

NPM No. 07-2009

26 January 2009

MS. LANI-O R. NEREZ, CEO VI
Police Chief Superintendent
Director for Logistics
DIRECTORATE FOR LOGISTICS
NATIONAL HEADQUARTERS
PHILIPPINE NATIONAL POLICE
Camp Crame, Quezon City

Re : Petroleum, Oil and Lubricants Procurement

Dear Mr. Manga:

This pertains to your letter dated 5 December 2008 requesting for some clarifications relative to the bidding of the Philippine National Police (PNP) for the procurement of Petroleum Oil and Lubricant (POL) products.

With your intention to use the Revised Guidelines on Index-Based Pricing for Procurement of Petroleum and Oil Products, you have the following inquiries:

1. What can be used as the Approved Budget for the Contract (ABC) of POL products?
2. Will suppliers bid for each POL product type and how will the POL products be grouped?
3. Will it be necessary to determine the total contract price for each POL product type?
4. How will the actual price payable to the supplier be computed?

At the outset, we wish to inform you that the Revised Guidelines on Index-Based Pricing for Procurement of Petroleum and Oil Products provided under GPPB Resolution No. 9-2006, dated 10 April 2006 was amended by GPPB Resolution No. 11-2007, dated 31 May 2007, approving and adopting the Revised Guidelines on Index-Based Pricing for Procurement of Petroleum, Oil and Lubricant Products (hereafter referred to as the Guidelines). A copy may be secured from our official website: www.gppb.gov.ph.

This office, however, reiterates that these guidelines are applicable only 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.

ABC for POL Products

As a general rule, the ABC refers to the budget for the contract duly approved by the Head of the Procuring Entity (HOPE), as provided for in the General Appropriations Act and/or continuing appropriations, in the case of National Government Agencies¹. The GPPB in its Resolution No. 11-2005 provided for a more definitive interpretation of the definition of ABC where it states that it refers to the proposed budget for the project duly approved by the HOPE based on the Annual Procurement Plan (APP) as consolidated from various Project Procurement Management Plans (PPMP)².

Furthermore, under Volume II of the Generic Procurement Manuals – Manual of Procedures for the Procurement of Goods³, the PMO or end-user unit, with the assistance of the TWG, must consider the different cost components in determining the ABC (when necessary), namely:

1. The cost or market price of the product or service itself;
2. Incidental expenses like freight, insurance, taxes, installation costs, training costs, if necessary, and cost of inspection;
3. The cost of money, to account for government agencies usually buying on credit terms;
4. Inflationary factor, since the planning phase is usually done one year ahead of the actual procurement date;
5. Quantities, considering that buying in bulk usually means lower unit prices; and
6. The supply of spare parts and/or maintenance services; if these are part of the contract package.

If the project or contract has a foreign component, it is also best to include a currency valuation adjustment factor, in order to address foreign exchange rate fluctuations between the planning phase and the actual procurement date. To determine the factor to be used, the PMO or end-user unit may request for guidance from the BSP, or refer to BSP forecasts, if available.

¹ Section 5 (a) of R.A. 9184 and Section 5 (b) of its IRR-A.

² Please also see GPPB Circular No. 02-2008, dated 1 August 2008

³ Generic Procurement Manual – Volume II – Manual of Procedures for the Procurement of Goods, as approved by the GPPB through Resolution No. 13-2006, dated 14 June 2006.

From the foregoing, it is clear that the determination of the different cost components that would comprise the ABC for the subject item for bidding is the responsibility of the procuring entity. In no case, however, shall the ABC exceed the appropriation for the procurement at hand.

Other than the foregoing guidepost for determining the ABC, the GPPB has not issued more specific guidelines on the same. Relatedly, the Guidelines are likewise silent on the matter.

Nonetheless, we wish to inform you that the GPPB is currently drafting the One Implementing Rules and Regulations (One-IRR) of Republic Act No. 9184 (R.A. 9184), and undergoing consultations on the same. One of the concerns raised therein is the need for a study on the preparation of the ABC. Hopefully, the issue could be sufficiently addressed once the revised IRR is finalized.

