

REQUEST OF THE DEPARTMENT OF TRANSPORTATION AND BASES CONVERSION AND DEVELOPMENT AUTHORITY (BCDA) ON THE CHANGE OF PAYMENT SCHEME IN THE PREVIOUS APPROVAL OF THE USE OF THE FIDIC¹ CONDITIONS OF CONTRACT FOR ENGINEER, PROCURE AND CONSTRUCT / TURNKEY BIDDING DOCUMENTS FOR THE SUBIC-CLARK RAILWAY PROJECT

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” took effect on 26 January 2003, while its 2016 revised Implementing Rules and Regulations (IRR) took effect on 28 October 2016;

WHEREAS, Section 63 of RA No. 9184 and its 2016 revised IRR authorizes the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend its IRR, whenever necessary;

WHEREAS, on 7 October 2019, the GPPB issued Resolution No. 23-2019,² Approving the Request of the Department of Transportation (DOTr) and the Bases Conversion and Development Authority (BCDA) to Use the FIDIC Conditions of Contract for Engineer, Procure and Construct/Turnkey Bidding Documents and Adopt the Customized Technical Evaluation Procedure in Finding the Lowest Calculated Responsive Bid (LCRB) for the Subic-Clark Railway (SCR) Project;

WHEREAS, the principle-based approval of the use by the DOTr and the BCDA of the proposed bidding documents and the proposed technical evaluation procedure in finding the LCRB for the SCR Project in GPPB Resolution No. 23-2019 is subject to the following:

1. The approval does not include Table A (Threshold Technical Requirements) and Table B (Technical Score Evaluation Table) under the Technical Proposal Forms of Section VII of the proposed bidding documents, as the Board agreed that such evaluation criteria or requirement is subject to the determination of the DOTr and BCDA;
2. The DOTr and BCDA may use the Single Largest Completed Contract or any other variations thereof in determining the capability of the prospective bidder in implementing the SCR project; and
3. Issuance of a certification by the DOTr and BCDA, prior to the posting of the proposed bidding documents, that the (i) Threshold Technical Requirements and Technical Score Evaluation adopted for the SCR Project and (ii) all the provisions in the proposed bidding documents do not limit competition and do not violate any existing procurement law, rules, regulations and associated laws and issuances;

WHEREAS, on 6 March 2020, the Government Procurement Policy Board- Technical Support Office (GPPB-TSO) received the letter dated 24 February 2020, signed by both DOTr Secretary Arthur P. Tugade and BCDA President and Chief Executive Officer (CEO) Vivencio B. Dizon, requesting for the GPPB’s approval of their proposed changes to the previously approved customized bidding documents for the SCR Project;

¹ *Fédération Internationale Des Ingénieurs-Conseils*

² Published on 15 October 2019 in the Philippine Daily Inquirer.

WHEREAS, despite the bidding documents for the SCR Project being posted on 20 December 2019³ as indicated in the letter request of DOTr and BCDA, the GPPB has yet to receive a copy of the Certification required in its approval of the DOTr and BCDA's proposed bidding documents for the SCR Project under GPPB Resolution No. 23-2019;

WHEREAS, during the its 3rd Special Online Meeting on 23 April 2020, the GPPB-TSO presented to the Board the latest request of DOTr and BCDA relative to the GPPB's principle-based approval of the bidding documents for the SCR Project in its Resolution No. 23-2019;

WHEREAS, after careful review and due deliberation of the request, the Board resolved to approve the issuance of a letter reply to the DOTr Secretary and BCDA President and CEO, to be signed by the GPPB Chairperson, reiterating the principle-based approval of the GPPB on the use by the DOTr and BCDA of the customized bidding documents for the SCR Project under GPPB Resolution No. 23-2019 subject only to the conditions set therein.

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 and other executive issuances, hereby **RESOLVE**, to confirm, adopt, and approve, as **WE** hereby confirm, adopt, and approve to **ISSUE** a letter reply to the DOTr Secretary and BCDA President and CEO, to be signed by the GPPB Chairperson, reiterating the principle-based approval of the GPPB on the use by the DOTr and BCDA of the customized bidding documents for the SCR Project under GPPB Resolution No. 23-2019 subject only to the conditions set therein.

This Resolution shall take effect immediately.

APPROVED this 23rd day of April 2020 at Manila City, Philippines.

Sgd.

WENDEL E. AVISADO
GPPB, Chairperson
**DEPARTMENT OF BUDGET AND
MANAGEMENT**

Sgd.

LAURA B. PASCUA
Alternate to the Chairperson
**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

DEPARTMENT OF EDUCATION

Sgd.

DEPARTMENT OF ENERGY

DEPARTMENT OF FINANCE

³ Indicated in the received letter as 20 December 2020.

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

**DEPARTMENT OF INFORMATION AND
COMMUNICATIONS TECHNOLOGY**

PRIVATE SECTOR REPRESENTATIVE