

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 Neat Diesel Oil for Ilijan Combined Cycle Power Plant (Project Reference No. 2021-PB-NDO-ICCP-009-01)

1. Amendment to various provisions of the Bidding Documents.

1a. Bid Data Sheet, under ITB Clause 1 to be deleted as shown below.

<p>ITB Clause</p> <p>1</p>	<p>Bids shall be for the supply and delivery of 16,000,000 Liters of Neat Diesel Oil as specified in Section VI (Delivery Points and Schedule of Requirements) and Section VII (Technical Specifications).</p> <p>a) Contracted Quantity of Fuel</p> <ul style="list-style-type: none"> • The quantity of Fuel to be delivered shall be in accordance with Section VI Schedule of Requirements, subject to the provisions of Price and Contract Amount and Implementation. <p>The monthly breakdown of Fuel requirements is indicated in Section VI-B, Schedule of Monthly Fuel Requirements. Said monthly breakdown is for the Supplier's planning purposes.</p> <ul style="list-style-type: none"> • The Contract Term shall be until 31 December 2021. In case the contracted quantity cannot be lifted by PSALM during the Contract Term, PSALM shall continue lifting Fuel from the Supplier pursuant to SCC 1 (Total Contract Price). On the other hand, if the Total Contract Price has been used up and there is still remaining volume for delivery, the same shall no longer be lifted. <p>In the event of a supply shortage and/or allocation of petroleum supplies imposed by the Philippine Government, or any of its instrumentalities, Supplier shall sell to PSALM the said volumes as a minimum subject to the implementing rules and regulations issued by the Government agency of the Philippines exercising supervision over petroleum utilization and supplies.</p>
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1b. Bid Data Sheet, ITB Clause 19.1 to be deleted as shown below.

<p>ITB Clause</p> <p>19.1</p>	<p>Consistent to GPPB Resolution No. 26 2019 dated 30 October 2019, providing the Amendments to the Revised Guidelines on Index Based Pricing for Procurement of Petroleum, Oil, and Lubricant Products, the Methodology in the Evaluation and Comparison of Bids to Determine the Lowest Calculated Bid:</p> <p>Evaluation of Bid Offers: The most advantageous bid offer shall be determined using the formula below: Delivered Price = Bid Price — Discount + Local Transshipment + Excise Tax + EVAT</p> <p>Where :</p> <ul style="list-style-type: none"> — Delivered Price = Price of oil based Fuel at delivery point up to four (4) decimal places, Peso/Liter — Bid Price = refers to the bid of the prospective supplier Local Transshipment = Freight Cost from the refinery to the delivery point for deliveries ex refinery, or freight cost from the depot to the delivery point for deliveries ex depot. This shall (a) exclude pumping cost in case of tank truck deliveries, and (b) include drum cost in case of packaged Fuel deliveries. <p>Excise Tax = Tax imposed on diesel oil as provided in Section 43 of Republic Act 10963, amending the National Internal Revenue Code of 1997, valued at PhP 6.00/liter</p> <p>EVAT = Expanded Value Added Tax as provided in R.A. 9337, amending the National Internal Revenue Code of 1997 as amended and BIR Revenue Regulations No. 16 2005, up to four (4) decimal places, Peso/liter.</p> <p>The bidder with the lowest evaluated price shall be considered the Lowest Calculated Bid. The Domestic Preference provision shall not apply in the determination of the Lowest Calculated Bid.</p> <p>In case, there is a difference in the computation of the Delivered Price (consisting of the Bid Price, Discount, Local Transshipment, Excise Tax and EVAT) by the bidder and PSALM due to rounding off, the computation of the latter shall prevail and be considered for the evaluation.</p>
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1c. Insert in the Bid Data Sheet, ITB Clause 20.1 as shown below.

ITB Clause 20.1	<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 last two (2) quarters and month prior to 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" data-bbox="427 1037 1396 1339"> <tr> <td data-bbox="427 1037 916 1339"> 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 (ii) latest month (2550M) (i.e., April 2021) </td> <td data-bbox="916 1037 1034 1339">and/or</td> <td data-bbox="1034 1037 1396 1339"> b) Quarterly Percentage Tax Returns BIR Form No. 2551 (i.e., 4th Quarter of 2020 and 1st Quarter of 2021) </td> </tr> </table> <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>In addition, 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. b) Articles of Incorporation and By-laws; 	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 (ii) latest month (2550M) (i.e., April 2021)	and/or	b) Quarterly Percentage Tax Returns BIR Form No. 2551 (i.e., 4 th Quarter of 2020 and 1st Quarter of 2021)
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 (ii) latest month (2550M) (i.e., April 2021)	and/or	b) Quarterly Percentage Tax Returns BIR Form No. 2551 (i.e., 4 th Quarter of 2020 and 1st Quarter of 2021)		

	<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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1d. Bid Data Sheet, ITB Clause 20.2 to be deleted as shown below.

ITB Clause	<p>20.2 The Bidder with the Lowest Calculated Bid (LCB) shall submit copies of the following documents:</p> <p>1. 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 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> <p>2. Latest General Information Sheet and Articles of Incorporation and By Laws filed with the SEC, if applicable.</p>
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<p>3. Updated PhilGEPS Certificate of Registration of Membership under Platinum category, if the bidder submitted Class “A” Documents during bid submission deadline.</p> <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> <ul 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.b) Articles of Incorporation and By laws;c) Valid and current Mayor’s/Business permit.d) Latest Audited Financial Statement stamped received by the BIRe) For Ongoing Government and Private Contracts:<ul style="list-style-type: none">1. Notice of Award and/or Contract; and2. Notice to Proceed issued by the ownerf) For Government & Private Contracts completed which are similar in nature and complexity to the Contract to be Bid<ul style="list-style-type: none">1. Contract; and2. 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>

- 1e. Special Conditions of Contract, GCC Clause 1, add the following as the First paragraph of the said clause.

GCC Clause 1	<p>Bids shall be for the supply and delivery of 16,000,000 Liters of Neat Diesel Oil as specified in Section VI (Delivery Points and Schedule of Requirements) and Section VII (Technical Specifications).</p> <p>Contracted Quantity of Fuel</p> <ul style="list-style-type: none"> The quantity of Fuel to be delivered shall be in accordance with Section VI-Schedule of Requirements, subject to the provisions of Price and Contract Amount and Implementation. <p>The monthly breakdown of Fuel requirements is indicated in Section VI-B, Schedule of Monthly Fuel Requirements. Said monthly breakdown is for the Supplier’s planning purposes.</p> <ul style="list-style-type: none"> The Contract Term shall be until 31 December 2021. In case the contracted quantity cannot be lifted by PSALM during the Contract Term, PSALM shall continue lifting Fuel from the Supplier pursuant to SCC 1 (Total Contract Price). On the other hand, if the Total Contract Price has been used up and there is still remaining volume for delivery, the same shall no longer be lifted. <p>In the event of a supply shortage and/or allocation of petroleum supplies imposed by the Philippine Government, or any of its instrumentalities, Supplier shall sell to PSALM the said volumes as a minimum subject to the implementing rules and regulations issued by the Government agency of the Philippines exercising supervision over petroleum utilization and supplies.</p>
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- 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.

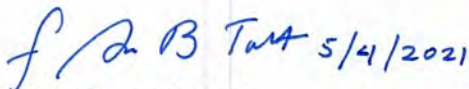
The said section provides that:

“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.

 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: _____