



Republic of the Philippines
NATIONAL POLICE COMMISSION
NATIONAL HEADQUARTERS PHILIPPINE NATIONAL POLICE
OFFICE OF THE CHIEF, PNP
Camp BGen Rafael T Crame, Quezon City

AUG 01 2020

MEMORANDUM CIRCULAR
NUMBER 2020-050

PROCEDURE IN THE CONDUCT OF GOVERNMENT TO GOVERNMENT
PROCUREMENT OF INTELLIGENCE AND INFORMATION TECHNOLOGY (IT)
EQUIPMENT OR SYSTEMS

1. REFERENCES

- a. Republic Act No. 6975 as amended by Republic Act No. 8551;
- b. Republic Act No. 9184 and its Implementing Rules and Regulations (IRR);
- c. Memorandum of Understanding (MOU) dated June 08, 2010 between Department of National Defense (DND) and Israel Ministry of Defense (IMOD);
- d. Letter of the Department of Foreign Affairs (DFA) to the Department of the Interior and Local Government (DILG) dated July 12, 2018 with attached draft MOU between IMOD and DILG;
- e. Letter of the DFA to DND dated March 11, 2019; and
- f. Letter of the DND to DILG dated March 18, 2019.

2. RATIONALE

This PNP Memorandum Circular (MC) consolidates all the policies, guidelines, procedures, and rules and regulations governing the procedure in the conduct of Government to Government Procurement of Intelligence and Information Technology (IT) Equipment or Systems.

The conduct of Government to Government Procurement pursuant to the Memorandum of Understanding (MOU) dated June 8, 2010 between DND and IMOD, being an Executive Agreement as confirmed by the DFA and DND, takes its roots in the intent of the PNP to procure highly specialized equipment under such terms and conditions most advantageous to the government, considering among others, national security, integrity, transparency, and public accountability.

3. SITUATION

Presently, the PNP is authorized to conduct Government to Government Procurement with the State of Israel using as a platform the MOU dated June 08, 2010 between DND and IMOD, pursuant to the Letter of the DFA to DND dated March 11, 2019 and Letter from the DND to the DILG dated March 18, 2019. Additionally, the DFA through letter dated July 12, 2018 addressed to the DILG has

AUTHENTICATED

REX T. SANTAPAY

Police Lieutenant Colonel
Administrative Officer

expressed support and confirmation to the PNP for the drafting of an MOU to facilitate the procurement of high-quality equipment at competitive prices on a government to government basis.

As stated, the DFA through letter dated March 11, 2019 has declared among others, that:

"When the DND signed the MOU, it did so for and in behalf of the Philippine Government. As such, it is a state-to-state agreement which may also be invoked by the Philippine Coast Guard (PCG) for the purpose of procuring military and defense purpose products.

Foregoing considered, this Office is of the view that the PNP may also use the above-cited MOU as platform for its own procurement with the State of Israel."

As such, the Secretary of National Defense through letter dated March 18, 2019 has stated among others, that:

"After consultation with the Department of Foreign Affairs, please be informed that the 2010 MOU on the LDIC may be considered by the PNP as platform of procuring equipment through Government-to-Government (G2G) with IMOD in pursuance with Section 4 Republic Act No. 9184. Since this is a short term arrangement only, this Department recommends the Department on the Interior and Local Government (DILG) should conclude a separate agreement with IMOD as legal basis for future G2G procurements.

Considering that the said MOU is an executive agreement ratified by the President, it is applicable and may be utilized by the PNP for its procurement requirements on a G2G arrangement with the IMOD for which this Department fully support and recommend."

4. PROCEDURE

The following shall govern the conduct of Government to Government Procurement for the acquisition of Intelligence and Information Technology (IT) Equipment or Systems. In case of irreconcilable conflict with provisions of the Terms of Reference, the following herein provisions insofar as Procurement Procedure is concerned, shall prevail.

a. Submission and Receipt of Proposals

1) Documents

a) Eligibility Documents

Eligibility Documents, Technical Capability Documents, and Financial Proposal Documents shall be submitted by proponents on or before the deadline for the submission and receipt of proposals, or that when their proposals shall be opened in public.

