

**DENR Administrative Order
No. 39
May 26, 1988**

**SUBJECT : Guidelines Governing the Bidding And
Awarding of Regular Reforestation
Contracts**

In line with the National Forestation Program of the government and the new contract reforestation initiatives launched by the Department of Environment and Natural Resources and to achieve equitable distribution of the benefits derived from our forest resources, the following guidelines governing the bidding, award and execution of regular reforestation contracts are hereby promulgated:

ARTICLE I

Policy, Objectives, and Definition of Terms

SECTION 1. Basic Policy.

Consistent with national thrusts on forest development, conservation, and equitable distribution of the benefits derived from our forest resources, it is the policy of the government to democratize the disposition of incentives to encourage the participation of the private sector, including forest occupants and rural communities, in forest resources development, management and protection.

SECTION 2. Program Concept.

The scheme hereinafter referred to as Contract Reforestation is conceived to tap the services of interested and technically and financially competent private corporations, local government units, non-government organizations, communities, and families in establishing, developing, maintaining, and protecting forest plantations. The program is expected to promote forest conservation, instill public awareness in the values of forest resources, and foster the growth of dynamic private sector participation in the reforestation industry.

SECTION 3. Objectives.

The objectives of the program are:

- 3.1 To use reforestation as a tool for addressing rural equity and development issues;
- 3.2 To create new jobs and expand the opportunities for profitable self-employment, improving the socio-economic condition of the rural population living within or adjacent to public forest lands;
- 3.3 To foster the growth of a dynamic private sector reforestation industry;
- 3.4 To attain a condition of balanced ecosystem and optimum and sustainable productivity of forest resources; and
- 3.5 To install an efficient system for broad-based private sector participation in the management of bids, awards, monitoring, evaluation, certification and payment for contract reforestation work.

SECTION 4. Definition of Terms.

- 4.1 Bidding — a process of arriving at an awardee for a reforestation contract.
- 4.2 Bidder — a prospective awardee of a reforestation contract who has been pre-qualified to bid.
- 4.3 Contractor — refers to the final awardee of a reforestation contract.
- 4.4 Financial Capacity — refers to the capacity of the bidder to finance and operate a reforestation contract.
- 4.5 Modified Family Approach — a scheme of reforestation wherein the government contracts association or individual family heads to undertake reforestation within their occupied forest lands either through bidding or negotiation.
- 4.6 Reforestation Package — an area packaged and subject for bidding or negotiation.

4.7 Reforestation Contract — refers to the agreement between DENR and heads of family, communities, associations, or corporations for a reforestation package.

ARTICLE II

Identification of Project Sites

SECTION 5. Role of Central and Field Offices.

5.1 The DENR Central Office shall identify on a macro-level the specific regions/provinces which need reforestation based on the framework of the National Forestation Plan.

5.2 The regional and field offices shall identify and delineate specific areas for the purpose.

SECTION 6. Areas Available for the Purpose.

6.1 Idle denuded forest lands including watershed reservations;

6.2 Underdeveloped portions of reforestation projects which are not covered by the development plan for the next five (5) years;

6.3 Denuded portions of mangrove areas not covered by existing permits or leases; and

6.4 Areas within Timber License Agreement with poor reforestation performance, in which case the reforestation deposit by the TLA holder shall be used.

ARTICLE III

Bidding/Negotiation and Selection of Contractors

SECTION 7. Prospective Applicants.

7.1 Family/Community Approach — Any of the following may apply:

7.1.1 Head of the family;

7.1.2 Duly recognized association or cooperatives of project participants;

- 7.1.3 Other civic or religious organization within the project area;
- 7.1.4 Barangay Development Council in the project area;
- 7.1.5 Tribal communities within project areas

7.2 In all other cases except above, private corporations, non-government organizations, local government units, and the like may apply.

However, priority shall be given to individuals or associations who are within or nearest to the project site.

SECTION 8. Creation of Reforestation Bids and Awards Committee (RBAC).

