing)



- 6.2.3.1 Library staff receives and checks the number of delivered newspapers for the day
- 6.2.3.2 Library staff scans each newspaper and marks the news articles that pertain to OGCC and GOCCs
- 6.2.3.3 ADAS photocopies and collates the marked articles
- 6.2.3.4 ADAS indexes the mark articles for future researches
- 6.2.3.5 ADAS prints the OGCC News Monitor and attaches photocopy of the marked articles
- 6.2.3.6 ADAS furnishes the GCC and the DGCC with a copy of the OGCC News Monitor
- 6.2.3.7 ADAS files the print copy of the OGCC News Monitor and the marked articles

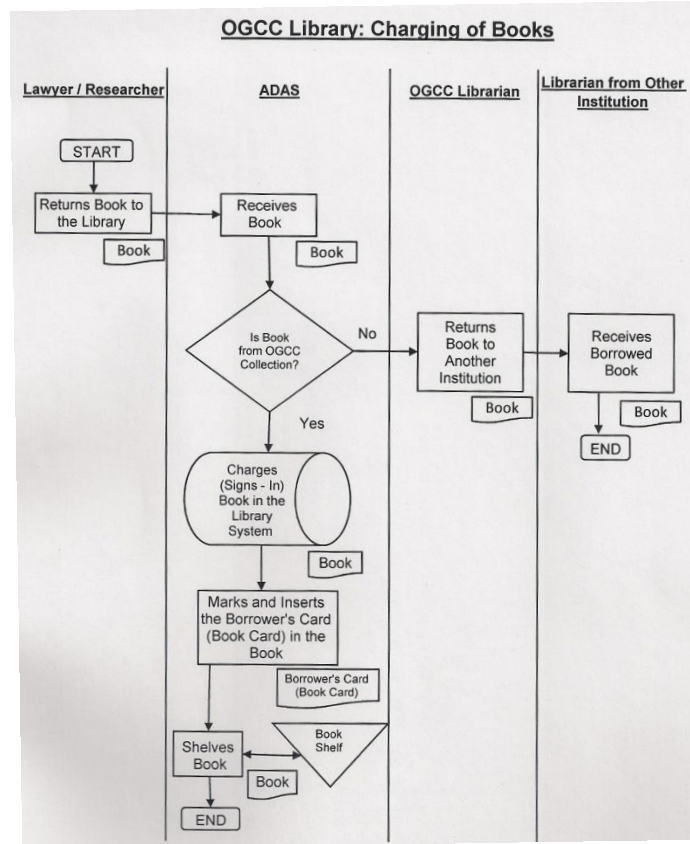
6.3 Circulation Services

6.3.1 Discharging (Borrowing) of Books



- 6.3.1.1 Researchers borrows books and other resources from the Library
- 6.3.1.2 Library staff checks on the Library System as to the status of the book
- 6.3.1.3 If book is discharged (i.e. on-loan) to other users, library staff obtains the book from the borrower, otherwise both agrees on the date the book should be returned; the book then undergoes charging process
- 6.3.1.4 If book is available, library staff retrieves the book from shelf and hands the Borrower's Card to the researcher
- 6.3.1.5 The researcher having signed his name on the Borrower's Card gives it back to the library staff and is handed the book
- 6.3.1.6 The library staff discharges the book (i.e. places the book in *on-loan* status) in the Library System and files the Borrower's Card

