



PHILIPPINE CHARITY SWEEPSTAKES OFFICE

Sun Plaza Building, 1507 Shaw Boulevard corner Princeton St., Mandaluyong City 1552

www.pcsso.gov.ph

SUPPLEMENTAL BID BULLETIN (SBB) NO. 7

SBAC Contract No. 2019-01

Re: Five (5) Years Lease of the PCSO Lottery System (PLS)

This Bid Bulletin is issued to **CLARIFY** queries/requests to the Special Bids and Awards Committee and other matters for the information and guidance of interested bidders:

A. QUERIES/REQUESTS OF INTERESTED BIDDERS (AS OF JUNE 25, 2019)

NAME	QUERY/REQUEST	CLARIFICATIONS
Genlot <i>*Letter and e-mail query to SBAC from its local counsel (Quisumbing Torres Law Offices); officially received on June 25, 2019.</i>	<i>As mentioned above, Genlot, which is a foreign corporation, intends to establish a Joint Venture Company ("Incorporated JV") with its Filipino Joint Venture Partner in case the bid is successful (collectively, the "JV Partners"). In this regard, we understand that if the Incorporated JV has yet to be registered with the SEC at the time of bid submission, both JV Partners are required to submit its Class "A" Legal Eligibility Documents.</i>	Section 8.5.2, 2016 Revised IRR of Republic Act No. (RA) 9184 will apply.
	<i>Thus, please confirm if the Foreign JV Partner can submit the equivalent legal eligibility documents, if any, from its country (e.g. certificate of registration, mayor's / business permit)? If yes, please confirm that in case these documents are not in the English language, the Foreign JV Partner must comply with the language procedure under the Invitation to Bid ("ITB").</i>	
	<i>In line with our question above, in case the equivalent document submitted by the Foreign JV Partner is in English, please confirm whether the PCSO would still require that such document/s, issued by the relevant foreign government agency, be authenticated / apostilled by the nearest Philippine embassy having jurisdiction.</i>	2 nd Paragraph of Section 8.5.2, 2016 Revised IRR of RA 9184 will apply.

Genlot	Assuming that the equivalent document may be submitted by the Foreign JV Partner and no such equivalent exists under its jurisdiction (for example, if its country does not require / issue a Mayor's Permit), is the Foreign JV Partner required to submit a certification that no such equivalent exists in its country? If yes, who is required to issue such certification? Does it also need to be authenticated / apostilled?	2 nd Paragraph of Section 8.5.2 of the 2016 Revised IRR of RA 9184 will still apply on the submission of <u>appropriate legal documents</u> in English.
	For bid documents required to be signed by the foreign JV Partner, requiring apostille from the foreign government, would it be acceptable for the foreign JV's authorized representative to sign the document in the Philippines? In which case kindly confirm that Philippine notarization is sufficient (apostille not applicable as document is signed in the Philippines).	Apostille or authentication of documents (in addition to the translation and certification) is required for documents that are originally not written in the English, whether the same is executed within or outside the Philippines Please refer to the requirements provided in Section 8.5.2 of the 2016 Revised IRR of RA 9184. Please also see Section 23.2 of the same IRR
	Please confirm that the Tax Clearance Certificate (" TCC ") must be issued by the BIR in the case of the Foreign JV Partner. Thus, the Foreign JV Partner is required to apply for the same here in the Philippines.	For purposes of eligibility, Section 8.5.2 in relation to Section 23.1(a) of the 2016 Revised IRR of RA 9184 shall apply. Duly issued BIR tax clearance or <u>appropriate equivalent documents in English</u> is one of the legal eligibility of all bidders and/or application for the issuance of PhilGEPS Platinum Certificate of registration. During Post-qualification, the bidder is requested to comply with Section 29.2 of the BDS among others.
	Kindly confirm that if the JV Partners submit a Joint Venture Agreement, a duly notarized statement (stating that they will enter into and abide by the provisions of the JVA in the event that the bid is successful) would also be required.	See Section 23.1 (b) of the 2016 Revised IRR of RA 9184. Duly notarized statements of all potential joint venture partner are required <u>in absence of a IVA</u> .
	Further to our question above, does the PCSO have a sample template / format of the duly notarized statement? If yes, may we request that the PCSO make the same available?	The procuring entity will not dictate on the form and style of legal documents submitted by bidders; provided, that the required disclosures or information

