

Date: 04 May 2021

SUPPLEMENTAL BID BULLETIN NO. 1

This Supplemental Bid Bulletin (SBB) No. 1 is issued to amend and clarify items in the Bidding Documents for the Procurement of Supply and Delivery of Diesel Oil for Malaya Thermal Power Plant (Project Reference No. 2021-PB-DO-MTPP-010-01).

1. Amendment to various provisions of the Bidding Documents.

1a. Change ITB Clause 20.1 of the Bid Data Sheet, as shown below.

FROM:

<p>ITB Clause 20.1</p>	<p>The Bidder with the Lowest Calculated Bid (LCB) shall submit copies of the following documents:</p> <ol style="list-style-type: none"> 1. Latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS) <p><i>NOTE: Latest Income Tax Return (ITR) shall refer to the ITR for the year 2020 filed in 2021. For new establishments which have no annual ITR yet, it shall refer to the most recent quarter's ITR. Further, for areas where e-filing is yet to be implemented, a Certification to that effect from BIR main office is acceptable.</i></p> <p><i>Latest Business Tax Return shall refer to the Value Added Tax (VAT) and/or Percentage Tax Returns, whichever is applicable covering the previous six (6) months. For those with less than six (6) months of operations, this refers to the monthly business tax returns filed to date. Bidders filing both the VAT and Percentage Tax Returns must submit both returns.</i></p> <ol style="list-style-type: none"> 2. Latest General Information Sheet and Articles of Incorporation and By Laws filed with the SEC, if applicable. 3. Updated PhilGEPS Certificate of Registration of Membership under Platinum category, if the bidder submitted Class "A" Documents during bid submission deadline. <p>Foreign Bidders shall submit equivalent documents duly authenticated by the Philippine Consulate and Certificate of International Law of Reciprocity under R.A. 5183.</p> <p>During the post-qualification, the Lowest Calculated Bidder shall present the original copies of the following documents:</p> <ol style="list-style-type: none"> a) Department of Trade and Industry (DTI) business name registration or Securities and Exchange Commission (SEC) registration certificate whichever is appropriate under existing laws of the Philippines.
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	<p>b) Articles of Incorporation and By-laws;</p> <p>c) Valid and current Mayor's/Business permit.</p> <p>d) Latest Audited Financial Statement stamped received by the BIR</p> <p>e) For Ongoing Government and Private Contracts:</p> <ol style="list-style-type: none"> 1. Notice of Award and/or Contract; and 2. Notice to Proceed issued by the owner <p>f) For Government & Private Contracts completed which are similar in nature and complexity to the Contract to be Bid</p> <ol style="list-style-type: none"> 1. Contract; and 2. Certificate of Completion/acceptance <p>For items e and f above, the documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country.</p>
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TO:

ITB Clause 20.1	<p>The Bidder with the Lowest Calculated Bid (LCB) shall submit copies of the following documents:</p> <p>4. Latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS)</p> <p><i>NOTE: Latest Income Tax Return (ITR) shall refer to the ITR for the year 2020 filed in 2021. For new establishments which have no annual ITR yet, it shall refer to the most recent quarter's ITR. Further, for areas where e-filing is yet to be implemented, a Certification to that effect from BIR main office is acceptable.</i></p> <p><i>Latest Business Tax Return shall refer to the Value Added Tax (VAT) and/or Percentage Tax Returns, whichever is applicable covering the last two (2) quarters and month prior to the bid opening. For those with less than six (6) months of operations, this refers to the monthly business tax returns filed to date. Bidders filing both the VAT and Percentage Tax Returns must submit both returns.</i></p> <table border="1" style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 50%; vertical-align: top;">a) Value Added Tax (VAT) - BIR Form No. 2550 covering the: (i) latest quarters (2550Q) (i.e., 4th Quarter of 2020 and 1st Quarter of 2021); and</td> <td style="width: 10%; text-align: center; vertical-align: middle;">and/ or</td> <td style="width: 40%; vertical-align: top;">a) Quarterly Percentage Tax Returns BIR Form No. 2551 (i.e., 4th Quarter of 2020 and 1st Quarter of 2021)</td> </tr> </table>	a) Value Added Tax (VAT) - BIR Form No. 2550 covering the: (i) latest quarters (2550Q) (i.e., 4 th Quarter of 2020 and 1st Quarter of 2021); and	and/ or	a) Quarterly Percentage Tax Returns BIR Form No. 2551 (i.e., 4 th Quarter of 2020 and 1st Quarter of 2021)
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	<table border="1" data-bbox="427 190 1396 268"> <tr> <td data-bbox="427 190 917 268">(ii) latest month (2550M) (i.e., April 2021)</td> <td data-bbox="917 190 1034 268"></td> <td data-bbox="1034 190 1396 268"></td> </tr> </table> <p data-bbox="375 309 1396 380">5. Latest General Information Sheet and Articles of Incorporation and By Laws filed with the SEC, if applicable.</p> <p data-bbox="375 414 1396 526">6. Updated PhilGEPS Certificate of Registration of Membership under Platinum category, if the bidder submitted Class “A” Documents during bid submission deadline.</p> <p data-bbox="375 560 1396 672">Foreign Bidders shall submit equivalent documents duly authenticated by the Philippine Consulate and Certificate of International Law of Reciprocity under R.A. 5183.</p> <p data-bbox="375 705 1396 772">In addition, during the post-qualification, the Lowest Calculated Bidder shall present the original copies of the following documents:</p> <ul style="list-style-type: none"> <li data-bbox="438 817 1396 963">g) Department of Trade and Industry (DTI) business name registration or Securities and Exchange Commission (SEC) registration certificate whichever is appropriate under existing laws of the Philippines. <li data-bbox="438 996 1396 1030">h) Articles of Incorporation and By-laws; <li data-bbox="438 1064 1396 1097">i) Valid and current Mayor’s/Business permit. <li data-bbox="438 1131 1396 1198">j) Latest Audited Financial Statement stamped received by the BIR <li data-bbox="438 1232 1396 1265">k) For Ongoing Government and Private Contracts: <ul style="list-style-type: none"> <li data-bbox="470 1310 1396 1344">3. Notice of Award and/or Contract; and <li data-bbox="470 1377 1396 1411">4. Notice to Proceed issued by the owner <li data-bbox="438 1444 1396 1512">l) For Government & Private Contracts completed which are similar in nature and complexity to the Contract to be Bid <ul style="list-style-type: none"> <li data-bbox="470 1556 1396 1590">3. Contract; and <li data-bbox="470 1624 1396 1657">4. Certificate of Completion/acceptance <p data-bbox="375 1691 1396 1825">For items e and f above, the documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder’s country.</p>	(ii) latest month (2550M) (i.e., April 2021)		
(ii) latest month (2550M) (i.e., April 2021)				

