



BIDS AND AWARDS COMMITTEE I

**SUPPLEMENTAL BID BULLETIN NO. 2
SUPPLY AND DELIVERY OF 126 UNITS BRAND NEW 1,000 GALLONS CAPACITY FIRE
TRUCKS FOR THE BUREAU OF FIRE PROTECTION
NATIONAL HEADQUARTERS (BFP-NHQ)**

Bid Ref. No. GPG-B1-2018-613

Approved Budget for the Contract: ₱ 1,881,473,992.02

This **Supplemental/Bid Bulletin No. 2** is being issued to schedule the Submission and Opening of Bids and to announce the venue, to further clarify, modify and amend provisions in the Bidding Documents and in response to clarification from prospective bidders.

A) SCHEDULE FOR THE SUBMISSION AND OPENING OF BIDS AND VENUE:

DATE AND TIME:

Bid Submission Deadline: **24 January 2019 (Thursday), 10:00 AM sharp.**
(Bid Opening to follow right after bid submission)

VENUE:

**GROUND FLOOR
DTI INTERNATIONAL BUILDING,
375 SENATOR GIL J. PUYAT AVENUE
MAKATI CITY**

REMINDERS:

1. Since there are very limited parking areas in the DTI venue, bidders are advised to make the necessary arrangements to be able to drop their bids on time.
2. Bidders may opt to submit their sealed bids prior to 24 January 2019 as follows:

Date: January 23, 2019 (Wednesday)
Place: 3/F NDC Building, 116 Tordesillas St., Salcedo Village, Makati City
Time: 8:00 a.m. to 4:00 p.m. only

However, sealed bids will be opened only on 24 January 2019 (Thursday) at the DTI venue stated above.



B) AMENDMENT IN THE BIDDING DOCUMENTS

| Section III Bid Data Sheet | |
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| From | To |
| 5.2 Eligible Bidders | |
| <p>Foreign manufacturers may participate in this Project, provided they enter into a Joint Venture with a Philippine distributor who has been in the business of selling firetrucks or rescue truck vehicle in the Philippines for the last fifteen (15) years.</p> | <p>Foreign manufacturers may participate in this Project in view of the following circumstances as provided for in Clause 5.2 of the ITB:</p> <p>(c) When the Goods sought to be procured are not available from local suppliers; or</p> <p>(d) When there is a need to prevent situations that defeat competition or restrain trade.</p> <p>Further, foreign manufacturers may participate in this Project, provided they enter into a Joint Venture with a Philippine distributor who has been in the business of selling firetrucks or rescue truck vehicle in the Philippines for the last fifteen (15) years.</p> |
| 20.1 Sealing and Marking of Bids | |
| <p>All envelopes shall:</p> <p>(a) contain the name of the contract to be bid in capital letters;</p> <p>(b) bear the name and address of the Bidder in capital letters;</p> <p>(c) be addressed to the Procuring Entity's BAC in accordance with <u>ITB Clause 1.1</u>;</p> <p>(d) bear the specific identification of this bidding process indicated in the ITB Clause 1.2; and</p> <p>(e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with ITB Clause 21.</p> <p>xxx...</p> | <p>All envelopes shall:</p> <p>(a) contain the name of the contract to be bid in capital letters;</p> <p>(b) bear the name and address of the Bidder in capital letters;</p> <p>(c) be addressed to the Procuring Entity's BAC in accordance with ITB Clause 21;</p> <p>(d) bear the specific identification of this bidding process indicated in the ITB Clause 1.2; and</p> <p>(e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with ITB Clause 21.</p> <p>xxx...</p> |
| 21. Deadline for Submission of Bids/Address for Submission of Bids | |
| <p>The address for submission of bids is: Ground Floor, DTI International Building, 375 Senator Gil J. Puyat Avenue, Makati City.</p> <p>The deadline for submission of bids: 24 January 2019 (Thursday), 10:00 A.M.</p> | |



29.2 ADDITIONAL REQUIREMENTS TO BE SUBMITTED

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| b. Supporting documents of the <u>list of services</u> for Regions 1, 2, 3, 4A, 5, 6, 7, 8, 9, 10, 11, 12, Caraga and NCR: | b. Supporting documents of the <u>list of service centers</u> for Regions 1, 2, 3, 4A, 5, 6, 7, 8, 9, 10, 11, 12, Caraga and NCR: |
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C) REPLIES TO BIDDERS QUERIES:

Bidder 1 – Kolonwel Trading

Letter addressed to the Chair dated 03 January 2019.

