

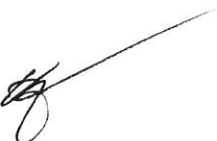
## INVITATION FOR NEGOTIATED PROCUREMENT

### TWO FAILED BIDDINGS NO. 201905-0112

*(Pursuant to Section 53.1 of the Revised Implementing Rules and Regulations  
of RA 9184 Two Failed Competitive Biddings)*

## Consulting Service for Issues Paper on the Agro-Chemical Products Industry in the Philippines

1. In view of the of the two (2) failed biddings and failure of 1<sup>st</sup> negotiation, the Philippine Competition Commission (PCC) invites bidders to participate in the negotiation for the **Consulting Service for Issues Paper on the Agro-Chemical Products Industry in the Philippines;**
2. The PCC intends to apply the sum of **One Million Six Hundred Fifty Thousand Pesos (PhP1,650,000.00)** being the Approved Budget for the Contract (ABC) to payments under the contract for the aforesaid service with the Terms of Reference hereof;
3. The PCC now invites interested bidders to submit and negotiate initial offer for the abovementioned project on **14 June 2019 at 2:00 P.M.** at the *Philippine Competition Commission, 25/F Vertis North Corporate Center I, North Avenue, Quezon City;*
4. Negotiation is restricted to Filipino citizens/sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines, and to citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to Filipino citizens, pursuant to R.A. 5183.
5. Following completion of the negotiations, the best and final offer based on the technical and financial requirements, including the pre-requisite documentary requirements enumerated in Annex A hereof must be duly received by the PBAC Secretariat at the address below on or before the deadline of submission, **19 June 2019 / 12:00N.N.** Late submissions shall not be accepted.



6. The PCC reserves the right to accept or reject any proposal, to annul the negotiation process, and to reject all proposals at any time prior to contract award in accordance with Section 41 of RA 9184 and its IRR, without thereby incurring any liability to the affected negotiation participant or participants.
7. You may refer to the PBAC Secretariat at the contact details below-stated for further information or clarification.

Thank you.

**PBAC SECRETARIAT**

Bids and Awards Committee

Philippine Competition Commission

25<sup>th</sup> Floor, Vertis North Corporate Center Tower 1

North Avenue, Quezon City 1105

Telephone No.: (02) 771-9722

e-mail: [procurement@phcc.gov.ph](mailto:procurement@phcc.gov.ph)



**ATTY. JOSEPH MELVIN B. BASAS**

 PBAC Chairperson



## TERMS OF REFERENCE

### Consulting Services for the Issues Paper on the Agro-Chemical Products Industry in the Philippines

#### I. Background

The Philippine Competition Commission (PCC) is an independent quasi-judicial body mandated to implement Republic Act No. 10667, or the Philippine Competition Act (PCA). The PCA prohibits anti-competitive agreements, abuse of dominant position and anti-competitive mergers and acquisitions, as the law aims to enhance market competition for the benefit of consumers and businesses.

Under the national competition policy chapter of the Philippine Development Plan 2017-2022, the government has committed resources for the conduct of market studies to assist the PCC in understanding industry structures and practices and identifying potential competition concerns. To guide the PCC in systematically prioritizing sectors it will investigate, a market scoping study on the manufacturing sector was conducted recently. The results of the market scoping indicate that the agro-chemical products industry as one of the sectors on which further research is needed. It is in this light that this issues paper will be conducted.

Agrochemicals are valuable inputs in agriculture. They prevent the destruction of crops and increase their yield, thereby contributing to food security. One of the classes of agrochemicals is pesticides, which are used to "manage, destroy, attack or repel pests, pathogens and parasites."<sup>1</sup> Pesticides are further subdivided into insecticides, fungicides, molluscicides, rodenticides and herbicides.

The PCC requires the expertise and experience of consultants in the agro-chemical or agricultural sector of the Philippines to complete an issues paper which is beyond the capability of PCC.

In view of the foregoing, resources shall be directed towards the engagement of a consultant, who shall complete an issues paper on the competitive landscape of the agro-chemicals industry, with specific focus on pesticides and other substitutes. The study shall provide an overview of the industry and discussion of each pesticide variety, including an assessment of competition issues. The study shall also identify potentially anti-competitive laws and regulations that affect firm entry and expansion in the industry, and recommendations on possible measures to address competition issues.

