

# GOVERNMENT PROCUREMENT POLICY BOARD

## RESOLUTION NO. 05-2005

### **TO ADOPT THE GUIDELINES ON INDEX-BASED PRICING FOR THE PROCUREMENT OF PETROLEUM, OIL, AND LUBRICANT REQUIREMENTS**

**WHEREAS**, Republic Act No. 9184 (R.A. 9184), otherwise known as “Government Procurement Reform Act” and its Implementing Rules and Regulations Part A (IRR-A) took effect on January 26, 2003 and October 8, 2003 respectively;

**WHEREAS**, Section 61 of R.A. 9184 and Section 61.1 of the IRR-A provide that for the given scope of work in a procurement contract as awarded, all bid prices shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the Government Procurement Policy Board (GPPB);

**WHEREAS**, Section 61.2 of the IRR-A further provides that any request for price escalation under extraordinary circumstances shall be submitted by the concerned entity to the National Economic and Development Authority (NEDA) with the endorsement of the procuring entity;

**WHEREAS**, GPPB Resolution No. 07-2004 was issued in view of prescribing the rules and procedures in the approval by the GPPB of requests for price escalation and establishing the legal and technical parameters for an objective determination of events that will result to extraordinary circumstances in accordance with the Civil Code of the Philippines;

**WHEREAS**, the Guidelines for Contract Price Escalation, confirmed, adopted and approved by the GPPB in the aforementioned Resolution defines “Extraordinary Circumstances” as events or occurrences, or series of events or occurrences which give rise to an increase in the contract prices during contract implementation;

**WHEREAS**, the concept of “Ordinary Fortuitous Event,” as used in the aforementioned Guidelines for Contract Price Escalation, contemplates an event which ordinarily happens or which could be reasonably foreseen but is inevitable; and thereby necessarily subsumes within it the volatility and precarious character of prices of petroleum, oil and lubricant products;

**WHEREAS**, due to circumstances affecting crude oil production, the unstable movement of market prices and foreign exchange, and varying transshipment differential and delivery charges, the prices of Petroleum, Oil and Lubricant (POL) products and their derivatives have acquired a volatile, inconstant and precarious character such that they cannot be possibly fixed without unfavorable cost to the government that may result from counterbalancing actions employed by suppliers/bidders;

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**WHEREAS**, the situations mentioned in the foregoing, although ordinarily happen and its occurrence may be reasonably foreseen, are subject to erratically changing circumstances beyond absolute human control and, thus, inevitably results to the impossibility of making an accurate forecast of the movement of prices; hence, contemplated as an ordinary fortuitous event that justifies price adjustment;

**WHEREAS**, the Guidelines for Contract Price Escalation lacks the flexibility to address the peculiar nature of these commodities and the circumstances surrounding its procurement;

**WHEREAS**, during the 3<sup>rd</sup> GPPB meeting held on April 1, 2005 at Unit 2506 Raffles Corporate Center, Ortigas Center, Pasig City, the Members of the Board discussed, considered and unanimously agreed to adopt the Guidelines on Index-Based Contract Pricing for the Procurement of POL Products, a copy of which is attached hereto as Annex "A" to form an integral part hereof;

**NOW, THEREFORE**, premises considered, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to adopt, as **WE** hereby adopt the Guidelines on Index-Based Contract Pricing for the Procurement of Petroleum, Oil and Lubricant Requirements (POL), attached hereto as Annex "A".

**RESOLVED FURTHER**, to consider that compliance with these Guidelines approved by the GPPB shall be deemed compliance with Section 61 of R.A. 9184 and its IRR-A.

This resolution shall take effect immediately.

**APPROVED** this 1st of April 2005 at Pasig City, Philippines.

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**EMILIA T. BONCODIN**

Secretary

Department of Budget and Management

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**ROMULO L. NERI**

Director General

National Economic and Development  
Authority

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**NATIONAL ECONOMIC AND  
DEVELOPMENT AUTHORITY**

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**DEPARTMENT OF NATIONAL  
DEFENSE**

# GOVERNMENT PROCUREMENT POLICY BOARD

## RESOLUTION NO. 05-2005

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**DEPARTMENT OF EDUCATION**

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**DEPARTMENT OF HEALTH**

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**DEPARTMENT OF INTERIOR AND  
LOCAL GOVERNMENT**

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**DEPARTMENT OF ENERGY**

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**DEPARTMENT OF PUBLIC WORKS  
AND HIGHWAYS**

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**DEPARTMENT OF FINANCE**

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**DEPARTMENT OF TRADE AND  
INDUSTRY**