AUTHENTICATED

REX T. MONTAPAY

Police Lieutenant Colonel

Administrative Officer

For purposes of determining the Eligibility of proponents, the following eligibility documents shall be required during the submission and receipt of proposals, to wit:

- a.1) Certification issued by the Foreign Government attesting that the proponent is authorized to manufacture, sell, and export defense, security, or intelligence equipment or system to the Republic of the Philippines. The Certification shall likewise attest that the proponent has supplied defense, security, or intelligence equipment or system to the Foreign Government and that the same has been or is presently being used by the Government of Israel within ten (10) years prior to the date of the submission and receipt of proposals.
- a.2) Certificate of Registration issued by the Securities and Exchange Commission, or equivalent document issued by the Foreign Government.
- a.3) Business Permit, or equivalent document issued by the Foreign Government.
- a.4) Tax clearance issued by the Bureau of Internal Revenue, or equivalent document issued by the Foreign Government.
- a.5) Income Tax Return, or equivalent document stamped marked in accordance with the laws, rules, and regulations of the Foreign Government.
- a.6) Statement of the proponent of all its ongoing government and private contracts (whether contracts in the Philippines or those in foreign countries), including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be undertaken. When necessary, the proponent shall submit a Non-Disclosure Agreement to be signed and executed between the PNP and the proponent.
- a.7) Statement of the proponent's Single Largest Completed Contract (SLCC) similar to the contract to be proposed whose value is at least fifty percent (50%) of the Approved Budget for the Contract. The SLCC may be one in the Philippines or one in a foreign country.

AUTHENTICATED

REX COINTAPAY
Police Lieutenant Colonel
Administrative Officer

- a.8) Audited Financial Statements showing, among others, the prospective proponent's total and current assets and liabilities stamped "received" by the Bureau of Internal Revenue or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two years from the date of proposal submission, or, such equivalent document issued by the Foreign Government.
- a.9) The proponent's computation of Net Financial Contracting Capacity (NFCC) in accordance with the following formula:

NFCC = [(Current assets minus current liabilities) (15)]¹ minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started, coinciding with the contract to be proposed.

All eligibility requirements or statements must be in English. If the documents submitted are in a foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency of Israel, the foreign government agency authorized to translate documents in Israel, or a registered translator in Israel, authenticated by the appropriate government agency of Israel; or authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the Israel's affairs in the Philippines.

Additionally, all foreign public documents must bear an Apostille Certificate or Red Ribbon, as the case may be, issued by the appropriate government office from the Foreign Government authorized to issue such apostilization or red ribbon.

b) Technical Capability Documents

The PNP through the appropriate Technical Working Group/s created for the purpose of a Government to Government Procurement shall craft the Terms of Reference (TOR) indicating therein the intended technical description, requirements, and measures for a particular project.

For purposes of determining the technical capability of the proponents, the proponents shall be required to submit their Technical Capability Documents in accordance with the

¹ The 2016 Revised Implementing Rules and Regulations of RA 9184, Rule VIII, Section 23.4.1.4

AUTHENTICATED
REX T. QUINTAPAY
Police Lieutenant Colonel
Administrative Officer

requirements in the TOR on or before the deadline for the submission and receipt of proposals, which includes among others:

- b.1) Proof of Concept; and
- b.2) Such other documents required in the TOR.

c) Financial Proposal Document/s

The proponents shall submit their Financial proposals written in English and denominated in Philippine currency, clearly specifying the financial offer for the Project. The financial proposal must be equal to or lower than the Approved Budget for the Contract (ABC), signed by the authorized representatives on each and every page thereof.