Packaging of POL Products

Under Volume II of the Generic Procurement Manuals – Manual of Procedures for the Procurement of Goods⁴, the bidding documents should clearly state the type of contract to be entered into and contain the proposed contract provisions appropriate therefore. The most common types of contracts provide for payments on the basis of a lump sum, unit price, or combinations thereof.

The size and scope of individual contracts will depend on the magnitude, nature, and location of the project, for example:

1. For projects requiring a variety of goods and works, separate contracts may be awarded for the supply and/or installation of different items of equipment and plant (“plant” refers to installed equipment, as in a production facility) and for the works.
2. For a project requiring similar but separate items of equipment or works, bids may be invited under alternative contract options that would attract the interest of both small and large firms, which could be allowed, at their option, to bid for individual contracts (slices/items) or for a group of similar contracts (package). All bids and combinations of bids should be received by the same deadline and opened and evaluated simultaneously so as to determine the bid or combination of bids offering the lowest calculated cost to the Procuring Entity.

Furthermore, under the Philippine Bidding Documents (PBDs) for the Procurement of Goods – Second (2nd) Edition, dated May 2005, the name, identification and number of lots specific to the bidding of the procuring entity concerned should be expressly provided under the Bid Data Sheet (BDS)⁵.

Clearly, the packaging of the subject item for bidding, as expressly provided for in the bidding documents, lies within the prerogative and sound discretion of the procuring entity

⁴ Ibid.

⁵ Please see Section 1 – Scope of Bid, Instructions to Bidders (ITB) of the Philippine Bidding Documents for the Procurement of Goods, as Harmonized with the Provisions of World Bank, Asian Development Bank and Japan Bank for International Cooperation – Second Edition, dated May 2005.

conducting the bidding. Hence, the procuring entity may opt to resort to procurement by lot or just one package for all types of POL products. Necessarily, therefore, the supplier will have to bid either for each product type of POL Products or for the whole package, depending on what is clearly stated in the procuring entity's bidding documents.

Contract Prices of POL Products

Bid Prices for procurement using the WPP index shall be the individual WPP of the prospective supplier less the discounts given, if any, plus delivery cost. On the other hand, the bid price for procurement using the MOPS and ICIS-LOR indices shall be the MOPS or ICIS-LOR plus premium and delivery cost charged by the bidder.

Cost for E-VAT and other governmental costs which fall equally on all prospective suppliers are presumed to be included in the computation of the bid price⁶.

Thus, the contract prices of POL products will be computed based on the following formula:

- a) POL Products using WPP index:
WPP – discounts (if any) + delivery cost + Cost for E-VAT

- b) POL Products using MOPS and ICIS-LOR index:
MOPS or ICIS-LOR + Premium + Delivery Cost + Cost of E-Vat

Actual Prices Payable

The amount to be paid by the procuring entity for POL requirements actually delivered and duly received by it shall be: (i) the WPP less the discounts offered, if any, plus the delivery cost charged, at the date of actual delivery; or (ii) the MOPS or ICIS-LOR, plus the premium imposed and the delivery cost charged, referenced to the average of the MOPS or ICIS-LOR of the calendar month immediately preceding the date of actual delivery.

For staggered deliveries, the procuring entity shall make, after every delivery, an accounting of the amount actually payable based on the date of the delivery receipt to 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.

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 centers⁷.

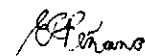
⁶ Section 7 of the Revised Guidelines on Index-Based Pricing for Procurement of Petroleum, Oil and Lubricant Products

⁷ Section 8 of the Revised Guidelines on Index-Based Pricing for Procurement of Petroleum, Oil and Lubricant Products.

Therefore, the actual price payable for POL products will be computed based on the above-mentioned procedure in accordance with the Revised Guidelines on Index-Based Pricing for Procurement of Petroleum, Oil and Lubricant Products

We hope to have clarified the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


RUBY U. ALVAREZ
Executive Director III

NPM No. -2009

16 December 2008

MS. LANI-O R. NEREZ, CEO VI

Police Chief Superintendent

Director for Logistics

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If the project or contract has a foreign component, it is also best to include a currency valuation adjustment factor, in order to address foreign exchange rate fluctuations between the planning phase and the actual procurement date. To determine the factor to be used, the PMO or end-user unit may request for guidance from the BSP, or refer to BSP forecasts, if available.