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| Query 1 | <p>Persons Eligible to Participate in this Bidding [ITB/BDS Clause 5.1]</p> <p>In BDS Clause 5.1, it is indicated that the bidding is open to “local manufacturer/assembler”, “authorized Philippine distributor” and “foreign manufacturer”</p> <ol style="list-style-type: none"> What particular legal eligibility document is to be examined/evaluated by the BAC to show compliance by a bidder for this particular requirement? Please interpret the meaning of the phrase “in the Philippines for the last fifteen (15) years” as a qualification of the “local manufacturer/assembler” or “Philippine distributor”. Considering that such qualification refers to the <u>eligibility</u> of a prospective bidder, it is not an additional eligibility requirement that is proscribed under the RA 9184? Assuming arguendo that the foregoing qualification is permissible, can we request, in the spirit of competition and to extend equal opportunity to all those who are otherwise eligible and qualified, that the residency qualification be amended to read as follows: “<i>in the Philippines within the last fifteen (15) years</i>”? |
| REPLY | <ol style="list-style-type: none"> Under Item VIII.A.5 of BFP Technical Specifications No. BFP-TC-2017-01 as of August 29, 2018 (Annex V-A1 page 14 of 17, it is expressly stated that the bidder must submit a “certification that the manufacturer/bidder has been engaged in the manufacturing/assembly and/or sale and supply of firetrucks and/or rescue truck vehicle in the Philippines for at least fifteen (15) years immediately preceding the submission and opening of bids”. Moreover, under Item VIII.B.4 (Annex V-A1 pages 15 and 16 of 17) of the same technical specification, bidders are further required to submit a “list of clients with its corresponding address for within at least fifteen (15) years immediately preceding the submission and opening of bids as supporting document to the requirement in Item VIII.A.5 of the technical specification”. Contrary to the claim, this is not an additional eligibility requirement. We invite the attention to Clause 12.1 (a) (a.1) Eligibility Documents of the Bid Data Sheet of the Bidding Documents composed of the Eligibility Legal, Eligibility Technical and Eligibility Financial Documents. <p>We are well aware of Section 23.1 of the 2016 revised IRR and in fact, abiding by it, particularly the prohibition on requiring additional ELIGIBILITY documents, which was reiterated in the cited GPPB Opinion No. 004-2015 which partly provides as follows:</p> <p>“In relation to the technical and financial component of the bid, the contents shall be in accordance with provisions of Sec. 25.2 of the IRR of RA 9184 and the Philippines Bidding Documents for the Procurement of Goods.”</p> |



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| | <p>Section 25.2 of the 2016 revised IRR states that –</p> <p>“The first envelope shall contain the following technical information/documents, at the least:”</p> <p>The GPPB Opinion, in relation to Section 25.2 simply means that as to technical and financial component of the bid, procuring entities may require additional TECHNICAL documents.</p> <p>In fact, this requirement is in line with the objective of the procurement law to award a contract only to a bidder determined to be compliant with and responsive to all the requirements and conditions including the stated competence, experience; and performance of the bidder in its government and/or private contracts.</p> <p>c. BFP retains its requirement of "in the Philippines for the last fifteen years."</p> |
| Query 2 | <p>Origin of Goods [ITB Clause 7]</p> <p>Is it correct to interpret that there is no restriction on the origin of goods (i.e., fire trucks) as specified in ITB Clause 7?</p> |
| REPLY | <p>There is no restriction on the origin of goods.</p> |
| Query 3 | <p>Guarantee/Certification from an Exclusive Distributor/ Assembler in the Philippines on the Availability of Supplies, Parts and Accessories [BDS Clause 12.1 (b) (vii)]</p> <p>This requirement <u>restricts competition</u> to only a very few entities who have already established "connections" with the exclusive distributors/assemblers in the Philippines of the engines, cabs and chassis. The requirement also <u>bars the participation of world-class fire truck manufacturers</u> that are using quality engines, cabs and chassis, which are not being made available, sold and distributed through exclusive distributors/assemblers in the Philippines.</p> <p>To achieve the purpose of this particular requirement without limiting competition and participation of world-class fire truck manufacturers, it is requested that the following amendment be considered:</p> <p><i>"Guarantee/Certification from the manufacturer of the brand of the engine, cab and chassis of the truck being offered, to ensure availability of supplies, parts and accessories for at least ten (10) years after the expiration of the warranty period.</i></p> <p><i>In this regard, the manufacturer shall also indicate in the Guarantee/Certification at least one (1) branch office or distribution outlet in the Philippines for the supplies, parts and accessories."</i></p> |
| REPLY | <p>This BFP requirement as stated in the Bidding Documents and the Terms of Reference remains.</p> |