2) Format and Signing of Proposals

- a) Proponents shall submit their proposals through their duly authorized representative on or before the deadline for the submission and receipt of proposals in two (2) separate sealed proposal envelopes or appropriate container, and which shall be submitted simultaneously. The first envelope/container shall contain the Eligibility Documents and Technical Capability Documents, and the second envelope/container shall contain the Financial Proposal Documents.
- b) The Proponent shall prepare and submit two (2) sets of envelopes/containers. The first set shall be the "Original" set while the second shall be the "Copy" set. For this purpose, a document shall be considered "original" if the same is in its original form, or one that is authenticated or certified as original by competent authority. A "copy" of the document is one that is a faithful reproduction of the original. In case of discrepancy, the "original" document shall prevail.
- c) The two (2) sets of envelopes/containers shall then be enclosed and sealed in one (1) main envelope/container.
- d) Each and every page of the Statement of the proponent of all its ongoing government and private contracts, including contracts awarded but not yet started, Statement of the Proponent's Single Largest Completed Contract, and Financial Proposal, shall be signed by the duly authorized representative/s of the Proponent. Failure to do so shall be a ground for the rejection of the proposal.
- e) Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Proponent.

3) Sealing and Marking of Proposals

AUTHENTICATED
REX T. CINTAPAY
Police Lieutenant Colonel
Administrative Officer

- a) Proponents shall enclose and seal their **original** Eligibility Documents in one sealed envelope marked "ORIGINAL – ELIGIBILITY DOCUMENTS."
- b) Proponents shall enclose and seal their **original** Technical Capability Documents in one sealed envelope marked "ORIGINAL – TECHNICAL ELIGIBILITY DOCUMENTS."
- c) Proponents shall enclose and seal their **original** Financial Proposal Documents in one sealed envelope marked "ORIGINAL – FINANCIAL PROPOSAL DOCUMENTS."
- d) Proponents shall enclose and seal a **copy** of the Eligibility Documents in one sealed envelope marked "COPY – ELIGIBILITY DOCUMENTS."
- e) Proponents shall enclose and seal a **copy** of the Technical Capability Documents in one sealed envelope marked "COPY – TECHNICAL ELIGIBILITY DOCUMENTS."
- f) Proponents shall enclose and seal a **copy** of their Financial Proposal Documents in one sealed envelope marked "COPY – FINANCIAL PROPOSAL DOCUMENTS."
- g) The original and copy of the Proposals shall be typed or written in ink and shall be signed by the Proponent or its duly authorized representative/s.
- h) All envelopes shall:
 - c.1) contain the name of the contract to be proposed in capital letters;
 - c.2) bear the name and address of the Proponent in capital letters;
 - c.3) addressed to the PNP National Headquarters Bids and Awards Committee;
 - c.4) bear the specific identification of the proposal;
 - c.5) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of proposals.
- i) Proposal envelopes that are not properly sealed and marked, as required, shall not be rejected, but the Proponent or its duly authorized representative shall acknowledge such condition of the proposal as submitted. The BAC shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked proposal, or for its premature opening.

AUTHENTICATED
 REX T. CINTAPAN
 Police Lieutenant Colonel
 Administrative Officer

4) Deadline for Submission of Proposals

Proposals must be received by the PNP National Headquarters Bids and Awards Committee through the NHQ BAC Secretariat on or before the date and time declared as the deadline for the submission and receipt of proposals.

