



BIDS AND AWARDS COMMITTEE I

**SUPPLEMENTAL BID BULLETIN NO. 2
SUPPLY AND DELIVERY OF BRAND NEW 230,903 SETS BRAND NEW
PHILIPPINE ARMY PATTERN (PHILARPAT) BATTLE DRESS UNIFORM (BDU)
WITH BALL CAP FOR THE PHILIPPINE ARMY (PA)**

Bid Reference No. MPG-BI-2020-253

Approved Budget for the Contract - ₱ 437,145,559.60

This **Supplemental Bid Bulletin No. 2** is being issued to clarify, modify and amend Bidding Documents in response to the clarification from prospective bidders for the aforesaid project

Below are the queries/requests for consideration by the prospective bidders, which have been answered by the PITC Bids and Awards Committee I and Philippine Army (PA).

GOLDBELL PHILIPPINES IMPEX CORP. in its letter dated 12 October 2020 and received by BAC on the same date via electronic email.

Query 1:	<p>We would like to request following:</p> <p>LOCAL MANUFACTURER REQUIREMENT</p> <p>We have a concern with the new requirement in the Invitation to Bid (Section 3) and Bidding Documents (Bid Data Sheet Section 5.1) wherein it only allows local manufacturers to join which effectively excludes other Local Distributors and Foreign Manufacturers from joining. Our company is one of those excluded by this new requirement.</p> <p>We see this requirement as very anti-competitive because previous procurements of this item allowed both local and foreign manufacturers. In fact, the Philippine Army Bids and Awards Committee (PABAC) recently conducted a procurement for 111,346 sets of the same item last June 22, 2020 with Bid Reference Number QM PABAC 029-20 which allowed all local and foreign distributors and manufacturers to participate.</p> <p>Historically, procurements of this item normally attract five (5) proponents, only two (2) of which claim are local manufacturers. However, to this date, there has never been a local manufacturer which has successfully supplied and delivered this item to the Philippine Army or PITC. We believe there is a high level of risk to limit the procurement to only local manufacturers now, especially with a procurement project of this size and amount.</p> <p>LEGAL ISSUES</p> <p>In our research, we have found two things which goes against the Local Manufacturer requirement - Government Procurement Policy Board's (GPPB) Non-Policy Opinion NPM 015-2012 and Section 43.1.1 of the 2016 Revised IRR of RA 9184.</p> <p><i>"2012-01-18 NPM 015-2012 Requesting Entity: Philippine Coast Guard Issues Concern: Nationality Preference as part of specification</i></p>
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Details

Whether requiring a country of origin in the specification is in line with the provisions of Republic Act (RA) 9184 and its revised Implementing Rules and Regulations (IRR).

[P]lease note that as provided under Section 43.1.1 of the IRR of RA 9184, consistent with the obligation of the Philippines under international treaties or agreement, goods may be obtained from domestic or foreign sources and the procurement shall be open [sic] to all eligible suppliers, manufacturers, and distributors. As such, although procuring entities are given leeway in formulating the specifications in the terms of reference, they cannot limit the origin of goods to their preferred countries of origin to the exclusion of other countries.

Thus, considering the foregoing, we wish to reiterate that under the revised IRR, procuring entities are precluded from requiring specific country of origin as part of the technical specification for the project. Rather, the specifications shall be based on the performance requirements and recognized industry standards and not on the basis of country of origin.”

Section 43.1.1 of the 2016 Revised IRR of RA 9184, states the following:

43.1.1. Consistent with the GoP's obligations under international treaties or agreements, goods may be obtained from domestic or foreign sources: Provided, however, That the procurement thereof shall be open only to eligible suppliers, manufacturers and distributors: Provided, further, That in the interest of availability, efficiency and timely delivery of goods, the Procuring Entity may give preference to the purchase of domestically produced and manufactured goods, supplies and materials that meet the specified or desired quality, in accordance with the provisions of Commonwealth Act No. 138.

It is clear that RA 9184 encourages competition as long as it is not detrimental to the availability, efficiency, and timely delivery of goods. However, the exclusivity given to Local Manufacturers runs counter to the three (3) criteria.