8.1 Central Office (RBAC)

In the Central Office, a Reforestation Bids and Awards Committee shall be created which shall be responsible for the prequalification of applicants and awarding of contracts for areas more than 500 hectares. It shall be composed of the following:

- a. Chairman — FMB Director
- b. Vice-Chairman — Chief of Planning Service DENR
- c. Members —
 - (1) Legal Officer
 - (1) Technical Personnel designated by the Undersecretary for Field Operations
 - (3) Chiefs of the Reforestation and Social Forestry Division of FMB; and Finance Service Chief of DENR
 - (1) COA Representative — witness
 - (1) FASPO Representative — witness

8.2 Regional Office (RBAC)

In the regional level, a Reforestation Bids and Awards Committee shall also be created which shall be responsible for the

pre-qualification of applicants and awarding of contracts for areas less than 500 hectares. It shall be composed of the following:

- a. Chairman — Regional Executive Director (RED)
- b. Vice-Chairman — Regional Technical Director (RTD)
for Forestry
- c. Members — (1) Legal Officer

(3) All Chiefs, Reforestation Division; Social Forestry Division; and Planning and Programming Division

(1) COA Representative — witness

8.3 Reporting and Document Safekeeping

8.3.1 The RBAC Chairman shall create a Secretariat from their staff whose composition shall be approved by the Secretary to handle all documentations and prepare all and such other necessary papers relating to the process conducted. Likewise, it shall be his responsibility to keep copies of all said documents for referral purposes.

SECTION 9. Selection of Contractors.

9.1 Contracts shall be awarded through competitive bidding. Before the bidding stage, all applicants should undergo pre-qualification. The major criteria shall be the technical, financial and administrative capabilities. However, in the case of modified family/community approach as in Article III, Section 7.1 of this Order, the Secretary may grant reforestation contracts through negotiation.

9.1.1 Prequalification Stage

9.1.1.1 Qualification of Bidders

Those enumerated under Article 3, Section 1.1 and in the case of corporation or partnership, same should be duly organized under the laws of the Philippines, and at least sixty percent (60%) of the capital stock belong to Filipino Citizens.

9.1.1.2 Invitation to Prequalify

The prospective bidders for the RC shall be invited to pre-qualify through:

One advertisement, in at least one (1) national newspaper and one (1) local newspaper. In addition, the same notice shall be posted in the regional, provincial and community offices where the area being advertised is located.

9.1.1.3 Issuance to Pre-qualification Forms

9.1.1.3.1 The RBAC shall issue notices of pre-qualification and other important details and features of the project to guide in evaluating their capabilities and decide whether or not to participate in the bidding of reforestation contract.

9.1.1.3.2 The following documents shall, among others be required and submitted by the prospective bidders to the RBAC.

Documents on Legal and Corporate Matters

- a. Certified photocopy of the Certificate of Registration of the Corporation as issued by the Securities and Exchange Commission;
- b. Articles on Incorporation and By-Laws of the Corporation;
- c. Description and background of current major stockholders, directors and officials of the corporation including nationalities;
- d. If bidder is currently a member of an organization, certification as to his membership of good standing. If he is not a member of any accredited organization, a certification under oath as to his track records.

Documents on Technical Matters

- a. Corporate experience in reforestation work and related projects;
- b. Organizational chart and a complete qualification and experience data sheet of the key personnel;
- c. Conditional employment contract to employ duly qualified Operations Manager who have managed or supervised reforestation/plantation development projects;
- d. Technical/management proposal.

Document on Equipment Facilities

- e. List of equipment/facilities pledged to be used for the RC.

Document on Financial Matters

- a. Certification on the company's paid-up capitalization;
- b. Audited Financial Statements (Income and Balance Sheet) for three (3) years;
- c. Certification from banks on guarantees, credit lines, loans, and other financial accommodations which were secured for such PRC and other aggregate outstanding from each institution in each year.

Other Documents

- a. Presentation of Authorization for a Department Representative to verify submitted information.

9.1.1.3.3 The RBAC shall maintain adequate security over the documents submitted and in no case shall make public unless otherwise authorize

9.1.1.4 Processing of Pre-qualification Forms

9.1.1.4.1 The RBAC shall examine the documents submitted to determine whether the legal, technical, financial and other requirements are met. If all the requirements are met, the RBAC shall register the prospective bidders in the role of pre-qualified bidders.

9.1.1.4.2 The financial capacity (FC) of the prospective bidder shall be its present net worth as shown in its balance sheet a prospective bidder may be qualified to bid if its present net worth is at least equivalent to the first five (5) months working capital of the project applied for. For medium-scale or non-profit groups and organizations, however, the present net worth shall be at least equivalent to the first two (2) months operating capital of the project.

9.1.1.4.3 The RBAC shall check whether the prospective bidder or any one of the members in case of a joint venture, is presently suspended or blacklisted for previous projects. Suspended or blacklisted stockholder(s), director(s), or officer(s) are grounds for disqualification.

9.1.1.4.4 After processing by the RBAC, the pre-qualification documents shall be marked "Pre-qualified or Pre-disqualified" and shall be countersigned by members of the RBAC to review and approval of the Secretary or his duly authorized representative.

