



BIDS AND AWARDS COMMITTEE I

NOTICE OF ISSUANCE OF AMENDED BIDDING DOCUMENTS

SUPPLY AND DELIVERY OF BRAND NEW 2,031 SETS MILITARY BINOCULAR, COMPACT, MODEL 1 FOR THE PHILIPPINE ARMY (PA)

Bid Reference No. MPG-BI 2020-318 4th Rebid

(Previous Bid Ref. Nos. MPG-BI-2018-113, MPG-BI-2018-264, Rebid, MPG-BI-2018-421 2nd Rebid and MPG-BI-2019-025 3rd Rebid)

Approved Budget for the Contract: ₱ 39,192,410.10

Bidders are advised that an Amended Bidding Documents shall be issued to modify and amend the technical requirements in the Bidding Documents

Bidders who have previously acquired the Bidding Documents can secure the Amended Bidding Documents from Monday to Friday between 9:00AM to 2:00PM from the following BAC Secretariat upon presentation of original copy of Official Receipt and surrender of previously issued Bidding Documents.

| | | Local No. |
|-----------|---------------------------------|-----------|
| Monday | Jane Arcilla / Veronica Morales | 382/404 |
| Tuesday | Veronica Morales | 404 |
| Wednesday | Jane Arcilla / Veronica Morales | 382/404 |
| Thursday | Irissa Ordillano | 394 |
| Friday | Irissa Ordillano | 394 |

Further, this **Notice** is being issued in response to the clarifications from prospective bidders and to confirm key issues addressed during the Pre-Bid Conference on 14 August 2020 for the aforementioned project.

SUBMISSION AND OPENING OF BIDS ON 28 AUGUST 2020, 10:00 AM

The following queries below have been answered by the PITC Bids and Awards Committee 1 and the Philippine Army and is now re-printed as part of this Notice for the information of all prospective bidders:



ASIA DEFENSE AND ARMAMENT CORPORATION
Letter dated 05 August 2020 received on the same date

QUERY NO. 1

1. INVITATION TO BID

Section II Clause No. 4

“The bidding is open to Manufacturers or Local distributor, dealers or suppliers. However, Foreign manufacturers must be represented by a Philippine based company.”

- a. Please clarify whether a foreign manufacturer represented by a Philippine-based company is different from a joint venture between a local company and foreign company. If in the affirmative, what proof of representation from the foreign manufacturer by the local company will be allowed, and what formalities are required.
- b. Please clarify whether the Philippine-based company representing the Foreign Manufacturer be separate and distinct from the intended JV Partner.
- c. Also, please clarify whether the Foreign Manufacturer can be represented by two (2) Philippine-based companies, either of whom may perform any act at any stage of the Pre-bid, Bid Process and Post-Qualification stages of the Bidding, depending on who is available at the different stages of the Bid Process.
- d. In case of a foreign manufacturer being represented by a Philippine-based company, will it be the foreign or local entity or both to produce the eligibility bidding requirements.
- e. In case of a foreign manufacturer being represented by a Philippine-based company, will the foreign entity be required to produce a certificate that the laws of the foreign country allow Philippine companies to participate in similar bids therein.
- f. If in the affirmative, can a copy of the certificate suffice considering the on-going pandemic and difficulty in securing notarized and consularized documents.

PITC/PA Reply:

- a. **Yes, a foreign manufacturer represented by a Philippine-based company is different from a joint venture between a local company and a foreign company. For foreign manufacturers, please refer to Clause 12.1 (a.2) of the Bid Data Sheet (BDS) for the eligibility requirements. For Joint ventures, please refer to Clause 12.1 (b) of the BDS for the eligibility requirements.**
- b. **Yes, it is separate and distinct, please refer to our answer in your previous question.**
- c. **No, only one (1) Philippine Based Representative is allowed.**
- d. **Again, please refer to Clause 12.1 (a.2) of the BDS.**
- e. and f. **No. Foreign entities who will participate in this procurement project is not required to submit a certificate that the laws of the foreign country allow Philippine companies to participate in similar bids therein.**



QUERY NO. 2

Section II Clause No. 6

“Similar” contract shall mean optical instruments / devices.

- a. Please clarify if a contract to supply CCTV cameras shall qualify as a “similar” contract under this project. In the same manner, will a contract to supply CCTV cameras to the military be classified as “similar” under this project.
- b. Please clarify if the bid submission and opening shall continue to be scheduled on 17 August 2020.
- c. If in the affirmative, will the bid submission and opening be suspended should NCR be placed in modified enhanced community quarantine (mECQ).