1. Availability of proponents will be reduced from five (5) down to two (2). This will limit the number of sources where the government can procure the goods.
2. Efficiency of the procurement is reduced because with less proponents brings less competition and more likely an increase in bid price which leads to less savings for the government.
3. Timely delivery of the goods is negatively affected as local manufacturers are known to be small tailoring shops which do not have the capacity to produce the quantity of goods in a timely manner. This is further worsened because the bidding documents require a delivery period far longer than previously required. It was mentioned in the Pre-Bid Conference last September 28, 2020 that the delivery period of four hundred eighty (480) calendar days was allocated to account for the slow manufacturing speed of local manufacturers.

Clearly, making the procurement exclusive to Local Manufacturers is to the detriment to both the government and the Philippine Army.



EXCESSIVELY LONG DELIVERY PERIOD

For reference, we would like to cite the previous four (4) procurement projects of PITC and the Philippine Army of the exact same item:

Procuring Entity	Bid Ref. Number	Quantity	Delivery Period (Calendar Days)
PITC	MPG-BI-2017-001	126,465	210
PITC	MPG-BI-2017-175	140,548	210
PITC	MPG-BI-2018-047	126,296	210
Philippine Army	QM PABAC 029-20	111,346	210

It can be seen in the table above that throughout all four (4) procurement projects, the delivery period has not changed despite the varying quantity required. This is in stark contrast to the upcoming procurement to be held wherein the **delivery period has more than doubled** from two hundred ten (210) calendar days to four hundred eighty (480) calendar days, yet the quantity required, 230,903 sets, is not even double of the previous requirements.

Such generous delivery period was never given when the procurement projects was open to all types of proponents. The government will lose on the timely delivery of goods if such a generous delivery period proceeds.

If the previous delivery period was adjusted according to the quantity of previous procurements, then the new delivery period would be three hundred (300) calendar days, far less than the four hundred eighty (480) calendar days currently provided.

In relation to the delivery period, the funds for this procurement project are from the **General Appropriations Act of 2018**. The excessively long delivery period stated above is a **great disservice to our taxpayers and soldiers** because the goods will only be completely delivered in 2022, five (5) years after it was supposedly scheduled to be delivered.

UNDERLYING REASONS

Long before this requirement was required, we have heard several reasons why a decision was made to require only local manufacturers to join:

1. To promote the local sewing industry.
2. The COVID-19 pandemic has caused problems in conducting a post-qualification in the foreign manufacturer's facilities.
3. The COVID-19 pandemic will cause problems in the availability to supply the military uniforms.
4. RA 11494, otherwise known as the "Bayanihan to Recover As One Act", authorizes it to prioritize local manufacturing and gives exemptions to RA 9184.



We could like to rebut all four (4) reasons as to why we believe they are invalid:

1. It is not the Armed Forces of the Philippines' (AFP) or the Philippine Army's mandate to promote the local industry. Such mandate is only given to the Department of Trade and Industry (DTI) under Executive Order 133. While we are all for promoting the local industry, it should not come at the expense of reduced competition and untimely delivery of goods to the government as previously stated in Section 43.1.1 of the 2016 Revised IRR of RA 9184.
2. PITC is able to conduct the post-qualification process abroad by using its foreign counterparts on its behalf instead
3. Almost all textile materials used for the manufacture of military uniforms are sourced from abroad. Even manufacturers claiming to be able to weave textile still would source their raw materials from abroad. If a problem in importing uniforms does occur, raw materials will be similarly and equally affected.
4. Our company has recently completed our delivery of the exact same military uniform last July 27, 2020 and the goods have been accepted by the Philippine Army last August 17, 2020. This all occurred amidst the pandemic and Modified Enhanced Community Quarantine (MECQ).
5. The Philippine Army Bids and Awards Committee have just recently conducted a public procurement for the same item last June 22, 2020 with Bid Reference Number QM PABAC 029-20 in which it was open to all local and foreign distributors and manufacturers. During the bid opening day, four (4) proponents submitted their bids. This shows the open competitiveness of the PABAC's policy which is to the advantage of the Philippine Army. To reduce competition would be to the great disadvantage of the Philippine Army and Government as a whole.
6. RA 11494, otherwise known as the "Bayanihan to Recover As One Act", only gives priority to "**medical safety products**". This can be seen in page 12 of the law, Section 4.t which states the following:

*"Provision of personal protective equipment (PPE) including, but not limited to, protective suits, face masks, shoe covers, face shields, and goggles to public and private COVID-19 referral hospitals, both national and local, barangays, and other indigent persons that need protection from the spread of COVID-19 by the national government through the DOH: Provided, That preference and incentives shall be given to **medical safety products** that are locally manufactured;*

It is clear that Battle Dress Uniforms (BDU) are not medical safety products.