#### II. Objectives

The objectives of this issues paper are as follows:

1. Describe the Philippine agro-chemical products industry, with a focus on pesticides, highlighting any characteristics that are specific to the country including:
  - a. the structure of supply
    - i. the entire supply chain including key players and roles at each level

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<sup>1</sup> Bhandari, Govinda. "An Overview of Agrochemicals and Their Effects on Environment in Nepal." Applied Ecology and Environmental Sciences 2.2 (2014): 66-73.

- ii. the distribution systems and service networks prevailing in the market and their importance
    - iii. product differentiation in term of attributes or quality
  - b. the structure of demand
    - i. customer preferences (e.g., brand loyalty, the provision of pre- and after-sales services, the provision of a full range of products)
    - ii. the different groups of customers with a description of the “typical customer” of each group
    - iii. the importance of exclusive distribution contracts and other type of contract
  - c. cost and pricing scheme at each level of supply chain
  - d. the role of intellectual property rights;
  - e. the role of policies and regulations;
  - f. current industry trends and developments, including the role of imports, emerging technologies and/or changes in supply and demand dynamics
- 2. Conduct a structural screening exercise to determine whether conditions in the industry are conducive to the formation and stability of a cartel or whether dominant firms or group of firms potentially abuse their market power;
- 3. Using the Structure-Conduct-Performance (SCP) paradigm, identify potential competition issues at each stage of the supply chain; and
- 4. Propose recommendations to address the identified competition issues.

### III. Scope of Work

The Contractor shall:

- 1) Submit an inception report, including a detailed work and financial plan in consultation with PCC;
- 2) Present the study framework in a PCC round-table discussion;
- 3) Assign tasks to, monitor, and review work of a research assistant assigned to the project;
- 4) Work closely with the designated PCC economist/s to quickly cascade the methodology in conducting market studies;
- 5) Conduct focus group discussions (FGDs), key informant interviews (KIIs), or surveys with relevant stakeholders and resources persons – as necessary – to gather information needed for the study;
- 6) Present the preliminary results in a research seminar. At the discretion of PCC, industry regulators and other stakeholders may be invited;
- 7) Draft the report with the assistance of a research assistant and PCC economist/s. The issues paper shall be published as a PCC working paper;
- 8) Present the findings through a public consultation; and
- 9) Draft a policy brief with the assistance of PCC economist/s as a by-product of the issues paper.

At the minimum, the report should provide/discuss the following:

- 1) Value chain of the industry and identification of product or service categories’ description and differentiation and geographic markets;
- 2) Market structure of each sub-service including estimates for the last three years of the total market size (value and volume) and market shares of each player (value and volume) in the global market and in the Philippine market;
- 3) Trends and forecasts of demand and supply in each market;
- 4) Structural and behavioral factors that potentially limit market competition;
- 5) Laws and regulations that preclude market entry and/or entrepreneurship;



- 6) Common industry practices that may be anti-competitive; and
- 7) Proposed measures to correct anti-competitive elements in the market.

#### IV. Approved Budget for the Contract (ABC) and Mode of Procurement

The Approved Budget for the Contract (ABC) is **One Million Six Hundred Fifty Thousand Pesos (1,650,000.00)** inclusive of all applicable government taxes, and shall include all remunerations, cost or profits arising from or in relation to the services rendered in connection with and/or in preparation for this engagement, such as of data purchases, focus group discussions, small group seminar presentations, and other meetings. The mode of procurement shall be Negotiated Procurement, as provided under the Revised Implementing Rules and Regulations (IRR) of Republic Act (R.A.) No. 9184.

#### V. Timelines, Deliverables and Schedule of Payment

The Consultant shall be engaged for ten (10) months upon the receipt of Notice to Proceed, in accordance with the following timeline:

Deliverable/s	Timeline
Original signed inception report with detailed financial and work plan properly dated and duly accepted and approved by the PCC; and proof of presentation of study framework (e.g. ppt slides)	Thirty (30) days from the receipt of Notice to Proceed
Original signed progress report properly dated and duly accepted and approved by the PCC	Within sixty (60) days from the acceptance of Inception Report
Original signed draft report properly dated and duly accepted and approved by the PCC; and proof of presentation of preliminary results in a research seminar (e.g. ppt slides)	Within ninety (90) days from the acceptance of Progress Report
Original signed final report and policy brief properly dated and duly accepted and approved by the PCC; certification of the turn-over of data and do-files properly dated and duly accepted and approved by the PCC; and proof of presentation of findings in a public consultation (e.g. ppt slides)	Within one hundred and twenty days (120) from the acceptance of Draft Report and Preliminary Findings