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**DEPARTMENT OF SCIENCE AND  
TECHNOLOGY**

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**DEPARTMENT OF TRANSPORTATION  
AND COMMUNICATIONS**

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**PRIVATE SECTOR REPRESENTATIVE**

Attested by:

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**JOSE MARTIN C. SYQUIA**  
Board Secretary, GPPB  
Executive Director, GPPB-TSO

# **GUIDELINES ON INDEX-BASED PRICING FOR PROCUREMENT OF PETROLEUM, OIL AND LUBRICANT PRODUCTS**

## **1. SCOPE AND APPLICATION**

These guidelines shall govern the use, under extraordinary circumstances, of an index-based pricing scheme, in accordance with Section 61 of Republic Act No. 9184 (R.A. 9184), otherwise known as “Government Procurement Reform Act” and its Implementing Rules and Regulations Part A (IRR-A), and the GPPB Guidelines for Contract Price Escalation.

These rules and procedures shall govern the petroleum, oil and lubricant (POL) procurement of national government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units when POL is a major operational requirement necessary for the prosecution of their principal mandate. Procurement of POL products from retailers or dealers other than major suppliers as hereafter defined, or from those who are engaged in the business of selling the same to the general public for ultimate consumption and which are sold at pump prices shall not be subject to these guidelines.

## **2. PURPOSE**

These guidelines are being formulated to meet the following objectives:

- 2.1. To identify the conditions for the applicability of the index-based pricing scheme on the procurement of POL products by a procuring entity.
- 2.2. To prescribe the rules and procedures on the use of index-based pricing scheme for the procurement of POL requirements.

## **3. DEFINITION OF TERMS**

- a. **Average Wholesale Posted Price (AWPP).** Refers to the average of the major POL suppliers’ individual Wholesale Posted Price (WPP) as computed and issued by the Oil Industry Management Bureau (OIMB) of the Department of Energy (DOE).
- b. **Bid Price.** Refers to the difference of AWPP less the discounts given by the bidder, in case of procurement using the WPP index; and the sum of MOPS plus the premium imposed, in case of procurement using the MOPS index.

- c. **Bulk Procurement.** Procurement which, by the totality of all POL product requirements and by their sheer volume, necessitates procurement from major suppliers.
- d. **Total Contract Price.** Refers to the aggregate of the amounts set by a procuring entity, as the ceiling, to meet the volume requirement for each type of POL product; the value of which shall not exceed the ABC.
- e. **Discounts.** Refer to the total deductions or downward allowances for supplier-controlled costs, expressed as a percentage of the AWPP, which shall be the basis for comparison of bids and shall be used in the computation of the unit contract price.
- f. **Extraordinary Circumstance.** Refers to an event or occurrence, or series of events or occurrences, before or during contract implementation, which give(s) rise to price movements in petroleum and its derivative products.
- g. **Major Suppliers.** Refer to POL wholesale suppliers and who, in the operation of their business, either maintains a refinery in the Philippines or directly imports POL from production or trading venues.
- h. **Mean of Platts Singapore.** Refers to the mean of the high and low components of a Platts assessment for oil cargoes loading from Singapore. **Platts** is a publishing/trading house based in Singapore which publishes daily information on oil price and shipping rates.
- i. **Petroleum, Oil and Lubricant Products (POL).** For purposes of these guidelines, shall refer to those mentioned in Section 5 hereof.
- j. **Premium.** Refers to the amount of all applicable and reasonable supplier-controlled costs or expenses, expressed in percentage, added to the MOPS. This shall be the basis for comparison of bids and shall be used in the computation of the unit contract price.
- k. **Unit Contract Price.** Refers to the percentage of discount, in the case of procurement using the WPP index, the percentage of premium, in the case of procurement using the MOPS index, to be applied to the price rate on the index to be used at the date of actual order by the procuring entity.
- l. **Wholesale Posted Price.** Is the reference fuel prices individually set by local refiners and traders subject to periodic changes based on the movement in crude oil prices, foreign exchange, and all other costs. The WPP shall have considered all allowances for costs and expenses either ex-refinery or ex-depot.

#### **4. CONDITIONS FOR APPLICABILITY OF THESE GUIDELINES**

- 4.1. These guidelines shall be applicable only in cases of bulk procurement of POL requirements, by the national government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units where POL procurement is a major requirement in their operations. For this purpose, procuring entities intending to use these guidelines for their POL procurement shall notify the Government Procurement Policy Board (GPPB) in writing.

POL requirements shall be considered as a major requirement of the procuring entity if the use of the same is necessary in the primary operation of the procuring entity and in the prosecution of its principal mandate. The duration of the contract to cover the POL requirement of the procuring entity shall not exceed one (1) year.