Prequalified PRC shall be informed within five (5) working days. Pre-disqualified applicants should, likewise, be informed stating therein the grounds for their disqualification. Those pre-disqualified are given five (5) days upon receipt of notice within which to appeal for reconsideration.

9.1.2 Bidding Stage

- 9.1.2.1 To simplify the bidding procedures, and to be sure that the appropriate and desired technology of the Department shall be applied, the DENR/FMB shall be responsible for preparing the terms of reference together with the approved agency estimate (AAE). The contractor shall be responsible for preparing the comprehensive development plan. However, the CENRO concerned shall prepare the development plan for family/community approach program.
- 9.1.2.2 All pre-qualified applicants shall be requested to bid the project cost. The proponent with the lowest acceptable cost which is within the FMB Contract Reforestation Cost Standard shall be declared the winner.
- 9.1.2.3 All bids shall be in sealed envelopes with the name of the prospective contractor and submitted to the RBAC on or before the specified deadline. Strictly no late bids shall be accepted by the RBAC.

9.1.3 Requirements for Family Participants

Interested families who may wish to avail of reforestation contracts shall signify their intention and shall fill-up a census form. The number of the participating members shall be determined by the PENRO in accordance with availability of funds and extent of the project area to be reforested. The applicants shall be screened by a committee to be formed by the PENRO based on the following:

- 9.1.3.1 Must be bonafide resident of the project site;
- 9.1.3.2 Must be of legal age and Filipino;
- 9.1.3.3 Must be physically fit to conduct various reforestation activities;
- 9.1.3.4 Priority shall be given to the interested participants who are residing within the project site;
- 9.1.3.5 Priority shall be given to those interested participants who have an annual income of less than P5,000.

SECTION 10. Contract Preparation. —

- 10.1 The declared winner shall be awarded the contract for the reforestation of the subject site and given notice to proceed.
- 10.2 The appendices of the contract shall include among others the comprehensive development plan and the schedule of payment.
- 10.3 The contract shall be signed by and between the DENR and the proponent.
- 10.4 The following documents shall form part of Reforestation Contract.
 - 10.4.1. Development Plan
 - 10.4.2. Notice to Proceed
 - 10.4.3. Other Contract Documents

ARTICLE IV

Implementing Rules, Repealing Clause and Effectivity

SECTION 11. Implementing Rules and Regulations. —

The FMB in coordination with the RBAC shall promulgate the appropriate rules, procedures, and regulations and design official forms and documents to implement this Order.

SECTION 12. Incentives, Benefits & Privileges. —

Family participants shall be entitled of the following privileges:

- 12.1 Families shall avail of free technical assistance, educational materials and training in reforestation, agro-forestry and related farming technologies.
- 12.2 Participants shall be allowed to raise cash crops in between rows of planted forest trees and maintain other livelihood project not detrimental to the established plantation at the

duration of the contract.

- 12.3 An extra amount of at least P0.10 per surviving planted tree shall be given to the family participants who has attained an eighty percent (80%) survival count in the plantation at the end of the contract.
- 12.4 For future utilization and management of resources contained in the established plantations family participants shall be given the priority to apply for a Woodlot Lease Agreement pursuant to Department Administrative Order (DAO) No. 36, Series of 1987.

SECTION 13. Grounds for Cancellation of Reforestation Contract.

The Assistant Secretary for Operations concerned upon recommendation of the Regional Executive Director may cancel reforestation contracts for any of the following grounds:

- 13.1 If the contract was obtained through a fraud, misrepresentation or omission of material facts at the time of application.
- 13.2 Abandonment of the area, or failure to start operational activities within three (3) months from the award/issuance of the contract.
- 13.3 Violation of any of the terms and conditions of the contract.

SECTION 14. Penalties.

The cancellation of reforestation contracts for reasons stated in Section 13 herein shall result in the permanent disqualification of the contractor to enter into a contract with the government involving natural resources development, conservation, and utilization. Furthermore the reforestation performance bond shall be forfeited in favor of the government.

SECTION 15. Special Provisions.

Contract Reforestation projects under the ADB program shall be covered by these guidelines unless otherwise specified in supplemental

Administrative issuances.

SECTION 16. Repealing Clause.

All existing Administrative Order, Memoranda, Circulars and related documents or provisions inconsistent, herewith, are hereby repealed or amended accordingly.

SECTION 17. Effectivity.

This Order shall take effect immediately.

APPROVED:

(SGD.) FULGENCIO S. FACTORAN, JR.
Secretary

RECOMMENDING APPROVAL:

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