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| <p>Query 4</p> | <p>Certification from an Exclusive Distributor/Assembler in the Philippines on the Availability, Sale and Distribution of Spare Parts [BDS Clause 12.1(b)(viii)]</p> <p>As already discussed, the requirement that the certification be issued by an exclusive distributor/assembler in the Philippines restricts competition and bars the participation of world-class fire truck manufacturers.</p> <p>Also, the requirement is impossible to comply because EURO IV and EURO V emission standards for engines were only implemented in 2005-2008 and 2008-2012, respectively. This simply means NO ENGINE SPARE PARTS for EURO IV and EURO V engines COULD HAVE BEEN MADE AVAILABLE, SOLD AND DISTRIBUTED for the last fifteen (15) years (that is, continuously from 2003 to 2018).</p> <p>To achieve the purpose of this particular requirement without limiting competition and participation without limiting competition and participation of world-class fire truck manufacturers and to be realistic, it is requested that the following amendment be considered:</p> <p><i>“Certification that the spare parts of the engine, cab and chassis have been available, sold and/or distributed in the Philippine market within the last ten (10) years immediately preceding the submission and opening of bids. This certification shall be issued by the manufacturer of the brand and engine, cab and chassis of the fire truck being offered.</i></p> <p><i>The certification shall also indicate at least one (1) branch office or distribution outlet in the Philippines, where said spare parts have been available, sold and/or distributed.”</i></p> |
| <p>REPLY</p> | <p>BFP has not revised/amended this requirement despite the Committee’s representation. Thus, this BFP Requirement as stated in the Bidding Documents and the Terms of Reference remains.</p> <p>The Certification CANNOT be from the manufacturer of the engine, cab and chassis, but it should be issued by the exclusive distributor/assembler of the brand of the engine, cab and chassis who – in such case - can be the bidder itself (if the bidder is exclusive distributor/assembler of the brand of the engine, cab and chassis)</p> |
| <p>Query 5</p> | <p>Service Center Certification Requirement [BDS Clause 12.1 (b) (ix)]</p> <p>If truth be told, the existing service center requirement is <u>tailored-fit to existing engine, cab and chassis manufacturers with exclusive distributors in the Philippines and discourage the participation</u> of world class manufacturers.</p> <p>It is rather realistic to require at least one (1) specialized service center for fire trucks each in Luzon, Visayas and Mindanao that shall perform the supplier’s obligation under Item V.3, on Warranty, that “House to house repairs and maintenance shall be provided by the supplier/manufacturer to the place of the fire truck’s assignment during the duration of the warranty period.”</p> <p>It is also more in accord with sound business practice to require from the winning bidder the submission of a comprehensive plan for a detailed schedule of maintenance of all delivered fire trucks during and after the expiration of the warranty period than to merely require a service center in every region.</p> <p>The comprehensive plan must incorporate house-to-house repairs and maintenance to be provided by the winning bidder’s specialized service centers at the fire stations where the fire trucks are assigned.</p> |



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| | <p>To achieve the purpose of this particular requirement, it is requested that the following amendment be considered:</p> <p><i>“A certification from the bidder that it has at least one (1) specialized service center for fire trucks each in Luzon, Visayas and Mindanao that has available in-house trained service and repair technicians locally with training certificates to provide immediate support in case of immediate repair of the chassis, engine, body and fire pump of the fire truck.</i></p> <p><i>The certification must include an undertaking to provide a comprehensive plan for a detailed schedule of maintenance of all delivered fire trucks during and after the expiration of the warranty period. Such plan, which shall be submitted prior to the acceptance of the delivered fire trucks, must incorporate house-to-house repairs and maintenance to be provided by the specialized service centers at the fire stations where the fire trucks are assigned.</i></p> <p><i>For this purpose, the bidder should attach the following:</i></p> <ul style="list-style-type: none"> <i>(a.) List of service centers with their complete address, telephone and/or cellphone numbers and contact persons; and</i> <i>(b.) List of service and repair technicians of the cab and chassis, engine, body and fire pump.”</i> <i>(c.) Lastly, the winning bidder will have to post cash warranty bond which is considered the best guarantee to protect the interest of the BFP, as end user so the issue of service center should be per region in main cities.</i> |
| <p>REPLY</p> | <p>BFP has not revised/amended this requirement despite the Committee’s representation. Thus, this BFP requirement as stated in the Bidding Documents and the Terms of Reference remains.</p> |
| <p>Query 6</p> | <p>Certification from an Exclusive Distributor/Assembler in the Philippines on the Availability of the Engine, Cab and Chassis in the Philippine Market for at least 15 Years [BDS Clause 12.1 (b)(x)]</p> <p>Once more, the existing requirement that the certification be issued by the exclusive distributor/assembler in the Philippines <u>restricts competition and bars the participation</u> of world-class fire truck manufacturers.</p> <p>If the BFP is serious in acquiring quality fire trucks, it should consider buying fire trucks with the brand of the engine, cab and chassis that have been available and sold in the global market for at least 15 years immediately preceding the submission and opening of bids.</p> <p>The certification must be issued by the fire truck manufacturer, which should have personal knowledge of the global transaction. The certification shall also indicate at least one (1) tropical country (other than the country of the fire truck manufacturer) that is currently using the manufactured/assembled fire trucks using the brand of the engine, cab and chassis as proposed in this Project. This amendment assures that the fire trucks to be supplied to the BFP can be used effectively under Philippine conditions.</p> <p>Thus, the following amendment is proposed:</p> <p><i>“Certification that the brand of the engine, cab and chassis of the fire truck being offered have been available and sold in the global market for at least fifteen (15) years immediately preceding the submission and opening of bids. The certification must be issued by the fire truck manufacturer and shall indicate at least one (1) tropical country (other than the country of fire truck manufacturer) that is currently using the manufactured/assembled fire trucks using the brand of the engine, cab and chassis as proposed in the Project.”</i></p> |



