

**BIDS AND AWARDS COMMITTEE I**

SUPPLEMENTAL BID BULLETIN NO. 1
SUPPLY AND DELIVERY OF BRAND NEW 1,500 ROUNDS PROJECTILE 155MM
SMOKE HC FOR THE PHILIPPINE ARMY (PA)
Bid Reference No. MPG-BI-2020-260

This **Supplemental Bid Bulletin No. 1** is being issued to further clarify, modify and amend the provisions in the Bidding Documents as discussed during the Pre-Bid Conference held last 05 October 2020 and in response to clarification from prospective bidder for the aforementioned project.

REPLIES TO QUERIES OF BIDDER:

Below is the requests for consideration by FIREPOWER DEFENSE CONTRACTORS INCORPORATED (FDCI) Local Representative of EXPAL SYSTEMS in its letter/e-mail dated and received by BAC dated 08 October 2020:

Clause	As Stated in the Bid Documents	FDCI/EXPAL SYSTEMS Request	PITC Response
1. BDS Section 12.1 (b) Technical Documents (vi) For Foreign Manufacturers (c) xxx	Notarized Affidavit of Undertaking to submit the SEC Certificate of Registration and/or authorization or license issued by the appropriate government agency per GPPB Resolution No. 25-2019, dated 30 October 2019 within ten (10) calendar days from receipt of the Notice of Award as per Annex V-C.	Request on the Review and Holding in Abeyance the Implementation of the Requirements for Registration of Foreign Defense Contractors with the Securities and Exchange Commission (SEC).	<p>We are requiring SEC Registration from Foreign supplier via the directive of the GPPB in NPM No. 007-2018 2018-02-05 where it stated that:</p> <p>“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.</p> <p>In the case of Hutchison Ports Philippines Limited v. Subic Bay Metropolitan Authority, the Supreme Court held that:</p> <p>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.</p> <p>Thus, even though 2016 IRR of RA 9184 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”.”</p>



This Supplemental Bid Bulletin No. 1 shall form part of the Bidding Documents. Any provision in the Bidding Documents inconsistent herewith is hereby amended, modified and suspended accordingly.

For guidance and information of all concerned.

Issued this 19th day of October 2020 in Makati City.

Reviewed and Approved by:

CHRISTABELLE P. EBRIEGA
Chairperson, Bids and Awards Committee – I

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 E CRUZ AFP
Provisional Member- PA

Received by:	
_____ (SIGNATURE OVER PRINTED NAME & DATE)	_____ NAME OF COMPANY
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