All payments shall be endorsed by the Director of the Economics Office (EO); and each tranche payment to the Consultant shall be released upon PCC's acceptance of the deliverables listed above supported by a Certificate of Satisfactory Service Rendered to be issued by the EO. The tranche payment schedule shall be as follows:

Milestones	% of contract amount
Approved and accepted Inception Report	20%
Approved and accepted Progress Report	20%
Approved and accepted Draft Report and Preliminary Findings	30%
Approved and accepted Final Report	30%

The PCC shall pay the consultant within fifteen (15) working days upon receipt of the original signed Statement of Account, or billing statement, supported by a Certificate of Satisfactory Service Rendered to be issued by the end-user, and upon completion of all the deliverables /



documentary requirements for each tranche payment.

The detailed description of the deliverables are as follows:

- a. **Inception Report** – shall include a detailed work and financial plan. The inception report will be important in ensuring a clear understanding of project management and engagement processes. This will be useful in clarifying and removing any uncertainties that might exist before the project commences, and establishing expectations regarding methodologies, deliverables, outcomes, and potential challenges. This will ensure a mutual understanding of the objectives, scope, and other requirements of the project. In this report, the Consultant is expected to identify the needed data, discuss the design and approach, including the proposed methodology for the project. After the acceptance of the inception report, the Consultant shall present the general framework of the study to the PCC in a roundtable discussion.
- b. **Progress Report** – shall include a brief write-up on the progress of the Project. At this stage, the Consultant is expected to start data collection, KIIs, and FGDs. The Consultant shall also provide a general information of the industry.
- c. **Draft Report with Preliminary Findings** – shall include an assessment of the preliminary findings gathered from the Project. At the minimum, the Consultant is expected to provide discussions on the following key points: (i) description of the supply chain; (ii) product categories and geographic markets; (iii) trends and forecasts of demand and supply; (iv) market structure including a profile of each major player; (v) factors that potentially limit market competition; (vi) laws and regulations that preclude market entry and/or entrepreneurship; and (vii) proposed measures to correct anti-competitive elements in the market. Moreover, the Consultant should be able to present a structural screening exercise to determine whether conditions in the market are conducive to the formation and stability of a cartel. This report will be presented in a research seminar. At the discretion of PCC, industry regulators and other relevant stakeholders may be invited to elicit their inputs and views.
- d. **Final Report** – shall reflect the suggested inputs and revisions that have been adopted by PCC from earlier presentations and discussions of the draft Report. The findings covered by the Final report will be disseminated and presented in a public consultation.

## VI. Required Minimum Qualifications of the Contractor

The bidding is open to individual consultants and firms who are legally registered in PhilGEPS and has secured a BIR Tax Certificate and/or Clearance, and/or duly registered with DTI/SEC/CDA.

For eligibility and shortlisting purposes, the firm must submit the legal, technical and financial documents under Section 24 of the IRR of the RA 9184 (“Government Procurement Reform Act”).

The Consulting Firm and/or the Project Manager/Principal Investigator, to be assigned in this project, must possess the following qualifications:

Criteria	Minimum qualifications
Applicable experience of the bidder	The consulting should have been in business/consultancy/research for at least eight (8) years,* have had engagements with 3 different

Criteria	Minimum qualifications
	companies/institutions (at least one of which should be with a government agency/institution), and with at most 3-5 on-going projects.
	<i>*In case of an individual consultant (or team of consultants), the basis for this criteria will be the years of experience of the Project Manager/Principal Investigator.</i>
Quality of personnel to be assigned to the project (Project Manager/Principal Investigator)	<u>Education:</u> advanced degree in Economics, Agricultural Economics, Public Policy, or a related field; <u>Experience:</u> have extensive knowledge on the Philippine agro-chem sector, with at least ten (10) years of total experience as researcher, of which at least five (5) years is in agro-chem policy research. The Project Manager/Principal Investigator should also have a proven publication track record with at least three (3) publications (e.g. books, journal articles, discussion papers, working papers). <u>Training:</u> at least 25-40 hours of relevant training in research

Note: To prove the expertise of the consultants who shall handle this project, kindly submit an original signed extensive curriculum vitae.