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| <p>REPLY</p> | <p>The BFP Requirements as stated in the Bidding Documents and the Terms of Reference remains.</p> <p>The Certification CANNOT be from the manufacturer of the engine, cab and chassis, but it should be issued by the exclusive distributor/ assembler of the brand of the engine, cab and chassis who – in such case - can be the bidder itself (if the bidder is exclusive distributor/ assembler of the brand of the engine, cab and chassis)</p> |
| <p>Query 7</p> | <p>Sealing and Markings of Bids [ITB Clause 20]</p> <p>Please note that in GPPB Resolution No. 29-2017, ITB Clause 20.4 (c) has been amended to read as follows: “be addressed to the Procuring Entity’s BAC in accordance with ITB Clause 21.”</p> <p>It is requested that a Supplemental/Bid Bulletin be issued indicating the foregoing <u>amendment</u>.</p> |
| <p>REPLY</p> | <p>Noted. Please refer to amendment in the Bidding Documents in this Bid Bulletin.</p> |
| <p>Query 8</p> | <p>Supporting Documents Required of a Service Center [BDS Clause 29.2]</p> <p>SEC or DTI Registration, Mayor’s/Business Permit and Latest Tax Clearance issued by the BIR-CED (or Certification of tax clearance of No Delinquency issued by the concerned RDO are <u>legal eligibility documents</u> required of participating bidders.</p> <p>Considering that the service centers are not participating as bidders, their legal eligibility documents should not be required. It should be clear that the Government Procurement Policy Board (GPPB) has consistently ruled that procuring entities are already prohibited from requiring additional eligibility documents. Please see NPM Nos. 170-2012, 123-2017 and 136-2017, all issued by GPPB.</p> <p>Thus, the following amendment is proposed:</p> <p><i>“Supporting documents of the specialized service centers, to wit:</i></p> <p><i>(a.) Contract between the bidder and the service center. The contract must specifically provide the use of the service center facility for the maintenance and repairs of fire trucks supplied by the bidder to the BFP for a period of at least ten (10) years after the expiration of the warranty period; and</i></p> <p><i>(b.) Vicinity/Location map of the service center.”</i></p> |
| <p>REPLY</p> | <p>These BFP requirements on the service centers as stated in the Bidding Documents and the Terms of Reference remain.</p> |
| <p>Query 9</p> | <p>Third Party Certification on Compliance with UL, EN, NFPA or JIS Standards</p> <p>For European manufacturers, compliance with the EN standard is <u>no longer issued by a third party testing facility</u> but by the manufacturer of the product. This finds basis on a memorandum issued by the European Commission (EC) which provides that manufacturers “are responsible for checking that their products meet EU safety, health, and environmental protection requirements. It is the manufacturer’s responsibility to carry out the conformity assessment, set up the technical file, issued the EU declaration of conformity, and affix the CE marking to a product.”</p> <p>Hence, the following amendment is proposed:</p> <p><i>“Certification of compliance with the standards from UL or EN or NFPA or JIS issued by an ISO 17025 Certified third party testing facility.</i></p> <p><i>However, for European manufacturers, the certificate of compliance with EN standard may be issued by the manufacturer.”</i></p> |