PITC/PA Reply:

- a. **CCTV Cameras cannot be considered as similar in nature as it is not of the same nature and complexity of Binocular subject of this procurement project. However, we have revised the definition of similar in nature to include Ballistic Eyewear and Medical Optical Equipment/Instruments.**
- b. **As indicated in this Notice the Submission and Opening of Bids is scheduled on 02 September 2020, 1PM**
- c. **Please refer to this Notice.**

QUERY NO. 3

2. INSTRUCTIONS TO BIDDERS

Section III

Clause No. 12.1 (a.2)

- a. Please clarify that a foreign manufacturer may submit a valid PhilGEPS Certificate of Registration or, in lieu thereof, the following documents
 1. Valid and current certificate / license / authority to conduct operate business’
 2. Valid and Current Tax clearance;
 3. Corporate Financial Statement or Annual Report for 2018 or 2017

Due to the ongoing pandemic and difficulty in securing and transporting into the Philippines the notarized and consularized documents, will the bidder be allowed to send digital copies / photocopies of the above documents during the bid submission.

PITC/PA Reply:

- a. **Yes, the bidder may opt to submit a valid PhilGEPS Certificate of Registration, provided, that all submitted documents with PhilGEPS are valid during the time of Bid Opening. However, please check Section 29.2 of the BDS for the Post-qualification requirement.**



QUERY NO. 4

Clause No. 12.1 (a) (ii)

- a. Due to the ongoing pandemic and difficulty in securing and transporting into the Philippines the notarized and consularized documents, please clarify if a foreign entity may be allowed to provisionally submit digital copies / photocopies of the following:
1. Statement of all its government and private contracts;
 2. Statement identifying the bidder's Single Largest Completed Contract;
 3. End-user's acceptance or official receipts or sale issued for the contract, if completed; and,
 4. Net Financial Contracting Capacity (NFCC) computation or committed Line of Credit from a universal or commercial bank.

PITC/PA Reply:

- a. **The BAC shall allow the electronic submission of Bid Documents. Please refer to the Advisory attached to the Amended Bidding Documents as *Attachment 1***

QUERY NO. 5

Clause No. 12.1 (a) (iii)

- a. Due to the ongoing pandemic and difficulty in securing and transporting into the Philippines the notarized and consularized documents and in lieu of an NFCC computation, will the bidder be allowed to submit a digital copy / photocopies of a committed line of credit from a universal or commercial bank.

PITC/PA Reply:

- a. **The BAC shall allow the electronic submission of Bid Documents. Please refer to the Advisory attached to the Amended Bidding Documents as *Attachment 1***

QUERY NO. 6

Clause No. 15.4 (a) and (b)

- a. Kindly clarify if Goods offered by a Foreign Manufacturer, but delivered from within the Procuring Entity's country are considered as:
- 15.4 (a) ***"For Goods offered within the Procuring Entity's country:"***
- 15.4 (b) ***For Goods offered from abroad:"***

PITC/PA Reply:

- a. **For Goods offered from abroad:**
- Unless otherwise stated in the BDS, the price of the Goods shall be quoted DDP with the place of destination in the Philippines as specified in the BDS. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.**



QUERY NO. 7

Clause No. 19.4

- a. Provides that each and every page of the Bid Form, including the Schedule of Prices, under Section VIII hereof, shall be signed by the duly authorized representative/s of the Bidder.

Please clarify if the signature of the authorized representative of the joint bidders as indicated in the JVA or undertaking to enter into a JVA shall be sufficient compliance therewith.

PITC/PA Reply:

- a. **Yes, as long the representative of the JV is distinctly authorized to sign the Bid submission of the JV.**

QUERY NO. 8

Clause No. 27

- a. Domestic Preference

Please clarify if the domestic preference shall apply to the bid of the Foreign Manufacturer such that the bid shall be increased by fifteen percent (15%)

PITC/PA Reply:

- a. **Please refer to Clause E.27 of the Instructions to Bidders**

3. BID DATA SHEET

QUERY NO. 9

Section III

Clause No. 5.1 (f)

- a. Please clarify what document shall evidence the representation of the local company of the foreign manufacturer. Will a Secretary Certificate from the foreign manufacturer showing that the foreign manufacturer appointed the local representative suffice as compliance for this requirement.

PITC/PA Reply:

- a. **Please refer to Clause 12.1 B (vii) Technical Documents of the BDS. There is no specific form for this, provided, the appointment of the Philippine-based representative company specifies the power that the representative is authorized to perform and that the written appointment is easily verifiable from the issuing person or entity.**



QUERY NO. 10

Clause No. 5.4

- a. Please clarify if supply of CCTV cameras shall classify as “similar” to the project to bid.