7. **Section 43** of the Implementing Rules and Regulations (IRR) of RA 9184 already provides preferences to local manufacturers as long as they comply with the requirements within the said section.

Therefore, we do not see any acceptable reason as to why the Philippine Army would give exclusivity of their procurements to local manufacturers.



Last, the **Philippine Army has recently submitted to the Department of National Defense their Letter of Recommendation showing its intention to delay the Self-Reliant Defense Posture (SRDP)** to manufacture Ballistic Helmets and Magazines within the country, citing improper economic climate to implement the project. The Philippine Army's stance within the letter is counter to its reasons for requiring local manufacturers. Similarly, we believe the requirement to exclusively require local manufacturers to participate in procurements is being implemented in an improper time because not only will the delivery period of the product be unnecessarily long but the market competition will drastically be reduced in the process. All of which is detrimental to the Philippine Army and the government.

Therefore, for reasons stated above, **we request that your office will omit the requirement of exclusively allowing local manufacturers to be eligible to bid.** Ultimately, it is the Philippine Army who will benefit with open market competition because not only will it be able to equip our troops with good quality Battle Dress Uniforms quickly on time, but it will also be able to do so at a reasonable price.

GPPB RESOLUTION 25-2019

GPPB Resolution 25-2019 amends Section 37.1.4 of IRR 2016 wherein it now requires foreign companies to submit their SEC Certificate of Registration within ten (10) calendar days from the issuance of the Notice of Award (NOA).

We have consulted with the SEC and the BIR regarding this requirement and they have said that their requirements conflict with each other, making it impossible to register a foreign company and allow it to participate in local public procurements. If a foreign company was somehow able to register with the SEC, it would be impossible for it to obtain a Tax Clearance because the BIR requires that all foreign companies secure a Certificate of Non-Registration from the SEC. The SEC would not issue a Certificate of Non-Registration because the foreign company is now registered. Based on the situation, it would be impossible for a foreign company to participate in all public procurements.

Therefore, we would like to **request if Local Distributors may be eligible to participate** in this procurement. The recent procurement by the Philippine Army last June 22, 2020 with Bid Ref No. QM PABAC 029-20 allowed all types of bidders to participate. Not restricting any type of bidder from participating, as long as it conforms within RA9184, would benefit the government with more competition. The Philippine Army has experience in procuring large quantities of supplies from local distributors and it has not experienced a difference whether a manufacturer or a distributor has supplied the product because of safeguards within RA 9184, namely the warranty period and the retention fee.