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| REPLY | This BFP requirement as stated in the Bidding Documents and the Terms of Reference remains. |
| Query 10 | <p>Schedule of Requirements and Technical Specifications</p> <p>10.1 It is requested that the submission of prototype model be reasonably extended to 60 to 90 calendar days.</p> <p>10.2 Under Item M (5.b) of the BFP Technical Specifications, it is requested that the phrase “Sandwich type” be amended to read “PTO engine operated”, considering that the phrase “sandwich type” may be considered a proprietary parameter of a particular brand of a PTO engine.</p> |
| REPLY | These BFP requirements as stated in the Bidding Documents and the Terms of Reference remain. |
| Query 11 | <p>Rescheduling of the Bid Submission Deadline</p> <p>Given the long holidays and considering the foregoing suggestions, it is requested that the bid submission deadline be re-scheduled for another two weeks, from January 14, 2019 to January 28, 2019.</p> |
| REPLY | Please refer to the new bid schedule for the Submission and Bid Opening of this Bid Bulletin. |

Letter addressed to the Chair dated 07 January 2019.

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| Query 1 | <p>Foreign manufacturers (BDS Clause 5.2, p.33)</p> <p>In BDS Clause 5.2 it is indicated that “Foreign manufacturers may participate in this Project, provided they enter into a Joint Venture with a Philippine distributor who has been in the business of selling fire trucks or rescue truck vehicle in the Philippines for the last fifteen (15) years”.</p> <p>1.1 Is this requirement not in conflict with the “Guidelines in the Determination of Eligibility of Foreign Suppliers, Contractors, and Consultants to Participate in Government Procurement Projects” (“Guidelines”, for brevity) under Appendix 9 of the 2016 Implementing Rules and Regulations of RA9184 (IRR)?</p> <p>It is to be noted that the Guidelines were formulated “to clarify procurement policy on the eligibility of foreign bidders to participate in domestically-funded public procurement opportunities, within the framework of national and international economic and trade policies”. Consistently, in the procurement of goods, foreign bidders may be eligible to participate under any of the circumstances mentioned in the Guidelines, such as the following;</p> <p><u>When the goods sought to be procured are not available from local suppliers, subject to Item 5 of the Guidelines.</u></p> <p>Under Item 5 of the Guidelines, goods are not available from local suppliers when, at any time before advertisement for their procurement, it is determined that no local suppliers are capable to supply the required goods to the Government, in which case, foreign suppliers, manufacturers and/or distributors may be invited to participate in the bidding.</p> |
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| | <p>Thus, the head of the procuring entity or his duly authorized representative shall certify that, after diligent market research conducted by the procuring entity, the goods sought to be procured are not available from local suppliers, In addition, when applicable, the procuring entity shall secure a certification from the appropriate Government regulatory body, such as, but not limited to, the Bureau of Product Standards of the Department of Trade and Industry (DTI), that based on its available records, the goods sought to be procured are not available from local suppliers.</p> <p>For this Project, no local supplier is capable of supplying the fire trucks as required by the BFP; hence, foreign manufacturers are eligible to participate. In this regard, it is be carefully noted that the Guidelines do not provide any qualification in the participation of foreign bidder for the procurement of goods that are not available from local suppliers.</p> <p>Please clarify.</p> <p>1.2 In addition to the eligibility requirement that a foreign manufacturer should enter into a Joint Venture with a Philippine distributor that has the required qualification, the Bidding Documents also required certain documentary requirements that a foreign manufacturer must secure from an exclusive distributor/ assembler in the Philippines of the brand of engine, cab and chassis being offered. Is this not defeating competition or retraining trade? Please clarify.</p> |
| REPLY | BFP has not revised/amended this requirement despite the Committee’s representation. |
| Query 2 | <p>Requirements from Local JV Partner (BDS Clause 12.1, p.36)</p> <p>One of the requirements from a Local JV Partner is a “Valid and Current Business/Mayor’s Permit issued by the city or municipality where the principle place of business of the prospective bidder is located or the equivalent document for Exclusive Economic Zones or Areas”.</p> <p>In NPM 036-2013, dated 10 April 2013, the Government Procurement Policy Board (GPPB) interpreted the requirement on Mayor’s Permit in the procurement of a vehicle. It said that:</p> <p><i>“A Mayor’s Permit is in the nature of a business permit which authorizes the person, natural or otherwise, to engage in the business or some commercial activity. Thus a prospective bidder’s business as stated in the Mayor’s Permit should allow it to legally perform the requirements and obligations of the project and the resultant contract.</i></p> <p><i>Consequently, it is necessary for the BAC to determine whether the Mayor’s Permit issued to the construction company authorizes it to engage in the business of supplying/selling dump trucks, such that a finding to the contrary would amount to non-compliance by the bidder and will result to its disqualification”.</i></p> <p>Earlier, in NPM 077-2012, dated 27 June 2012, the GPPB opined on the issue on whether a Mayor’s Permit of the construction company that does not include the nature of business for the bidding of the “Garbage Collection and Hauling” project could pass the eligibility requirements for the said project. It said that:</p> <p><i>“A Mayor’s Permit is in the nature of a business permit which authorizes the person, natural or otherwise, to engage in the business or some commercial activity. Consequently, a prospective bidder’s business as stated in the Mayor’s Permit should at the very least be similar to the project to be bid.”</i></p> |