PITC/PA Reply:

- a. **CCTV Cameras cannot be considered as similar in nature as it is not of the same nature and complexity of Binocular subject of this procurement project. However, we have revised the definition of similar in nature to include Ballistic Eyewear and Medical Optical Equipment/Instruments.**

QUERY NO. 11

Clause No. 12.1 (A) (a.2)

- a. Please clarify if a local company representing a foreign manufacturer has to submit the same Eligibility Documents in a.2) ELIGIBILITY DOCUMENTS FOR FOREIGN MANUFACTURERS; or should only the foreign manufacturer submit the requirements
- b.
 - (iv) Statement of all ongoing government and private contracts
 - (v) Statement of Single Largest Completed Contract
 - (vi) Duly signed Certificate of Net Financial Contracting Capacity (NFCC)

Please clarify if the authorized representative of the local representative of the foreign bidder may sign / certify all the above documents on behalf of the foreign manufacturer.

PITC/PA Reply:

- a. **Again, please refer to the documentary requirements for the Foreign Manufactures on Section 12.1 (a.2) and Section 12.1 B (vii) Technical Documents of the BDS**
- b. **Again, it will be dependent on your duly authorized representative that will sign all documents.**

QUERY NO. 12

Clause No. 12.1 (A) (a.2) (i)

- a. “(i) Valid and current certificate/license/authority to conduct / operate business issued by the regulatory authority in the country where the bidder is based”

In Japan, there is no requirement for a “Mayor’s or business permit” for some industries. Specifically, for the manufacture and sale of optics, Japan only requires a certificate of incorporation of the company.

Please clarify if submission of the certificate of incorporation of the Foreign Bidder shall be sufficient to satisfy this requirement.

PITC/PA Reply:

- a. **The requirement is “Valid and current certificate/license/authority to conduct / operate business issued by the regulatory authority in the country where the bidder is based”, so any of the above-mentioned documents issued by the regulatory authority in the country where the bidder is based will suffice.**



QUERY NO. 13

Clause No. 12.1 (B)(vi)

“Valid and current ISO Registration Certificate (at least ISO 9001:2015) for manufacturing issued by an independent certifying body in the name of the manufacturer”

- a. Please clarify if the foreign manufacturer may submit a photocopy / digital copy of the ISO Registration Certificate due to the difficulty of transmitting an originally certified and notarized copy.

PITC/PA Reply:

- a. **The BAC shall allow the electronic submission of Bid Documents. Please refer to the Advisory attached to the Amended Bidding Documents as Attachment 1**

QUERY NO. 14

Clause No. 12.1 (B) (v)

“For Manufacturers: Certification that the Bidder is the Manufacturer of the item being bid for (Annex V-B)”

- a. Please clarify the following if the foreign manufacturer may submit a photocopy / digital copy of the Manufacturers certification due to the difficulty of transmitting an originally certified and notarized copy of the same.

PITC/PA Reply:

- a. **The BAC shall allow the electronic submission of Bid Documents. Please refer to the Advisory attached to the Amended Bidding Documents as Attachment 1**

QUERY NO. 15

Clause No. 12.1 (B) (v)

“For Manufacturers: Certification that the Bidder is the Manufacturer of the item being bid for (Annex V-B)”

- a. Please clarify if this certification may be signed / certified by the authorized representative of the local company representing a foreign manufacturer assuming the written appointment authorizes the local corporation to do so.

PITC/PA Reply:

- a. **The Certification can be signed by the Local Representative.**

QUERY NO. 16

Clause No. 12.1 (B) (vi)

“Certification from one (1) NATO country buyer that they have procured binoculars from bidder’s manufacturer OR Sales Invoice or similar document evidencing sale of manufacturer’s binoculars to any one (1) NATO country within the last five (5) years”



Please clarify the following:

- a. A photocopy / digital copy of the Manufacturers certification is sufficient, due to the difficulty of transmitting originally certified and notarized copies;
- b. A sales invoice or similar document evidencing sale of manufacturer's binoculars to any one (1) NATO country can be submitted with redacted confidential information (i.e. price)
- c. The certificate / sales invoice or similar document need not be notarized and apostilled if coming from a foreign country

PITC/PA Reply:

- a. **The BAC shall allow the electronic submission of Bid Documents. Please refer to the Advisory attached to the Amended Bidding Documents as Attachment 1**
- b. **The Sales Invoice should clearly indicate the name of the Supplier, name of Buyer with complete address, Item/Goods delivered. Other information in the Sales Invoice may be redacted.**
- c. **Please refer to Clause 11 Language of Bids of the Instructions to Bidders with regard to the requirement of authentication by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines or through an apostille by the Competent Authority, as applicable.**

QUERY NO. 17

Clause No. 12.1 (B) (vi)

"Certification from one (1) NATO country buyer that they have procured binoculars from bidder's manufacturer OR Sales Invoice or similar document evidencing sale of manufacturer's binoculars to any one (1) NATO country within the last five (5) years"

- a. Please clarify if in the case of the foreign manufacturer being represented by a local company, the local company can execute / sign / certify this document on behalf of the foreign manufacturer.

