

APPROVING AMENDMENTS TO THE PHILIPPINE BIDDING DOCUMENTS FOR THE PROCUREMENT OF GOODS [ITB and BDS Clause 29.2(a)], INFRASTRUCTURE PROJECTS [ITB and BDS Clause 28.2(a)], AND CON...

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WHEREAS, Republic Act (RA) No. 9184, entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes,” took effect on 26 January 2003, while its revised Implementing Rules and Regulations (IRR) took effect on 2 September 2009;

WHEREAS, the Government Procurement Policy Board (GPPB), under Section 63 of RA 9184 and its IRR, is mandated to formulate and amend public procurement policies, rules and regulations, and amend the IRR, whenever necessary;

WHEREAS, the GPPB issued the Fourth Edition of the Philippine Bidding Documents (PBD) for Goods, Infrastructure Projects, and Consulting Services in December 2010 through GPPB Resolution No. 06-2010 dated 17 December 2010;

WHEREAS, pursuant to Executive Order (EO) No. 398, Series of 2005, Revenue Regulations (RR) No. 3-2005, and Revenue Memorandum Circular (RMC) No. 16-2005, the submission of Tax Clearance and latest Income and Business Tax Returns were required under the PBD specifically: a) PBD for GOODS: Instruction to Bidders (ITB) Clause 29.2(a); (b) PBD for Infrastructure Projects: ITB Clause 28.2(a); and, c) PBD for Consulting Services: ITB Clause 27.2(a);

WHEREAS, the ITB Clauses mentioned above provide reference to their respective Bid Data Sheet (BDS) whereby the Procuring Entity (PE) is given the option to elect whether to accept manually filed tax returns or EFPS filed tax returns;

WHEREAS, in consideration of requests for clarification on the policy on tax clearance and tax returns, the GPPB, during its 10th Regular Meeting on 23 November 2012 resolved to maintain the provision in the PBD allowing the option to submit manually-filed Income and Business Tax Returns in lieu of EFPS filed tax returns; consider procurement activities with Approved Budget for the Contract (ABC) amounting to Fifty Thousand Pesos (PhP50,000.00) and below as low-level of procurement; and invite the Information Technology personnel from the BIR and ICTO as well as Officials from the Bureau of Internal Revenue to discuss the reliability of the EFPS;

WHEREAS, in a meeting held on 25 March 2013 between representatives of the GPPB-Technical Support Office (GPPB-TSO) and BIR, the latter confirmed the reliability and stability of the EFPS, and the necessity to comply with the mandatory filing of tax returns and payment of taxes through the EFPS;

WHEREAS, on 1 April 2013, the BIR issued RMC No. 30-2013, reiterating RR No. 9-2001 on the mandatory filing of tax returns and payment of taxes through EFPS, which includes taxpayers joining public bidding pursuant to EO 398, as implemented by RR No. 3-2005. RMC No. 30-2013 likewise provides that any manual filing of tax returns and/or payment of taxes, other than those authorized by the BIR shall be considered violation

of Section 275 of the Tax Code;

WHEREAS, with the confirmation from BIR that the EFPS is stable and reliable and the issuance of Revenue Memorandum Circular No. 30-2013, the amendment of the PBD becomes necessary to reflect the mandatory requirement for the filing of tax returns and payment of taxes through the EFPS for taxpayers participating in government procurement.

WHEREAS, in its 3rd Regular Meeting held on 26 April 2013, the GPPB carefully reviewed and deliberated on the mandatory requirement for the filing of tax returns and payment of taxes through the EFPS, and resolved to amend the relevant provisions of the PBD to take effect on 15 June 2013;

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:

- AMEND the PBD for Goods, Infrastructure Projects, and Consulting Services as shown in Annex "A", attached hereto and made integral part hereof;
- EFFECTIVITY of the amendments to the PBD for Goods, Infrastructure Projects, and Consulting Services shall be on 15 June 2013; and,
- ISSUE a Circular informing 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 of the proposed amendments to the PBD for Goods, Infrastructure Projects, and Consulting Services and its date of effectivity.

This resolution shall take effect immediately.

Signed by the Representatives of the Following Agencies:

DEPARTMENT OF BUDGET AND MANAGEMENT
DEPARTMENT OF EDUCATION
DEPARTMENT OF ENERGY
DEPARTMENT OF FINANCE
DEPARTMENT OF HEALTH
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
DEPARTMENT OF NATIONAL DEFENSE
DEPARTMENT OF TRADE AND INDUSTRY
PRIVATE SECTOR REPRESENTATIVE

Attested by:

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

Annex "A"

I. Philippine Bidding Documents for the Procurement of Goods

Original

Amended

Section II. Instruction to Bidders

29.2

Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:

(a)

Tax clearance per Executive Order 398, Series of 2005:

Section II. Instruction to Bidders

29.2

Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:

(a)

Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.

Section III. Bid Data Sheet Section III. Bid Data Sheet

ITB Clause ITB Clause

29.2(b)

Specify whether Bidders have the option to submit manually filed tax returns or tax returns filed through the Electronic Filing and Payment System (EFPS)

NOTE: The latest income and business tax returns are those within the last six months preceding the date of bid submission.

29.2(b)

Only tax returns filed and taxes paid through the BIR Electronic Filing and Payment System (EFPS) shall be accepted.

NOTE: The latest income and business tax returns are those within the last six months preceding the date of bid submission.

II. Philippine Bidding Documents for the Procurement of Infrastructure Projects

Original

Amended

Section II. Instruction to Bidders

28.2

Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:

(a)

Tax clearance per Executive Order 398, Series of 2005:

Section II. Instruction to Bidders

28.2

Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:

(a)

Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.

Section III. Bid Data Sheet Section III. Bid Data Sheet

ITB Clause ITB Clause

28.2(b)

Specify whether Bidders have the option to submit manually filed tax returns or tax returns filed through the Electronic Filing and Payment System (EFPS)

NOTE: The latest income and business tax returns are those within the last six months preceding the date of bid submission.

28.2(b)

Only tax returns filed and taxes paid through the BIR Electronic Filing and Payment System (EFPS) shall be accepted.

NOTE: The latest income and business tax returns are those within the last six months preceding the date of bid submission.

III. Philippine Bidding Documents for the Procurement of Consulting Services

Original

Amended

Section II. Instruction to Bidders

27.2

Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:

(a)

Tax clearance per Executive Order 398, Series of 2005:

Section II. Instruction to Bidders

27.2

Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:

(a)

Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.

Section III. Bid Data Sheet Section III. Bid Data Sheet

ITB Clause ITB Clause

27.2(b)

Specify whether Consultants have the option to submit manually filed tax returns or tax returns filed through the Electronic Filing and Payment System (EFPS)

NOTE: The latest income and business tax returns are those within the last six months preceding the date of bid submission.

27.2(b)

Only tax returns filed and taxes paid through the BIR Electronic Filing and Payment System (EFPS) shall be accepted.

NOTE: The latest income business tax returns are those within the last six months preceding the date of bid submission.

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