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| | <p><i>The ‘Garbage Collection and Hauling’ project envisions not simply the pulling, dragging, and transport of garbage, but also the proper collection, transfer, storage, processing, and recycling of solid waste. Although a construction company collects and hauls materials, aggregates, equipment, tools and implements in the course of its construction work, such collection and hauling work may not be considered or treated to be within the purview of garbage collection and hauling.</i></p> <p><i>In addition, appropriate environmental licenses and permits must be secured by a prospective bidder from relevant government agencies, such as but not limited to, the Department of Environment and Natural Resources (DENR), to be able to engage in garbage collection and hauling, which may also fact in safety, sanitary health, and labor standards, which a construction company engage in hauling of construction of materials, aggregates and others, may not possess.”</i></p> <p>Given the foregoing, should the Mayor’s Permit of the local JV Partner reflect that it is authorized to engage in the business of selling fire trucks or similar vehicles? Please clarify.</p> |
| <p>REPLY</p> | <p>For as long as the local Joint Venture partner is duly authorized to engage in business by the city or municipality where the principal place of business is located, the Mayor’s/Business Permit is acceptable.</p> |
| <p>Query 3</p> | <p>Requirements from a Foreign JV Partner (BDS Clause 12.1, p. 36)</p> <p>SEC Registration is not required in BDS Clause 12.1 for a Foreign JV Partner.</p> <p>Recently, however, in NPM 007-2018, dated 5 February 2018, the GPPB interpreted on the requirement of SEC Registration of foreign bidders in the procurement of goods. It is said:</p> <p><i>“Although the registration requirement in the SEC by foreign firms is only expressly provided in the procurement of consulting services, it would still apply to foreign suppliers and contractors in the procurement of goods and services, and infrastructure projects, respectively.</i></p> <p><i>In the case Hutchison Ports Philippines Limited v. Subic Bay Metropolitan Authority, the Supreme Court held that:</i></p> <p><i>Participating in the bidding process constitutes doing business because it shows the foreign corporation’s intention to engage in business here. The bidding for the concession contract is but an exercise of the corporation’s reason for creation or existence. Thus, it has been held that a foreign company invited to bid for IBRD and ADB International projects in the Philippines will be considered as doing business in the Philippines for which a license is required. In this regard, it is the performance by a foreign corporation of the acts for which it was created, regardless of volume of business, that determines whether a foreign corporation needs a license or not.</i></p> <p><i>Thus, even though the 2016 IRR of RA9184 does not expressly provide for this requirement, for the procurement of goods, foreign bidders are still required to register with the SEC as mandated by the Corporation Code and jurisprudence. This license shall be required as a post-qualification requirement under Section 34.2 of the IRR where the bidder is mandated to submit “other appropriate licenses and permits required by law and stated in the Bidding Documents.”</i></p> <p>Given the foregoing, should the SEC Registration of the Foreign JV Partner be required as a post qualification requirement? Please clarify.</p> |