	<p align="center">SUBMISSION OF PROTOTYPE SAMPLES</p> <ol style="list-style-type: none"> Section 29.2 of the Bid Data Sheet requires the Bidder with the Lowest Calculated Bid (LCB) or Single Calculated Bid (SCB) to submit prototype samples within five (5) calendar days from Notice of LCB/SCB. We would like to request if this requirement may be amended to also accept previous RDC acceptance test results of the exact same item. The previous procurement by the PITC, namely within Page 5 of the SBB #1 of Bid Reference No. MPG-B1-2018-047, has already deemed this acceptable. However, we would like to further request that since an acceptance test has already been conducted previous, it may also be accepted. We would like to request the omission of the clause which allows bidders to replace/rectify the discrepancies noted in the prototype and swatch material. The PHILARPAT has already been in procurement for four (4) years since 2017. That is more than enough time for suppliers to conduct pre-tests on their product. Allowing rectification further prolongs the bidding procedures. Furthermore, the recent procurement by the Philippine Army last June 22, 2020 with Bid Ref No. QM PABAC 029-20 has already omitted it. <p>SUMMARY</p> <p>We would like to summarize our five (5) requests:</p> <ol style="list-style-type: none"> Omit the requirement of exclusively allowing local manufacturers to bid Allow first-tier distributors to participate in the procurement Amend and shorten the delivery period from four hundred eighty (480) calendar days to three hundred (300) calendar days. Accept previous RDC post qualification or acceptance test results of Disallow replacement/rectification of discrepancies noted in the prototype and swatch material the same product
<p>Query 1</p>	<p>Omit the requirement of exclusively allowing local manufacturers to bid</p>
<p>BAC1/PA's Reply:</p>	<p>REQUEST DENIED</p> <p>This bidding is open only to local manufacturers in support of the Republic Act No. 11494 known as "Bayanihan to Recover as One Act." in aid to the workers, employees and OFW's that were separated or displaced due to the pandemic.</p> <p>The declaration of policy in Section 3 of RA 11494 must be observed particularly the following:</p> <p><i>Sec. 3 (a) Reduce the adverse impact of COVID-19 on the socioeconomic well-being of all Filipinos through the provision of assistance, subsidies, and other forms of socioeconomic relief;</i></p> <p><i>Sec. 3 (e) Mitigate the economic cost and losses stemming from the COVID-19 pandemic;</i></p> <p><i>Sec. 3 (i) Promote and protect the collective interests of all Filipinos in these challenging times;</i></p> <p><i>Sec. 3 (l) Enhance the financial stability of the country to support government programs in combatting the COVID-19 pandemic</i></p> <p>Furthermore, this is consistent with the provisions on Section 23.4.1.2 of the 2016</p>



	<p>Revised IRR of RA 9184, to wit:</p> <p><i>23.4.1.2. Foreign bidders may be eligible to participate under any of the following circumstances in accordance with the guidelines issued by the GPPB:</i></p> <p><i>a) When provided for under any Treaty or International or Executive Agreement as provided in Section 4 of the Act and this IRR;</i></p> <p><i>b) When the foreign supplier is a citizen, corporation or association of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations or associations of the Philippines;</i></p> <p><i>c) When the goods sought to be procured are <u>not available from local suppliers</u>; or</i></p> <p><i>d) When there is a need to prevent situations that defeat competition or restrain trade.</i></p>
Query 2	Allow first-tier distributors to participate in the procurement
BAC1/PA's Reply:	<p>REQUEST DENIED</p> <p>As mentioned in the above reply, the requirement on Item No. 3 of the Invitation to Bid that indicates, <u>PITC and PA now invite Bids from eligible Local Manufacturers</u> xxx.. is retained.</p>
Query 3	Amend and shorten the delivery period from four hundred eighty (480) calendar days to three hundred (300) calendar days.
BAC1/PA's Reply:	<p>REQUEST DENIED</p> <p>It is the prerogative of the Procuring Entity and the End-User to define the delivery period/requirement.</p>
Query 4	Accept previous RDC post qualification or acceptance test results of the same product.
BAC1/PA's Reply:	<p>REQUEST DENIED</p> <p>The Philippine Army is not in favor of the request to allow the submission of previous RDC Post Qualification Test result for the reason that this is the first time to procure the said items allowing only local manufacturers to participate in support of the Republic Act No. 11494 known as "Bayanihan to Recover as One Act." in aid to the workers, employees and OFW's that were separated or displaced due to the pandemic.</p>
Query 5	Disallow replacement/rectification of discrepancies noted in the prototype and swatch material the same product
BAC1/PA's Reply:	<p>REQUEST DENIED</p>



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 guidance and information of all concerned.

Issued this 16th day of October 2020 in Makati City.

CHRISTABELLE P. EBRIEGA
Chairperson

MYRA CHITELLA T. ALVAREZ
Vice-Chairperson

JOEL S. RODRIGUEZ
Member

ATTY. MITZELL ARTHUR R. MAGDAONG
Member

ATTY. ROXANNE MARIE Q. CRUZ
Member

Concurred by:

MGEN GLENN CRUZ PA
Provisional Member- PA

Received by : (PLS SIGN) _____
Bidder's Name : (PLS PRINT) _____
Date : _____
(PLEASE RETURN OR FAX THIS PORTION ONLY TO THE PITC BAC-1)