

PCC BIDS AND AWARDS COMMITTEE (PBAC)

PBAC Resolution No. 201907-0086

RESOLUTION DENYING THE REQUEST FOR RECONSIDERATION OF CENTER FOR RESEARCH AND COMMUNICATIONS FOUNDATION, INC. FOR THE CONSULTING SERVICES FOR THE ISSUES PAPER ON REFINED PETROLEUM INDUSTRY IN THE PHILIPPINES

WHEREAS, the Philippine Competition Commission (PCC) has allotted in its Annual Procurement Plan (APP) the sum of *One Million Nine Hundred Eighty Thousand Pesos (PhP1,980,000.00)* as the Approved Budget for the Contract for the *Consulting Services for the Issues Paper on Refined Petroleum Industry in the Philippines*.

WHEREAS, the aforesaid project procurement underwent Competitive Bidding and resulted to two (2) failure of biddings; hence, the PBAC proceeded to adopt the Negotiated Procurement – Two Failed Biddings modality pursuant to Section 53.1 and Annex “H” of the 2016 Revised Implementing Rules and Regulations (“RIRR”) of Republic Act No. 9184 (“RA 9184”);

WHEREAS, pursuant to Section 6.2, Rule I on General Provisions of the RIRR vis-à-vis Section 6 of Article I on General Provisions of RA 9184 on Standardization of Procurement Process and Forms, “(p)rocurring entities are mandated to use the Generic Procurement Manuals (GPMs), Philippine Bidding Documents (PBDs), and other standard forms issued by the GPPB”;

WHEREAS, the aforementioned Section 6 on Standardization of Procurement Process and Forms generally applies to all types of procurement, including the Negotiated Procurement-Two Failed Biddings modality, unless, as provided in the same Section 6.2 of the RIRR, to suit the particular needs of the Procuring Entity, necessary modifications were made for a major and specialized procurement, and such modifications were approved by the GPPB;

WHEREAS, the Invitation for Negotiation No. 201905-0122 for the said procurement was posted on Philippine Government Electronic Procurement System (PhilGEPS) and PCC websites and in a conspicuous place within PCC on 04 June 2019, and likewise conveyed to prospective bidders, namely: (1) Center for Research and Communication Foundation Inc., (2) Dr. Ma. Nimfa Mendoza, (3) Nielsen (Philippines) Inc., (4) The Exponent M., Inc., and (5) Philippine Survey and Research Center, Inc.;

WHEREAS, of the prospective bidders, (1) Center for Research and Communication Foundation Inc. (CRCFI), and (2) R.G. Manabat & Co. tendered their proposals;

WHEREAS, upon opening and evaluation of the eligibility and technical documents submitted by the aforesaid bidders using a non-discretionary “pass/fail” criterion, the PBAC

determined that the submissions of CRCFI failed the requirements and were therefore found ineligible, while that of R.G. Manabat & Co.'s passed all the requirements for Negotiated Procurement – Two Failed Biddings;

WHEREAS, the PBAC resolved to disqualify CRCFI on the following grounds:

1. Submitted Statement of Consultant's Nationality is for the Issues Paper on Corn Industry of the Philippines.
2. Lack of signatures for the Technical Proposal Form (TPF) 4 – Description of the Methodology and Work Plan for performing the Project, TPF 5 – Team Composition and Task, and TPF 8 – Activity/Work Schedule.

WHEREAS, on 03 July 2019, the PBAC through its secretariat sent a notice of disqualification to CRCFI, which acknowledged the same through email on the same date;

WHEREAS, in its letter dated 5 July 2019, the CRCFI requested for reconsideration of the PBAC's disqualification based on the following grounds:

1. While the Statement of Consultant's Nationality was inadvertently and erroneously indicated as for the Corn Industry, it is actually for the Refined Petroleum, as evidenced by the reference number used which pertained to the refined petroleum study. Furthermore, kindly note that expertise of the names listed, in particular the Senior Economist and the head of the team, is on the petroleum industry.
2. As regards the lack of signatures in the documents cited, we wish to point out that the templates sent to us did not indicate that they have to be signed, and the documents identified lack of provision or space for signatures, unlike the rest of the documents.

WHEREAS, on 10 July 2019, the PBAC deliberated on CRCFI's request for reconsideration and thereafter unanimously resolved to **DENY** the same, in that:

1. On the first ground, under Section 30.1 of the RIRR, the PBAC has no discretion in going through the CRCFI's submitted documents, *i.e.*, it merely checks whether the document is present (thus, "passed") or absent ("failed"). Here, CRCFI admitted that it erroneously indicated the "Corn Industry" in its Statement of Consultant's Nationality. To the mind of the PBAC, applying the nondiscretionary "pass/fail" criterion, such submission of a so-called document that apparently and admittedly pertained to a different procurement project was not only patently defective and non-compliant with the requirement, it should be considered as CRCFI not having filed the mandated document at all and therefore ineligible;
2. On the second ground, Section 6.2, Rule I on General Provisions of the RIRR vis-à-vis Section 6 of Article I on General Provisions of RA 9184 on Standardization of Procurement Process and Forms mandates the use of the Generic Procurement Manuals (GPMs), Philippine Bidding Documents (PBDs), and other standard forms issued by the GPPB. CRCFI should know, or ought to have known, of the requirement under ITB Clause 16.4 of the Philippine Bidding Documents for the Consulting Services, to wit:



“Each and every page of the Technical Proposal Submission Form and the Financial Proposal Submission Form under shall be signed by the duly authorized representative/s of the Consultant. Failure to do so shall be a ground for the rejection of the bid.”

NOW THEREFORE, the PBAC has **RESOLVED**, as it hereby **RESOLVES** to **DENY** the request for reconsideration of *Center for Research and Communication Foundation Inc.* for the *Consulting Services for the Issues Paper on Refined Petroleum Industry in the Philippines*.

RESOLVE FURTHER that the Center for Research and Communication Foundation Inc. shall be notified that its request for reconsideration is denied based on the foregoing grounds.

RESOLVE FINALLY that copy of this Resolution be posted at the PCC website and conspicuous places.

DONE, this 10th day of July 2019, in Quezon City, Philippines.

(original signed)

ATTY. JOSEPH MELVIN B. BASAS
Chairperson

(original signed)

ATTY. FERDINAND REDULLA
Vice-Chairperson

(on Official Travel)

ATTY. LIANNE IVY MEDINA
Member

(original signed)

ALLAN ROY D. MORDENO
Member

(original signed)

ARNOLD ROY D. TENORIO
Member

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