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| <p>REPLY</p> | <p>The foreign bidder, if declared the S/LCB will not be required to submit a SEC Registration Certificate during post-qualification stage in the instant procurement project.</p> <p>The cited opinion of the GPPB – which incidentally relies on a Supreme Court decision on a case involving a concession contract - is merely a non-policy opinion based on a different set of facts from this project. Hence, it is not applicable to this procurement project. The Committee is guided primarily by the pertinent provisions of R.A. 9184 and its 2016 revised IRR on the eligibility documents of foreign bidders and unless modified by the Government Procurement Policy Board acting as a collegial body or by an act of Congress, the Committee will abide by what is written in said law and its IRR.</p> <p>To reiterate, the eligibility requirements of foreign bidders as stated in the Bidding Documents for bid opening and post-qualification stage remains unchanged.</p> |
| <p>Query 4</p> | <p>Requirements from the Authorized Philippine Distributor (BDS Clause 12.1, p. 39)</p> <p>One of the requirements from the Authorized Philippine Distributor is a “<i>Valid and Current Certificate of Distributorship of the fire truck or rescue truck being offered, issued by the foreign JV manufacturer of the fire truck</i>”.</p> <p>Does the foregoing requirement mean that the Authorized Philippine Distributor is also the distributor of the foreign manufacturer of the fire truck being offered and the latter should be participating in the bidding for this Project? Please clarify.</p> |
| <p>REPLY</p> | <p>As stated in the Invitation to Bid, the bidding is open to authorized Philippine distributor who must have been in the business of selling firetrucks or rescue truck vehicle in the Philippines for the last fifteen (15) years;</p> |
| <p>Query 5</p> | <p>Company Profile (BDS Clause 29.2 (d), p.43)</p> <p>One of the required post-qualification documents is a Company Profile.</p> <p>What pieces of information should be contained in the Company Profile? Please clarify.</p> |
| <p>REPLY</p> | <p>Please refer to Annex IX of the Bidding Documents.</p> |
| <p>Query 6</p> | <p>Supporting Documents of the List of Service Centers (BDS Clause 29.2 (d), p. 44)</p> <p>SEC or DTI Registration, Mayor’s /Business Permit and Latest Tax Clearance are legal eligibility documents required from participating bidders.</p> <p>Considering that the service centers are not participating as bidders, their legal eligibility documents should not be required pursuant to the consistent ruling of the GPPB, under NPM No. 170-2012,123-2017 and 136-2017, prohibiting procuring entities from requiring additional eligibility documents. Please clarify</p> |
| <p>REPLY</p> | <p>BFP has not revised/amended this requirement despite the Committee’s representation. Thus, this requirement remains.</p> |
| <p>Query 7</p> | <p>We also reiterate our earlier request that, given the long holidays and considering the complexity of this big-ticket procurement, the bid submission deadline be rescheduled for another two weeks, that is from, 14 January 2019 to 28 January 2019.</p> |
| <p>REPLY</p> | <p>Please refer to the new bid schedule for the Submission and Bid Opening of this Bid Bulletin.</p> |



Bidder 2 – LDLA Marketing and Trading

Letter addressed to the Chair dated 4 January 2019.

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| Query 1 | <p>We write to request for clarification on the eligibility requirements of a foreign manufacturer and authorized distributor in order to participate and bid in the Project. As stated in the Invitation to BID (ITB) and Bid Data Sheet (BDS) of the Bidding Documents:</p> <ul style="list-style-type: none"> • “If authorized Philippine distributor: must have been in the business of selling firetrucks or rescue truck vehicle in the Philippines for the last fifteen (15) years; • If foreign manufacturer: must enter into a Joint Venture with a Philippine distributor who have been in the Philippines for the last fifteen (15) years.” <p>Question 1: Could the BFP please explain why the business of selling rescue truck vehicle in the Philippines is considered a qualification requirement of the local bidder? As prescribed in the technical specifications of this bid, BFP-PITC is buying fire trucks with built-in water tank/foam, fire pump and equipped with high-pressure hose that carries water or foam to extinguish fire.</p> <p>According to our manufacturer, a fire truck is not similar to rescue truck vehicle. As described, the latter is a type of specialty emergency medical services vehicle which carries equipment such as the jaws of life, wooden cribbing, generators, winches, hi-lift jacks, cranes, cutting torches, circular saw and other forms of equipment unavailable on standard trucks.</p> |
| REPLY | It is so, to widen the field of competition. |
| Query 2 | <p>The required selling experience of at least fifteen (15) years does not guarantee that bidder is responsible, dependable and reliable. May we request the BFP-PITC to amend this eligibility condition to a minimum of at least two (2) years?</p> <p>The technical specifications of the bid already impose bond and security requirements. More so, the winning bidder will also be providing warranty, maintenance and after-sales support to guarantee the faithful performance of its obligations under the contract.</p> |
| REPLY | BFP has not revised/amended this requirement despite the Committee’s representation. These requirements as stated in the Bidding Documents and the Terms of Reference remain. |

Bidder 3 – Alliance Auto and Truck Rebuilders Inc.

Letter addressed to the Chair dated 28 December 2018.

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| Query 1 | <p>We greatly appreciate your sound decision to waive the additional requirement pertaining to the issuance of a personal tax clearance by the service center which we have subcontracted.</p> <p>The above is consistent with the Bureau of Internal Revenue’s Memorandum dispensing with the necessity of any subcontracted service centers to issue corresponding tax clearances on their own but requiring us main bidders i.e. Alliance Auto and Truck Rebuilders Inc. to give you the assurance that our subcontracted service centers are cleared of taxes.</p> |
| REPLY | Noted. |



Bidder 4 – Concrete Masters Inc.