5) Opening and Examination of Proposals

- a) The BAC shall open the proposals in public, immediately after the deadline for the submission and receipt of proposals. In case the Proposals cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the Proposals submitted and reschedule the opening of Proposals on the next working day or at the soonest possible time.
- b) The BAC shall open the Eligibility Documents, followed by the Technical Capability Documents envelopes, and determine each Proponent's compliance with the documents prescribed, using a non-discretionary "pass/fail" criterion. If a Proponent submits the required document, it shall be rated "passed" for that particular requirement. In this regard, proposals that fail to include any requirement or are incomplete or patently insufficient shall be considered as "failed". Otherwise, the BAC shall rate the said first proposal envelope as "passed".
- c) The full contents of the Proof of Concept shall not be opened. However, for purposes of determining compliance, the proponents are required to open and show a page or document representing the intended Proof of Concept.
- d) The BAC shall open all the Eligibility Documents and the Technical Capability Documents envelopes of all the proponents.
- e) Immediately after opening all the Eligibility Documents and Technical Capability Documents envelopes of all the proponents, the BAC shall forthwith open the Financial Proposal envelope of each remaining eligible proponent whose Eligibility Documents and Technical Capability Documents were rated "passed". The Financial Proposal envelope of each complying proponent shall be opened within the same day. In case one or more of the requirements in the second envelope of a particular proposal is missing, incomplete or patently insufficient, and/or if the submitted total proposal price exceeds the ABC, the BAC shall rate the proposal concerned as "failed". Only proposals that are determined to contain all the proposal requirements for all components shall be rated "passed" and shall immediately be considered for evaluation and comparison.

- f) All members of the BAC who are present during proposal opening shall initial every page of the original copies of all proposals received and opened.
- g) The Procuring Entity shall prepare the minutes of the proceedings of the proposal opening that shall include, as a minimum: (a) names of Proponents, their proposal price (per lot, if applicable, and/or including discount, if any), proposal security, findings of preliminary examination, and whether there is a withdrawal or modification; and (b) attendance sheet. The BAC members shall sign the abstract of proposals as read.
- h) The proponents or their duly authorized representatives may attend the opening of proposals. The BAC shall ensure the integrity, security, and confidentiality of all submitted proposals.
- i) After determining the proponents that have submitted the "passed" documents, the BAC shall declare the said proponents as "ELIGIBLE" and shall forthwith immediately conduct the Post-Qualification on the said proponents.
- j) The declaration of eligibility shall serve as official and formal notice to the proponents to undergo post-qualification.

b. Post Qualification

- 1) The BAC shall determine to its satisfaction whether the Proponent that is evaluated and declared as "Eligible" complies with and is responsive to all the requirements and conditions of the Terms of Reference.
- 2) All the Eligible Proponents shall undergo post-qualification within a period of five (5) calendar days from the date of the proposal opening. In case of justifiable circumstances determined by the BAC, the post-qualification process may be extended subject to the approval of the Head of the Procuring Entity.
- 3) The Eligibility Documents and Financial Proposal shall be evaluated by the NHQ BAC Technical Working Group on Financial and Technical Documents Evaluation (TWG-FTDE). After the conduct of evaluation, the TWG-FTDE shall submit its Report of findings to the NHQ BAC.
- 4) The Technical Capability Documents and Technical Capability of the proponents in accordance with the Terms of Reference shall be jointly evaluated by the Technical Working Group on Intelligence Component (TWG-IC) and NHQ BAC Technical Working Group on Information Technology (TWG-IT). After the conduct of evaluation, the aforesaid TWGs shall submit a joint Report of findings to the NHQ BAC.

ADMINISTRATIVE

REX T. SURTAPAY

Police Lieutenant Colonel
Administrative Officer

- 5) The BAC shall determine to its satisfaction whether the Proponent that is evaluated and declared as "Eligible" complies with and is responsive to all the requirements and conditions of the Terms of Reference.
- 6) The determination shall be based upon an examination of the documentary evidence of the Proponent's qualifications submitted, as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion. Furthermore, the Procuring Entity shall not be limited to the "Financial Proposal" of the proponents but shall likewise consider and be guided by all matters that are most advantageous to the government.
- 7) If the BAC determines that the Eligible Proponent passes all the criteria for post-qualification, it shall declare the said proponent as the "Responsive Proponent", and recommend to the HOPE the award of contract to the said Proponent at its submitted price or its calculated proposal price, whichever is lower, which shall be the "Contract Price".
- 8) Within a period not exceeding three (3) calendar days from the determination by the BAC of the "Responsive Proponent" and the recommendation to award the contract, the HOPE shall approve or disapprove the said recommendation.
- 9) In the event of disapproval, which shall be based on valid, reasonable, and justifiable grounds considering but not limited to Section 41 of Republic Act No. 9184, the HOPE shall notify the BAC and the Proponent in writing of such decision and the grounds for it.

