



RESOLUTION NO.06-2012

APPROVING THE GUIDELINES AMENDING THE PRE-SELECTION PROCEDURE IN THE CONDUCT OF LIMITED SOURCE BIDDING UNDER GPPB RESOLUTION 05-2011

WHEREAS, Section 48 of Republic Act (RA) No. 9184 provides that Limited Source Bidding, otherwise known as Selective Source Bidding, is a method of procurement that involves direct invitation to bid by the procuring entity from a set of pre-selected suppliers or consultants with known experience and proven capability relative to the requirements of a particular contract;

WHEREAS, Section 49 of RA 9184 and its revised Implementing Rules and Regulations (IRR) provides that Limited Source Bidding may be resorted to only in any of the following conditions: (a) procurement of highly specialized types of goods (*e.g.* sophisticated defense equipment, complex air navigation systems, coal) and consulting services where only a few suppliers or consultants are known to be available, such that resorting to the public bidding method will not likely result in any additional suppliers or consultants participating in the bidding; or (b) procurement of major plant components where it is deemed advantageous to limit the bidding to known eligible bidders in order to maintain an optimum and uniform level of quality and performance of the plant as a whole;

WHEREAS, Section 49.2 of the IRR provides that the pre-selected suppliers or consultants shall be those appearing in a list maintained and updated by the relevant government authority that has expertise in the type of procurement concerned. The list of pre-selected suppliers or consultants shall be updated periodically. A copy of the list shall be submitted to, and maintained updated with, the Government Procurement Policy Board (GPPB);

WHEREAS, Section 49.3 of the IRR provides that pre-selection shall be based upon the capability and resources of the bidders to perform the contract taking into account their experience and past performance on similar contracts, capabilities with respect to personnel equipment or manufacturing facilities, and financial position. Pre-selection shall be done in accordance with procedures provided in the Generic Procurement Manuals (GPMs);

WHEREAS, Volume 2 of the GPMs or the Manual of Procedures for the Procurement of Goods and Services provides that in the absence of a relevant government authority pertained to in Section 49.2 of the IRR, the Procuring Entity has to resort to open competitive bidding in its selection of a supplier. Examples of relevant government authorities are the National Telecommunications Commission for telecommunications equipment, the Firearms and Explosive Division of the Philippine National Police for firearms and ammunition, and the Food and Drug Administration for drugs;

WHEREAS, on 25 February 2011, the GPPB approved the pre-selection procedure for Limited Source Bidding subject to the lengthening of the posting requirement in the websites of the Philippine Government Electronic Procurement System (PhilGEPS), the procuring entity and in conspicuous places within the premises of the procuring entity, through Resolution No. 05-2011;

WHEREAS, the pre-selection procedure identifies, among others, the procuring entity as the “relevant government authority” referred to in Section 49.2 of the IRR, in accordance with the prior decision of the GPPB on its meeting on 25 February 2011, and provides that “[n]otwithstanding the pre-selected list, prospective bidders not included in the list are not precluded from participating in the public bidding process as mentioned herein”;

WHEREAS, the need to revisit and review the pre-selection procedure on Limited Source Bidding adopted through Resolution No. 05-2011 was taken up by the Inter-Agency Technical Working Group Meeting (IATWG) in its 4th Regular Meeting held last 16 March 2012, where it was proposed that the following issues be further looked into: (1) the meaning of “relevant government authority” as contemplated in Section 49.2 of the IRR, and (2) the removal or amendment of the last sentence of Section 5 of the pre-selection procedure;

NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to confirm, adopt and approve, as **WE** hereby confirm, adopt and approve the following:

- 1) Issuance of the guidelines amending the Pre-Selection Procedure in the Conduct of Limited Source Bidding under Section 49 of Republic Act 9184 and Its Revised Implementing Rules and Regulations as approved by the Board under Resolution 05-2011. A copy of the said guidelines is hereto attached and made an integral part hereof as **Annex “A”**; and
- 2) Incorporation of the said guidelines in the Generic Procurement Manual pursuant to Section 49.3 of the IRR of R.A. 9184.

This resolution shall take effect immediately.

APPROVED this 30th day of March 2012 at Pasig City, Philippines

(Sgd.)

DEPARTMENT OF BUDGET AND
MANAGEMENT

(Sgd.)

NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

(Sgd.)

DEPARTMENT OF HEALTH

(Sgd.)

DEPARTMENT OF THE INTERIOR AND
LOCAL GOVERNMENT

(Sgd.)

DEPARTMENT OF NATIONAL
DEFENSE

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS**

(Sgd.)

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

(Sgd.)

**DEPARTMENT OF TRADE AND
INDUSTRY**

(Sgd.)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

(Sgd.)

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

DENNIS S. SANTIAGO
Board Secretary, GPPB
Executive Director, GPPB-TSO

**GUIDELINES AMENDING THE PRE-SELECTION PROCEDURE
IN THE CONDUCT OF LIMITED SOURCE BIDDING UNDER
GPPB RESOLUTION 05-2011**

1. POLICY STATEMENT

In order to promote efficiency and economy, Limited Source Bidding, as an alternative method of procurement, may be resorted to by the procuring entity only in highly exceptional and justifiable cases as provided for in RA 9184 and its IRR, and subject to the prior approval of the Head of Procuring Entity. In doing so, the procuring entity shall ensure that the most advantageous price for the Government is obtained.¹

2. PURPOSE

These guidelines are formulated to provide the procedure for the pre-selection of suppliers or consultants in the use of Limited Source Bidding as an alternative method of procurement of goods and consulting services pursuant to Section 49 of R.A. 9184 and its IRR.