From the foregoing, it can be gleaned upon that it is the procuring entity which should be responsible in determining the different cost components that would comprise the ABC of

¹ Section 5 (a) of R.A. 9184 and Section 5 (b) of its IRR-A.

² Please also see GPPB Circular No. 02-2008, dated 1 August 2008

³ Generic Procurement Manual – Volume II – Manual of Procedures for the Procurement of Goods, as approved by the GPPB through Resolution No. 13-2006, dated 14 June 2006.

the subject item for bidding provided that it is still lower than the appropriation for the procurement.

The GPPB has not issued any definite guidelines in coming up with the ABC. In fact the Revised Guidelines on Index-Based Pricing for Procurement of Petroleum, Oil and Lubricant Products is also silent as to the matter.

Nonetheless, we wish to inform you that the GPPB is currently drafting the revised Implementing Rules and Regulations (IRR) of Republic Act No. 9184 (R.A. 9184). One of the concerns raised by various procuring entities is the preparation of the ABC. In view of the many comments we have received from procuring entities, the GPPB is considering to study the same and any results thereof will hopefully be incorporated in the revised IRR of R.A. 9184.

Packaging of POL Products

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Hence, the packaging of the subject item for bidding depends on the prerogative of the procuring entity concerned conducting the bidding, as expressly provided for in their bidding documents.

⁴ Ibid.

⁵ Please see Section 1 – Scope of Bid, Instructions to Bidders (ITB) of the Philippine Bidding Documents for the Procurement of Goods, as Harmonized with the Provisions of World Bank, Asian Development Bank and Japan Bank for International Cooperation – Second Edition, dated May 2005.

Supplier will now bid on each product type of POL Products or for the whole package, depending on what is clearly stated in the procuring entity's bidding documents.

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Therefore, the actual price payable for POL products will be computed based on the above-mentioned procedure in accordance with the Revised Guidelines on Index-Based Pricing for Procurement of Petroleum, Oil and Lubricant Products

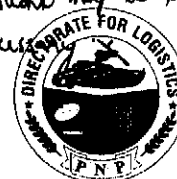
We hope to have clarified the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,

RUBY U. ALVAREZ
Executive Director III



Republic of the Philippines
 Department of Interior and Local Government
 NATIONAL HEADQUARTERS, PHILIPPINE NATIONAL POLICE
 DIRECTORATE FOR LOGISTICS
 Camp Crame, Quezon City



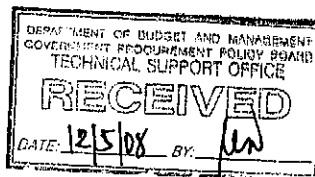
Ruby,
 Please do reply similar to per letter to
 PAGCOR.

*their 4 questions may be answered in general. Coordi-
 nate w/ them, if necessary.*

*TR
 12/10/08*

December 5, 2008

ATTY. RUBY A ALVAREZ
 Executive Director, GPPB
 Raffles Tower, Ortigas Center
 Pasig City



Dear Director Alvarez:

This pertains to the Petroleum, Oil and Lubricant (POL) procurement of the Philippine National Police (PNP) for CY 2009 which will be done through public bidding as mandated by R.A. 9184 and its IRR. The PNP is intending to use the revised guidelines on index-based pricing for procurement of POL products set forth by GPPB.

In this regard, we would like to humbly ask for some clarification on the following issues before we could proceed with the procurement process.

1. What can be used as the approved budget for the contract (ABC) of POL products?
2. Will suppliers bid for each POL product type and how will the POL products be grouped?
3. Will it be necessary to determine the total contract price for each POL product type?
4. How will the actual price payable to the supplier be computed?

The Chief, POL Section, SMD, DL, PSUPT ROBERT T RODRIGUEZ, will personally coordinate with your office to further explain our concerns.

Hoping for your usual cooperation in matters of mutual interest.

Very truly yours.

FOR THE DIRECTOR FOR LOGISTICS:

[Signature]
LANI-O R NEREZ, CEO VI
 Police Chief Superintendent
 Director for Logistics

Enuncie,

*Pls. handle. Tel
 prioritize. Sign in my behalf.*

12/08/08