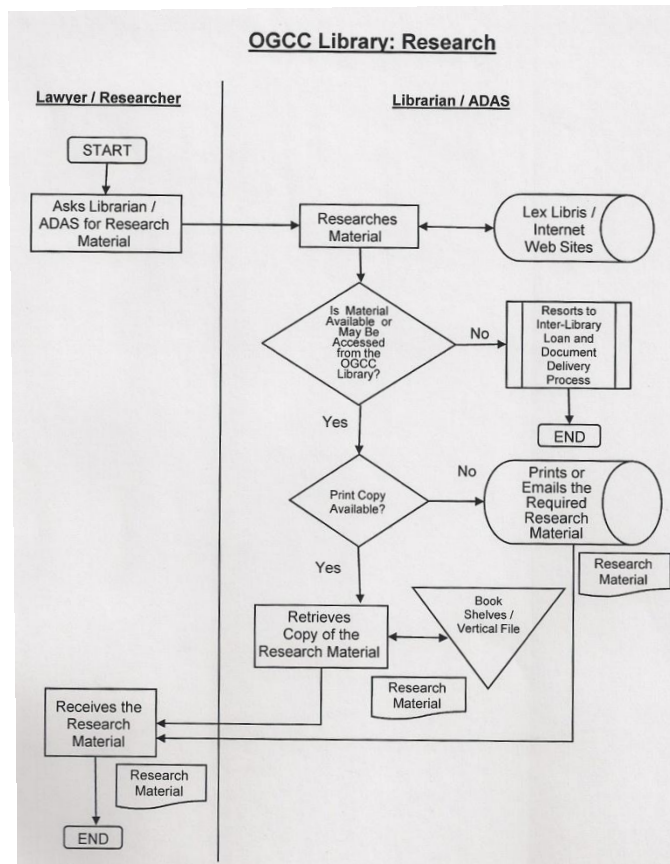
6.3.2 Charging (Returning) of Books



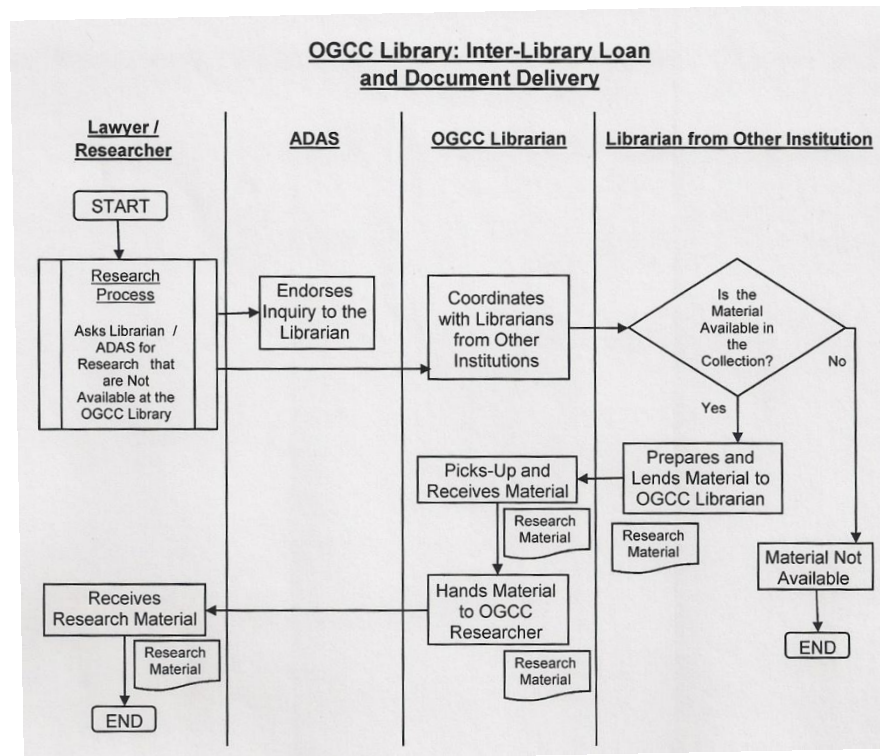
- 6.3.2.1 Researcher returns borrowed book to ADAS
- 6.3.2.2 ADAS receives the book and checks if material is from OGCC Library collection
- 6.3.2.3 If material or book is from a library of another institution, ADAS hands the book to the Librarian, who returns said book to the library from which it is borrowed
- 6.3.2.4 If material or book is from the OGCC Library collection, ADAS charges it (i.e. place the book in *available* status) in the library database system
- 6.3.2.5 Library staff marks the Borrower's Card "returned" and shelves the book