- 1f. **Item (e) for the Class “A” Document under “Legal Documents”** in the **“Checklist of Technical and Financial Documents”** is intentionally left blank.
2. Response to the **Prospective Bidder’s clarifications during the** Pre-bid Conference:
 - 2a. One of the prospective bidders clarified If it is possible to consider the 2019 Annual Financial Statement (AFS) since the 2020 AFS submission deadline is scheduled on 30 April 2021 and as such they may not yet have with them the **stamped “received” by the BIR.**

Response:

The Government Procurement Policy Board (GPPB) in NPM No. 158-2015 dated 22 December 2015, opined that the submission of the eligibility documents enumerated in Section 23.1 of the IRR of RA 9184 is a mandatory requirement that must be complied with by the prospective bidders, such that failure to submit any of the documents or submission of an otherwise incomplete or patently insufficient document, will disqualify the bidder based on the non-discretionary "pass/fail" criterion under Section 30.1 of the IRR of RA 9184.

[C]onsidering that the AFS stamped "received" by the BIR is a Financial Eligibility Document under Section 23.1(a)(iv) of the IRR of RA 9184, failure to submit the same shall render the bidder ineligible to participate in a procurement activity.

Hence, since the bid submission dated is 14 May 2021, the 2020 AFS with **stamped “received” by the BIR must be part of the bid submission.**

- 2b. One of the prospective bidders clarified for the minimum number of list for on-going contract to be provided in the Bid Form ELIG-01 **entitled “List of all Ongoing Government and Private Contracts including Contracts Awarded but not yet Started”**.

Response:

The prospective bidder clarified on the minimum list to be provided for the Statement of the Bidder of all its ongoing government and private contracts, including contracts awarded but not yet started pursuant to Sections 23.1(a)(iv) of the 2016 revised IRR of RA No. 9184

The GPPB in NPM No. 006-2018 dated 06 February 2018, opined that the [F]ailure to declare an ongoing government and private contract, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid is a ground for disqualification. These contracts, as reflected in the **“Statement of all on-going contracts”, are vital to the computation of the**

Net Financial Contracting Capacity of the bidder, and they are necessary information during the post-qualification stage to verify, validate and ascertain the technical qualification of the Lowest Calculated Bidder for the ultimate determination whether it is the Lowest Calculated and Responsive Bidder.

Hence, the bidder needs to comply with the above mentioned GPPB non-policy opinion.

- 2c. One of the prospective bidders clarified if electronic signature (e-signature) is allowed in the bid submission considering the declaration of the Modified Enhanced Community Quarantine (MECQ) until 14 May 2021 in the National Capital Region - Plus.

Response:

E-Signature may be allowed, provided that it complies with Section 8 of Republic Act No. 8792 or the Electronic Commerce Act of 2000.

The said section provides that:

“SECTION 8(8). Legal Recognition of Electronic Signatures. – An electronic signature on the electronic document shall be equivalent to the signature of a person on a written document if the signature is an electronic signature and proved by showing that a prescribed procedure, not alterable by the parties interested in the electronic document, existed under which –

- a.) A method is used to identify the party sought to be bound **and to indicate said party’s access to the electronic document necessary for his consent or approval through the electronic signature;***
- b.) Said method is reliable and appropriate for the purpose for which the electronic document was generated or communicated, in the light of all circumstances, including any relevant agreement;*
- c.) It is necessary for the party sought to be bound, in order to proceed further with the transaction, to have executed or provided the electronic signature; and*
- d.) The other party is authorized and enabled to verify the electronic signature and to make the decision to proceed with the transaction authenticated by the same.”*

All relevant provisions of the bidding documents affected by the above amendments are hereby modified accordingly.

For the guidance and information of all concerned.

JBL 5/4/2021

JULIUS M. LOTILLA
BAC Chairperson

Please acknowledge by signing on the space indicated below:

Received by:

Name of the Bidder/Company: _____

Name of Authorized Representative/s: _____

Signature/s: _____

Date: _____