Genlot		under the published bid documents are indicated.
	<p><i>Under Section 23.1 (b) of the Revised IRR of Republic Act No. 9184, it provides:</i></p> <p><i>"Failure to enter into a joint venture in the event of a contract award shall be ground for the forfeiture of the bid security."</i></p> <p><i>In this regard, please confirm whether the Incorporated JV has to be registered with the SEC <u>at the time of awarding OR signing of the contract</u>. Is the submission of the SEC Certificate of Registration a requirement prior to award OR signing?</i></p> <p><i>If your answer to the questions above are in the negative, please indicate when the joint venture has to be registered with the SEC starting from the time it has submitted its bid with the PCSO.</i></p>	<p>Section 23.1(b) of the 2016 Revised IRR of RA 9184 refers to Class "B" documents.</p> <p>Certificate of Registration must be <u>before</u> the awarding or signing of the contract.</p>
	<p><i>Under Supplemental Bid Bulletin ("SBB") No. 4, we noticed the inclusion of an additional requirement that in case any of the JV Partners is a corporation, a copy of the Board Resolution or Secretary's Certificate authorizing participation in the Joint Venture for this Project, <u>to include a provision that it agrees to be jointly and severally liable if the bid is successful</u>; the extent, terms, and conditions of its participation; and designation / appointment of the corporation's authorized representative to the JV.</i></p> <p><i>In this regard, we seek confirmation whether the <u>underscoring</u> provision applies to an Incorporated JV. We note that an Incorporated JV, once registered with the SEC, has a personality separate and distinct from its shareholders, which in this case, are the JV Partners; therefore, the JV Partners should not be held solidarily liable with the Incorporated JV. Please confirm.</i></p>	<p>The requirement applies for all JV partners whether the Joint Venture is incorporated/registered or not. The requirement is to ensure that all JV partners to the JV have authority to participate in the JV undertaking for this Project.</p> <p>Please see Section 23.4.1.1 (e) of the 2016 Revised IRR of RA 9184.</p>
	<i>In the event that the bid of the Incorporated JV is declared the</i>	Yes. Unless otherwise amended, GPPB Resolution No. 15-2014, dated 20 June

<p>Genlot</p>	<p><i>Lowest Calculated Bid and the same fails to submit the post-qualification requirements, will the Bid Security be forfeited?</i></p> <p><i>We note that based on our reading of Section 34.2 below, the bid security will only be forfeited in such case if there is a finding against the veracity of any of the documents submitted is made, and not if the bidder fails to submit the post-qualification requirements.</i></p> <p><i>We cite Section 34.2 of the Revised IRR of Republic Act No. 9184 for your reference:</i></p> <p><i>"Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the bidder for award: Provided, That in the event that a finding against the veracity of any of the documents submitted is made, it shall cause the forfeiture of the Bid Security in accordance with Section 69 of this IRR."</i></p>	<p>2014 should be observed in the forfeiture of bid security.</p> <p>Further, post-qualification shall verify, validate and ascertain all statements made and documents submitted by the bidder which obtained the lowest calculated bid (LCB) that includes all documents attached to the bidding documents and those that are required during the post-qualification such as, inspection and testing of goods/products, after sales and/or maintenance capabilities, etc.</p>
	<p><i>Based on our review of the Bid Documents, the Bidder must submit the following documents in case it is declared as the Lowest Calculated Bid:</i></p> <p><i>(a) PhilGEPS Certificate of Registration (Platinum)</i></p> <p><i>(b) Latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System ("eFPS") within the last six (6) months reckoned from deadline of submission of bids;</i></p> <p><i>(c) Latest Audited Financial Statement; and</i></p> <p><i>(d) Updated Tax Clearance Certificate.</i></p> <p><i>Please confirm if <u>items (b) & (c)</u> of these documents must be submitted by <u>all JV Partners</u>.</i></p> <p><i>If yes, please confirm whether the foreign equivalent may be submitted for foreign JV Partners, considering that it is not doing business in the Philippines and</i></p>	<p>For (a) and (d) – ALL JV Partners</p> <p>For (b) and (c), JV Partner/Partners who submitted the AFS or NFCC as eligibility requirement</p> <p>Yes. The submission of foreign equivalent documents will suffice subject to observance with the requirements of translation and certification, apostille or authentication</p>