6.4 Reference Services

6.4.1 Research

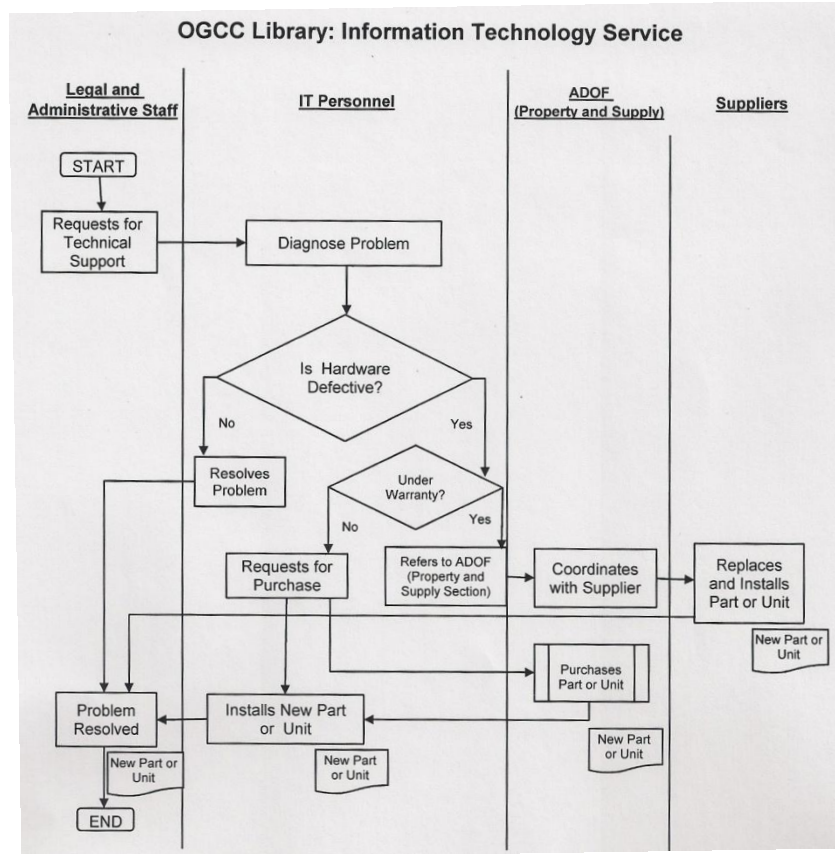


- 6.4.1.1 Researcher asks library staff (Librarian or ADAS) for research materials
 - 6.4.1.2 Library staff searches for the material through various information database (i.e. Lex Libris Collection) and the Internet
 - 6.4.1.3 Library staff ascertains if the material is available or maybe accessed from the OGCC Library
 - 6.4.1.4 If the material is not found within the OGCC Library collection or is inaccessible from various search-platforms of the OGCC Library, the Librarian resorts to Inter-Library Loan and Document Delivery Process
 - 6.4.1.5 If the material is found within the OGCC Library collection or accessible, the library staff checks the vertical file and books shelves if print copy of the material is already available; otherwise said materials are printed or sent through e-mail depending on the preference of the researcher
 - 6.4.1.6 Researcher receives the material
- 6.4.2 Inter-Library Loan and Document Delivery



- 6.4.2.1 Researchers requests for material that is not part of the OGCC Library collection or is inaccessible from various search-platforms of the OGCC Library, ADAS refers the matter to the Librarian
- 6.4.2.2 Librarian coordinates with librarians from other institutions and borrows the book or material in behalf of OGCC
- 6.4.2.3 Librarians from other institutions lends the book or material in accordance to the policy of their respective parent organization
- 6.4.2.4 OGCC Librarian picks-up the book or material from the lending library and hands it to the concerned OGCC researcher

6.5 Information Technology Services



- 6.5.1 OGCC employee asks IT Personnel for technical support
- 6.5.2 IT Personnel diagnoses the problem
- 6.5.3 If problem does not involve a defective hardware, problem is immediately resolved by the IT Personnel
- 6.5.4 If problem involves a defective hardware, IT Personnel reviews if hardware is under warranty
- 6.5.5 If hardware is under warranty, IT Personnel refers the problem to the Property and Supply Section, which coordinates with the concerned supplier; in turn, supplier replaces and installs new part or unit
- 6.5.6 If hardware is no longer under warranty, IT Personnel makes a request to the Property and Supply Section that a new part or unit be purchased
- 6.5.7 When new part or unit has been purchased, IT Personnel installs it and resolves the problem

7. Other Library Policies

7.1 Lost Library Materials

- 7.1.1 Library materials that are lost or damaged beyond its expected depreciation must be replaced by borrower.
- 7.1.2 In the case of books, replacement must bear the same title, author, and if possible edition of the lost item.
- 7.1.3 For pamphlets, magazines, and other bound periodicals; the replacement should bear the same title and edition of the lost item.
- 7.1.4 If lost folders can still be reconstructed, borrower should provide the library with the supplies needed for said reconstruction.