c. Contract

1) Contract Award

- a) The HOPE shall award the contract to the Responsive Proponent.
- b) The Contract shall specify among others, the rights and obligations of the PNP and winning proponent, under such terms and conditions that are most advantageous to the government.
- c) The BAC shall immediately notify the Responsive Proponent in writing that its proposal has been accepted, through a Notice of Award sent personally, by mail or electronically. Receipt of which must be confirmed in writing within two (2) days by the Proponent and submitted personally or sent by mail or electronically to the Procuring Entity.

AUTHENTICATED

REX S. SANTAPAY
Police Lieutenant Colonel
Administrative Officer

- d) Within the same period, the BAC shall likewise notify all the other proponents of its decision to recommend the Award of Contract to the Responsive Proponent, personally, by mail or electronically.

2) **Signing of the Contract**

- a) At the same time as the Procuring Entity notifies the successful Proponent that its proposal has been accepted, the Procuring Entity shall send the Contract Form to the Proponent, incorporating therein all agreements between the parties.
- b) Within five (5) calendar days from declaration The Procuring Entity shall enter into contract with the successful Proponent.
- c) The following documents shall form part of the contract:
 - c.1) Contract;
 - c.2) Terms of Reference and all its attachments;
 - c.3) Winning proponent's proposal, including the Eligibility Documents, Technical Capability Documents, and Financial Proposals, and all other documents/statements submitted (e.g., proponent's response to request for clarifications on the proposal), including corrections to the proposal, if any, resulting from the Procuring Entity's proposal evaluation;
 - c.4) Implementing Arrangement between the Republic of the Philippines through the Philippine National Police and Government of Israel through the Israel Ministry of Defense.

d. Notice to Proceed

Within three (3) calendar days from the signing of the Contract, the Procuring Entity shall issue the Notice to Proceed (NTP) together with a copy or copies of the approved contract to the Supplier. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the Supplier.

e. Inspection and Acceptance

The National Committee on Inspection and Acceptance (NCIA) shall inspect and accept the delivery made by the Supplier by seeing to it that the quantity is in accordance with the number/s, and the quality is in accordance with the requirements in the Terms of Reference.

The NCIA is responsible for the determination and formulation of appropriate recommendations subject to the approval of Head of the

AUTHENTICATED
REX T. SANTAPAY
Police Lieutenant Colonel
Administrative Officer

Procuring Entity with regard to issues and concerns in connection with the delivery of the items.

f. Contract Implementation

For purposes of implementing the technical aspects of the contract and other areas of related concern, the Directorate for Intelligence (DI) and the Directorate for Information and Communications Technology Management (DICTM) shall jointly act as the Contract Administrator.

For purposes of payment processing and related concerns, the Logistics Support Service (LSS) shall be the Administrator.

The aforesaid units shall be responsible in determining appropriate actions and recommendations to the Chief, PNP on matters related to contract administration.

5. REPEALING CLAUSE

All existing PNP policies and issuances inconsistent with this MC pertaining to the conduct of Government to Government Procurement are hereby rescinded.

6. EFFECTIVITY

This MC shall take effect immediately upon the date of approval and signing.



Archie Francisco F. Gamboa
ARCHIE FRANCISCO F GAMBOA
Police General
Chief, PNP

CPNP Ltes 20 5082438

S082438

AUTHENTICATED
Rex T. Santapay
REX T SANTAPAY
Police Lieutenant Colonel
Administrative Officer