Genlot	<i>would not have filed tax returns with the BIR.</i>	to be included pursuant to the applicable provisions of Republic Act No. 9184 if the documents are not in English.
	<p><i>ITB 19.2 provides:</i></p> <p><i>"Forms as mentioned in ITB Clause 19.1 must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled with the information requested."</i></p> <p><i>Further, in SBB No. 3, the PCSO provided a response on whether an editable "soft copy" of the bidding documents will be provided:</i></p> <p><i>"No. Bidders are instructed to use the bid forms with initials of SBAC members; OR Bidders may re-type the applicable portions of the bid documents; provided that the corresponding pages of the bid documents bearing the SBAC members' signatures are attached."</i></p> <p><i>In this regard, please confirm whether we can re-type the bidding documents and make certain changes to its language (although the substance shall remain) to conform with the fact that the Bidder is an Incorporated JV.</i></p>	<p>SBB No. 3 is clear and explicit, "Bidders are instructed to use the bid forms with initials of SBAC members; OR Bidders may re-type the applicable portions of the bid documents; provided that the corresponding pages of the bid documents bearing the SBAC members' signatures are attached."</p> <p>The information/statement that the bidder is an incorporated JV may be indicated as "footnote" to the form prescribed.</p> <p>No other changes to the published bidding forms shall be introduced.</p>

B. OTHER MATTERS FOR THE INFORMATION AND GUIDANCE OF INTERESTED BIDDERS

1. ERRATUM:

Paragraph B. No.3 (ii) in Page 30, Supplemental Bid Bulletin No. 5 dated June 25, 2019, should read JULY 8, 2019, and not July 1, 2019:

"The bid "box" shall be properly sealed and marked; and accompanied by the bidder; and upon submission thereof to PCSO, the sequence of arrival of bid boxes shall be recorded by the SBAC Secretariat on a "first come, first served" basis on or before the deadline of submission of bids on [July 1, 2019]

JULY 8, 2019 at exactly 12:00 NOON (Philippine Standard Time). Late bids shall not be accepted;"

2. REFUND OF THE PhP75,000.00 BID FEE PAID FOR THE PROCUREMENT OF THE NATIONWIDE ONLINE LOTTERY SYSTEM (NOLS)

The Procuring Entity (PE) shall REFUND the SEVENTY-FIVE THOUSAND PESOS (PhP75,000.00) BID FEES for **SBAC I CONTRACT NO. 2017-01** (RE: FIVE (5) YEARS LEASE OF THE NATIONWIDE ONLINE LOTTERY SYSTEM). Bidders thru their authorized representatives, who wish to claim REFUND are advised to present to the SBAC, their: (1) Letter request; (2) Authorization Letter of the claimant and copy of valid government issued ID of the bidders authorized representative; (2) ORIGINAL COPY of the PCSO Official Receipt in the amount of the PhP75,000.00 for SBAC I Contract No. 2017-01, for cancellation in the books of accounts; and (3) RETURN of the bidding documents purchased for the NOLS.

An allowance of fifteen (15) working days shall be required to process the refund, counted from receipt of the documents mentioned above.

Let a copy of this CLARIFICATORY Supplemental Bid Bulletin No. 7 dated **June 26, 2019** (Wednesday) be published in www.philgeps.gov.ph and www.pcsso.gov.ph, to include conspicuous areas within the PCSO Head Office in Mandaluyong City, Metro Manila.

ALL OTHER MATTERS IN PUBLISHED BID DOCUMENTS NOT REVISED/AMENDED OR NOT OTHERWISE INCONSISTENT WITH THIS SUPPLEMENTAL BID BULLETIN ARE HEREBY MAINTAINED BY THIS COMMITTEE.

For the information and guidance of all concerned.


JULIETA F. ASEO
Chairperson

Special Bids and Awards Committee