Letter addressed to the Chair dated 04 January 2019.

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| Query 1 | <p>If authorized Philippine distributor: must have been in the business of selling fire trucks or rescue truck vehicle in the Philippines for the last fifteen (15) years.</p> <p>We have been in the business of selling trucks and machinery for the last 8 years. Can the joint venture partner, be the eligible partner for this? Our partner has been in the business of selling fire trucks for over 100 years worldwide.</p> |
| REPLY | <p>The Invitation to Bid clearly stated the requirement.</p> |
| Query 2 | <p>Certification that the bidder has at least one (1) established/authorized and/or accredited service center that has available in-house trained service and repair technicians locally with training certificates to provide immediate support in case of immediate repair of the chassis, engine, body and fire pump of the fire truck in the following regions of the country, Regions 1, 2, 3, 4A, 5, 6, 7, 8, 9, 10,11,12, Caraga and NCR. For this purpose, the bidder should attach the following:</p> <p>Request that the bidder have 3 service centers nationally with overhaul capability. Any bidder can partner with local service outlets but it doesn't mean that the bidder has capable service capability and they can commit to effective service. The parts and technicians will be dispatched nationally and the turnaround for a service on site will be 24 hrs.</p> |
| REPLY | <p>BFP has not revised/amended this requirement despite the Committee's representation. Requirements as stated in the Bidding Documents and the Terms of Reference remain.</p> |
| Query 3 | <p>Technical Specifications:</p> <ol style="list-style-type: none"> 1. Item A.3 engine output: increase to minimum of 270HP to get more appropriate truck. 240 is small but we can comply with either. 2. Item A.5 EGR: Add SCR system as option because all trucks are on SCR. SCR is better for truck and environment. EGR causes loss in power and life of engine hence manufacturers do not us. 3. Item B.2 GVWR should be minimum of 18 tons to comply with the fire truck requirements. Leaving this open will allow other brands to give a small truck and will affect end user because truck will have difficult time and under capacity. 4. Item B.D.1 Require semi-automatic transmission/robotized simpler to use for user and maintenance of user or less. Clutch will not burn out if driver issue. 5. Item C.1 replace with original OEM cabin design 6. Item D.1 replace with as per OEM standard. Trucks uses latest technology to make their products and the latest technologies. 7. Item G.1 replace with AiSi 316L 8. Item G.5 add or lateral 9. Item I.2 add requirement of AiSi 316L requirement 10. Item G.9 remove this section 11. Item J.2 add "or integrated in the water tank" at end 12. Item K.4 add "approx." at the end 13. Item M.2 replace with 2 or 3 stage as requirement 14. Item M.5.b replace with as per manufacturer standard |



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| | 15. Item M.6.d replace with automatic primer only 16. Item O replace with “according to high quality international standards” 17. Item S.1 is this for the light bar or beacon? 18. Item III.2b add or equivalent EN standard 19. Item IV.1.2 change to 6 months. If cannot nego for 4 months. 20. Item VII.A. 3&5&6&7.2 remove these |
| REPLY | Requirements as stated in the Bidding Documents and the Terms of Reference remain. |

Bidder 5 – Integrated Energy Systems and Resources, Inc.

Letter addressed to the Chair dated 04 January 2019.

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| Query 1 | We wish to request for a 30 days extension of the bid opening from January 14, 2019 to February 14, 2019, due to the recent typhoon that affected some of our appointed service centers in the regions. |
| REPLY | Please refer to the new bid schedule for the Submission and Bid Opening of this Bid Bulletin. |

This Supplemental Bid Bulletin No. 2 shall form part of the Bidding Documents. Any provisions in the Bidding Documents inconsistent herewith is hereby amended, modified and superseded accordingly.

For the guidance and information of all concerned.

Issued this 16th day of January 2019 in Makati City.

Reviewed and approved by:

(Sgd.) ATTY. MA. VICTORIA C. MAGCASE
Chair, Bids and Awards Committee I (BAC I)

(Sgd.) ATTY. MARIA GUDELIA C. GUESE
Vice Chair

(Sgd.) CHRISTABELLE P. EBRIEGA
Member

(Sgd.) DAVID A. INOCENCIO
Member

MYRA CHITELLA T. ALVAREZ
Member

Concurred by:

CSUPT JOSE S EMBANG, JR.
BAC I Provisional Member
Bureau of Fire Protection
National Headquarters

SSUPT JERRY D CANDIDO
BAC I Alternate Provisional Member
Bureau of Fire Protection
National Headquarters