PITC/PA Reply:

- a. **No, the Certification must come from the BUYER of the binocular in any NATO country**

QUERY NO. 18

Clause No. 12.1 (B) (vii) (a)

"vii.a. Valid and Current Written Appointment of the Philippine based company (as local representative of foreign manufacturer) issued by the foreign bidder."

The written appointment must include detailed scope of responsibility of the local representative."

- a. Please clarify what document shall evidence the representation of the local company of the foreign manufacturer. May the foreign bidder execute one document to appoint its representative/s to act on its behalf.
- b. What formalities are required of this Written Appointment (i.e. must this be apostilled?)



- c. May the foreign manufacturer appoint a local company together with a law firm to represent the foreign manufacturer.

PITC/PA Reply:

- a. Again, please refer to Clause 12.1 B (vii) Technical Documents of the BDS
- b. Notarization requirement will depend on the existing laws in the country of the foreign bidder. What is important is there is a Written Appointment issued by the foreign manufacturer in favor of a Philippine-based company detailing therein the specific powers which said local company is authorized to perform relative to the participation of the foreign manufacturer in the subject procurement project and provided, further, that this Written Appointment is easily verifiable.
- c. As stated previously, only one (1) Philippine-based representative company is allowed.

QUERY NO. 19

Clause No. 12.1 (B) (vii) (c)

“vii.c. 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 Notice of Award.”

- a. If the Foreign Manufacturer enters into a JV with a Philippine-based company, will the submission of the SEC Registration of the incorporated joint venture of the two parties be sufficient to comply with this requirement?
- b. Should the SEC Registration be for a foreign corporation (under Title XV of the Revised Corporation Code), or will the submission of a registration of an incorporated domestic corporation in the form of a wholly-owned subsidiary suffice?
- c. If the registration of a foreign corporation is required, what kind of foreign corporation should be registered? Will the registration of a Representative Office with the SEC suffice?
- d. May the Philippine-based representative sign and execute this on behalf of the Foreign Manufacturer?

PITC/PA Reply:

- a. There is no need for a SEC Registration for the incorporated joint venture. Eligibility Documents for the Joint Venture are clearly specified in the BDS.
- b. GPPB NPM 07-2018, provides:
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.

In the case of Hutchison Ports Philippines Limited v. Subic Bay Metropolitan Authority, the Supreme Court held that:

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.

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”

- c. Please contact the Philippine Securities and Exchange Commission for the requirements.**
- d. Signatory to your bid documents really depends on your company (Board of Directors, etc.) as to who will be appointed/authorized to sign the bid documents including this Notarized Affidavit of Undertaking which may be the Philippine-based representative company.**

QUERY NO. 20

Clause No. 12.1 (B) (vii) (c)

- a. Due to the ongoing pandemic and difficulty in securing and transporting into the Philippines the notarized and consularized documents required to register a foreign corporation with the SEC, as well as frequent closures of operations of the SEC during this pandemic, will a duly-filed application for registration with the SEC be acceptable?

PITC/PA Reply:

- a. **We regret that we cannot change the requirement for SEC Registration prescribed by the 2016 Revised Implementing Rules and Regulations of RA 9184.**

QUERY NO. 21

Clause No. 12.1 (B) (vii) (a) (vii) (b) (vii) (c)

- a. Can all documents be signed by the Philippine-based company through its duly-authorized representative on behalf of the foreign manufacturer.

PITC/PA Reply:

- a. **Again, it will depend on the scope of the authorization of the duly authorized representative.**

QUERY NO. 22

Clause No. 29.2

- a. For post qualification, please confirm if the PITC will conduct / require a physical visit to the manufacturing plant of a foreign bidder.
- b. Please clarify if it is a requirement that the bidder shall have a facility located in the Philippines to address the repairs and maintenance of the binoculars.