## VII. Criteria for Eligibility Shortlisting

Cognizant of Section 24 of the IRR of RA 9184, the following criteria and their corresponding weights shall apply in shortlisting the eligible prospective bidders.

Criteria	Weight (%)	Basis
Applicable experience and capability of the bidder	50%	<p>If individual bidder, signed curriculum vitae submitted relative to relevant work experience and trainings attended</p> <p>If firm, records of previous engagements, quality, and extensive knowledge on Philippine agricultural sector</p>
Qualification of personnel who may be assigned to the project	30%	Signed curriculum vitae submitted relative to relevant work experience and trainings attended
Current work load relative to capacity	20%	Records of on-going and previous engagements

The top three bidders with at least 80 percent overall score on the above-mentioned criteria will be shortlisted.

## VIII. Criteria for Evaluation of Shortlisted Bidders

The technical and financial proposals of the shortlisted bidders will be evaluated using the Quality-Based Evaluation (QBE).

The bidder with the highest rated scored based on the technical proposal submitted, provided that the score shall pass the hurdle rate of 80 percent based on the technical evaluation component, shall be the Highest Rated Bidder. ONLY the Financial Envelope of the Highest Rated Bidder



shall be opened.

The following criteria will be used in evaluating the technical proposals of the shortlisted bidders:

<b>Criteria</b>	<b>Weight (%)</b>	<b>Basis</b>
Quality of personnel to be assigned to the project	30%	Signed curriculum vitae submitted
Experience and capability of the bidder	20%	Records of previous engagement, quality, and extensive knowledge on Philippine agricultural sector
Plan of approach and methodology	50%	Timelines, clarity, feasibility, innovativeness and comprehensives of the written proposal and the overall quality of proposed work

#### **X. Confidentiality of Data and Information**

The Service Provider shall be engaged by the PCC and shall submit outputs directly to the designated project manager within PCC for review and endorsement for payment. The service provider shall not use nor disseminate these documents for their own research purposes without the written consent of the PCC. All the materials, data, and information used and generated through the survey shall be under the sole ownership of PCC. The survey firm and any of its personnel shall, at all times, keep the confidentiality of such materials, data, and information, and shall not use nor disseminate these materials, data, and information for their own research purposes without the written consent of the PCC.

#### **XI. Conflict of Interest**

The Service Provider must be independent from the entities which operate in the business of the particular sector covered by the scope of this engagement and must have no conflict of interest. There is conflict of interest when the Service Provider has an interest in the business of the entities operating, whether directly or indirectly, in the particular sector covered by this engagement, and the interest of such Consultant, or his rights or duties therein, may be opposed to or affected by the performance of his duty as Service Provider.

#### **XII. Liquidated Damages**

If the contractor fails to deliver any or all of the goods and/or to perform the services within the period specified in this contract, the Procuring Entity shall, without prejudice to its other remedies under this contract and under the applicable law, deduct from the contract price as liquidated damages, the applicable rate of one-tenth (1/10) of one percent (1%) of the cost of unperformed portion of every day of delay. The maximum deduction shall be ten percent (10%) of the amount of the contract. Once the maximum is reached, the procuring entity reserves the right to rescind the contract, without prejudice to other courses of action and remedies open to it.

#### **XIII. Dispute Resolution**

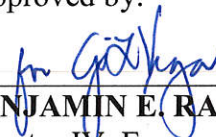
Should any dispute related to the Contract and/or rights of the parties arise, the same shall be submitted to mutual consultation, mediation and arbitration, in the order of application. The venue of the proceedings shall be in Quezon City.



In case of a court suit, the venue shall be the courts of competent jurisdiction in Quezon City, to the exclusion of all other courts.

Any amendment or additional terms and conditions to the Contract must be in writing, signed and acknowledged by the Parties.

Approved by:



**BENJAMIN E. RADO, JR.**  
Director IV, Economics Office  
Philippine Competition Commission

**CONFORME:**

\_\_\_\_\_  
Name of Consultant / Firm

\_\_\_\_\_  
Signature of Consultant / Authorized Representative

\_\_\_\_\_  
Designation

\_\_\_\_\_  
Date