3. SCOPE AND APPLICATION

3.1 These guidelines shall apply to national government, its branches, constitutional offices, departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or –controlled corporations, government financial institutions, and local government units when resorting to Limited Source Bidding in the procurement of goods and consulting services.

3.2 Limited Source Bidding, otherwise known as selective bidding, is an alternative method of procurement which may be employed under any of the following conditions:

- a) Procurement of highly specialized types of goods (e.g., sophisticated defense equipment, complex air navigation systems, coal) and consulting services where only a few suppliers or consultants are known to be available, such that resorting to the public bidding method will not likely result in any additional suppliers or consultants participating in the bidding; or

¹Section 48 of the revised Implementing Rules and Regulations of R.A. No. 9184.

- b) Procurement of major plant components where it is deemed advantageous to limit the bidding to known qualified bidders in order to maintain uniform quality and performance of the plant as a whole.²

4. GUIDELINES

- 4.1. Upon determination that a procurement activity may be done through Limited Source Bidding, the procuring entity, through the Bids and Awards Committee (BAC), shall prepare a list of pre-selected suppliers or consultants which shall be those appearing in a list that is maintained updated by the relevant government authority with expertise in the type of procurement concerned.
- 4.2. In the event that there is a relevant government authority, but no list exists, the procuring entity shall request the identified relevant government authority for the issuance of the list. The relevant government authority concerned shall not unduly and unreasonably delay the issuance of such list. In case of non-issuance by the relevant government authority of the list, the procuring entity shall resort to open competitive bidding in its selection of supplier or consultant.
- 4.3. In the event that no relevant government authority exists, and/or the procuring entity represents that it is the relevant government authority, it may prepare a self-generated list of suppliers or consultants, with known experience and proven capability on the requirements of the particular contract; *Provided*, that it establishes, attests to such fact, and confirms that it has the expertise on the subject matter of procurement by virtue of its mandate and nature of its functions and operations; *Provided*, further, that in the event that the procuring entity cannot establish its expertise on the subject matter of procurement within the purview of Section 49.2 of the IRR, the procuring entity shall resort to open competitive bidding in its selection of supplier or consultant.
- 4.4. In preparing the pre-selected list, the BAC, possibly with the assistance of the Technical Working Group (TWG), shall adopt a set of criteria to be used as basis in evaluating the capability of the entities. Said criteria shall take into consideration the following characteristics of the supplier/consultant:
 - a) Capability and resources to perform the contract taking into account their experience and past performance on similar contracts;
 - b) Capabilities with respect to personnel, equipment, or manufacturing facilities; and
 - c) Financial position.
- 4.4.1 In the conduct of the pre-selection proceedings, procuring entities shall ensure that the list or source of known eligible bidders is accurate, definite, and distinct, and resorting to public bidding will not likely result in any additional suppliers or consultants participating in the bidding.

²Section 49.1 of the revised Implementing Rules and Regulations of R.A. 9184.

- 4.5 The BAC shall evaluate and submit the recommended pre-selected list to the head of the procuring entity (HOPE) for approval. The pre-selected list shall include (i) the technical specifications/terms of reference of the project, and (ii) the specific criteria used by the procuring entity for the evaluation of the preselected suppliers or consultants.
- 4.6 Upon approval, the HOPE shall transmit the pre-selected list to the GPPB in compliance with Section 49.2 of the IRR of RA 9184. The list must be accompanied with a certification from the HOPE: (i) justifying the recourse to Limited Source Bidding, (ii) verifying the compliance with the criteria previously set; and (iii) certifying that the pre-selected list is a list of known suppliers or consultants where resort to public bidding will not likely result in any additional suppliers or consultants participating in the bidding.
- 4.6.1 In case the procuring entity identifies itself as the relevant government authority with the expertise on the particular type of procurement concerned, the HOPE shall also submit a certification attesting to the fact that the procuring entity has expertise on the subject matter of procurement by virtue of its mandate and nature of its functions and operations.
- 4.7 The GPPB-TSO shall acknowledge receipt of the pre-selected list and shall post the list in the GPPB or PhilGEPS website for the purpose of transparency.
- 4.7.1 The function of the GPPB-TSO shall partake of a ministerial nature and shall not include the validation of the qualifications of the suppliers or consultants contained in the list.
- 4.7.2 Concerns on the propriety of the self-generated or pre-selected list shall be directed to the procuring entity that issued/adopted the list for a particular procurement activity in accordance with the protest mechanism provided under Section 55 of the IRR of RA 9184.
- 4.8 Pursuant to Section 49.4, the procuring entity shall post the procurement opportunity to be undertaken through Limited Source Bidding in the PhilGEPS website, website of the procuring entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the procuring entity concerned for seven (7) calendar days, upon receipt of said acknowledgment letter.
- 4.8.1 Except for the advertisement requirement provided under Section 21.2.1 (a) of the IRR of RA 9184 in the use of Limited Source Bidding as an alternative procurement modality, the procuring entity shall adopt the rules on competitive bidding as prescribed in RA 9184 and its IRR.

6. REPEALING CLAUSE

Any other guidelines, administrative order, office order, rule or regulation and/or parts

thereof contrary to or inconsistent with the provisions of these Guidelines are hereby repealed, modified or amended accordingly.

7. EFFECTIVITY

These Guidelines shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of these guidelines.