PITC/PA Reply:

- a. **No.**
- b. **No. The Philippine Army did not require service center for the repairs and maintenance of the binoculars in the Philippines.**



ADDITIONAL QUERIES:

1. INSTRUCTIONS TO BIDDERS

QUERY NO. 23

Section III

Clause No. 15.4

- a. Whether or not we are required to break down our bid into unit price + customs duties and taxes +VAT considering that the Financial Bid Form annex (Annex VII) attached does not provide fields for breaking down of the same.

PITC/PA Reply:

- a. **THERE IS NO NEED TO BREAK DOWN YOUR BID PRICE.**

2. BID DATA SHEET

QUERY NO. 24

Clause No. 12.1(a.2)

“Class “A” Documents:

The following eligibility requirements or statements must be submitted to the BAC:

- (i) Valid and current certificate/license/authority to conduct/operate business issued by the regulatory authority in the country where the bidder is based;”
- a. If a foreign company is not required by its home country to obtain and/or renew a business permit (aside from its business incorporation papers), may it be exempted from submitting an apostilled copy of its business permit? Or in the alternative, what document can the foreign company submit instead of the business permit since it is not required in the applicant's home country?

PITC/PA Reply:

- a. **The Philippine procurement law requires foreign bidders to submit a document evidencing the foreign entity is authorized or licensed to do business in the country where it is based.**



S&S Enterprises, Inc.

Letter dated 06 August 2020 received on the same date

- a. Extension of thirty (30) Calendar Days submission for the testing sample of one (1) Binocular after notice to proceed has been issued, Reason: Due to the pandemic crisis. It has exponentially been more difficult for Customs to process and deliver Items in the Philippines. The five (5) day allowance is not enough time to consider processing issues.

Allowing the use of Medical Optical Equipment/Instruments to be allowed for the Single Largest Completed Contract as a "Similar" in nature Item. Reason: Medical Equipment uses the same technology as binoculars. This in turn allows Bidders with the capability to supply military binoculars within the technical specification requested by the end user a fair chance to participate in the Bid.

PITC/PA Reply:

- a. **The Committee cannot favorably consider the request on the extension of thirty (3) calendar days. ITB 29.2 Post Qualification "Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the bidder for award.**
- b. **The Committee considers the Ballistic Eyewear and Medical Optical Equipment/Instruments as similar in nature as it has the same characteristics which is optical lenses as stated on the technical specification.**

R-ESPINELI TRADING

Letter dated 07 August 2020 received on the same date

We would like to inquire regarding on the Single Largest Completed (SLCC) which are in similar nature.

In the bidding it was specifically mentioned that similar contract would the supply and delivery of Optical Equipment.

May we ask if it is acceptable that our similar would be the supply contract for ballistic eyewear? We believe that the Ballistic Eyewear would fall into that category.

PITC/PA Reply:

The Philippine Army considers the Ballistic Eyewear and Medical Optical Equipment/Instruments as similar in nature as it has the same characteristics which is optical lenses as stated on the technical specification.



UNIMASTERS CONGLOMERATION INCORPORATED

Letter dated 18 August 2020 received on the same date

With regards to the procurement of the above-mentioned project, we would like to request for clarification on the following matter:

1. For Section VI. Bidding Forms, (page 65 of the bid data sheet), what details do we put on the "Date and Status of the Contract"? What is the reference date and what documents do we need to present? We have ongoing construction and trading projects and we want to clarify what the date pertains to.
2. For Section VI. Bidding Forms (page 65 of the bid data sheet), what details do we put on the "Date of Delivery"? What is the reference date and what documents do we need to present? We have ongoing construction and trading projects and we want to clarify what the date pertains to.

PITC/PA Reply:

1. **In the Statement of all Ongoing Government and Private Contracts (Annex I), The date of the contract pertains to the date of execution of the contract. The status of the contract pertains to current stage of the contract. For this Annex I no attachments are required however if you are declared as Single or Lowest Calculated Bid you will be require to present and submit copies of the contracts listed in your Annex I for post qualification purposes.**
2. **In the Statement of all Ongoing Government and Private Contracts (Annex I), the date of delivery pertains to the required delivery date stated in the contracts. For this Annex I no attachments are required however if you are declared as Single or Lowest Calculated Bid you will be require to present and submit copies of the contracts listed in your Annex I for post qualification purposes.**

Issued this 20th day of August 2020 in Makati City.

CHRISTABELLE P. EBRIEGA
Chairperson

ATTY. MARIA GUDELIA C. GUESE
Vice-Chairperson

MYRA CHITELLA T. ALVAREZ
Member

DAVID A. INOCENCIO
Member

JOEL S. RODRIGUEZ
Member

ATTY. MITZELL ARTHUR R. MAGDAONG
Alternate Member

Concurred by:

MGEN GLENN CRUZ AFP
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)