#### **5. INDEX-BASED PRICING FOR PETROLEUM, OIL AND LUBRICANT PRODUCTS**

- 5.1. The Wholesale Posted Price (WPP) index shall be used in the procurement of the following POL products:

- i. Premium, Unleaded or Regular Gasoline;
- ii. Automotive Diesel Oil
- iii. Jet A-1;
- iv. AVGAS; and
- v. Lubricants such as AVOIL EE-100, MIL-H5606 (F/G Synthetic), Hydraulic Brake Fluid (DOT-3), 2-Stroke Engine Oils, Ground Oils, ATF Premium, Gear Oil, Grease MP3, and Lube Oils.

- 5.2. The Mean of Platts Singapore index shall be used in the procurement of the following products:

- i. Industrial Fuel Oil;
- ii. Low Sulfur Fuel Oil; and
- iii. Industrial Diesel Oil.

- 5.3. The foregoing list of POL items to be procured using either WPP or MOPS indices shall be subject to annual review, modification or re-classification by the GPPB, or as often as it deems necessary.

## **6. WPP AND MOPS-BASED PRICING SCHEME**

- 6.1. For the procurement of POL products using the WPP index, the Bid and Unit Contract Prices shall be determined based on the Average Wholesale Posted Price (AWPP) of the major POL suppliers. The AWPP shall be that determined and officially issued by the Oil Industry Management Bureau (OIMB) of the Department of Energy (DOE).
- 6.2. For the procurement of POL products using the MOPS index, the Bid and Unit Contract Prices shall be determined based on the MOPS assessments as officially released by Platts Singapore.

## **7. BID AND CONTRACT PRICES**

- 7.1. Bid prices for procurement using the WPP index in accordance with Section 5.1 hereof shall be based on the AWPP less the discounts given by the bidder, if any. On the other hand, bid prices for procurement using the MOPS index in accordance with Section 5.2 hereof shall be based on the MOPS plus premiums imposed by the bidder, if any.
- 7.2. Contract prices shall be the index rate at the actual order date less the percentage discount (in case of use of WPP index) or plus the percentage premium (in case of use of MOPS index) based on the rate as proposed by the Lowest Calculated Bidder and shall be indicated as such in the contract, subject to the provisions on actual price payable under Section 9 hereof.

## **8. BID EVALUATION AND COMPARISON OF BIDS**

- 8.1. For purposes of bid evaluation and/or comparison of bids, the Lowest Calculated Bid shall be determined by identifying the bidder with the highest discount given, in the case of procurements using the WPP index; and the bidder with the lowest premium imposed, in the case of procurements using the MOPS index.
- 8.2. In determining the AWPP or MOPS for purposes of bid prices, reference shall be made to the AWPP or the MOPS, whichever is appropriate, thirty (30) calendar days prior to the scheduled date for bid opening as advertised.

## **9. ACTUAL PRICES PAYABLE**

- 9.1. The amount to be paid by the procuring entity for POL requirements actually delivered and duly received by it shall be the AWPP, at the date the actual order is placed, less the discounts given or the MOPS, at the date the actual order is placed, plus the premium imposed, whichever is appropriate. This shall be the basis for determining the actual price payable for the units/volume delivered.
- 9.2. For purposes of payment and determination of the actual payable price, the discounts given or the premium imposed, whichever is appropriate, used as basis by the procuring entity during the evaluation and comparison of bids shall not be changed during contract implementation.
- 9.3. For staggered deliveries, the procuring entity shall make, after every order, an accounting of the amount actually payable based on the date of the Purchase Order/Requisition Request. This will also determine the allowable unit/volume that may still be ordered from the remaining amount allotted for each POL product. The procuring entity shall be allowed to make adjustments in the units/volume to be delivered per type of product to conform to the remaining amount in the total contract price.
- 9.4. For contracts stipulating consignment whereby a supplier makes a delivery of POL products to a procuring entity's holding area and payment is based on volume consumed, the actual price payable shall be determined based on the weighted average of the applicable index from the date the order is placed up until the cut-off date for payments agreed upon by the parties. The same rule shall apply for contracts where a major supplier delivers the POL products to the procuring entity through its authorized stations and/or distribution centers.
- 9.5. If during contract implementation, the total contract price for the project would have been consumed notwithstanding that the requirements were not fully delivered in the units/volume contemplated, no further order and payments shall be made. This agreement shall form part of the bidding documents.

## **10. EFFECTIVITY**

These Guidelines or any amendments hereto shall take effect fifteen (15) days after 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.