

[, November 06, 2013]

NEA PROCUREMENT GUIDELINES AND SIMPLIFIED BIDDING PROCEDURES FOR ELECTRIC COOPERATIVES

I. Rationale

Rule II, Section 5 (I) of the IRR of RA 10531 specifically provides that the NEA, in order to strengthen the ECs, shall develop, set and enforce institutional and governance standards for the operation of ECs such as, but not limited to, the observance of appropriate procurement procedure, including transparent and competitive bidding.

Rule II, Section 7 (a.v) of the IRR also provides that the NEA in the exercise of its quasi-judicial functions, shall have primary and exclusive jurisdiction over administrative cases involving complaints against EC officers which also it referred to Members of the Bids and Awards Committee.

II. Objectives

To enforce governance standards for the efficient operation of ECs such as the observance of appropriate procurement procedures; and to conform with RA 9184 (Government Procurement Reform Act), the following principles shall govern:

- 1) Transparency in the procurement process and in the implementation of procurement contracts.
- 2) Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding.
- 3) Accountability of BAC and EC officials who are directly or indirectly involved in the procurement process where they shall be held liable for their actions relative thereto.
- 4) Streamlined and Simplified Procurement Process that will uniformly be applied to both stock and non-stock ECs.

III. Definition of Terms

- 1) Approved Budget of the Contract (ABC) – refers to the budget for the contract duly approved by the EC Board as provided for in the EC's approved Cash Operating Budget, Annual Procurement Plan, E-ICPM or ERC approved CAPEX. The ABC shall be the upper limit or ceiling for the Bid prices.
- 2) BAC – Bids and Awards Committee
- 3) TWG – Technical Working Group
- 4) Bidding Documents – refers to documents issued by the EC (duly approved by the Board) as basis for bids, furnishing all informations necessary for a prospective bidder to prepare a bid.

- 5) Bid – refers to a signed offer or proposal submitted by a bidder in response to the Bidding Documents.
- 6) E-ICPM – refers to the NEA approved Enhanced-Integrated Computerized Planning Model of the EC.
- 7) CAPEX – refers to the ERC approved capital expenditures of the EC to be recovered through rate increase.
- 8) Procuring Entity – refers to the Electric Cooperative (EC)
- 9) Head of Procuring Entity – refers to the EC Board or its duly authorized official. (If the Board authorizes the General Manager, it must be through a Board Resolution).
- 10) Lowest Calculated Responsive Bid – refers to the bid which was determined to be the Lowest Calculated Bid after evaluation and passed all the criteria for post qualification.

IV. EC Procurement Planning

All procurements by the EC shall be based on the approved Cash Operating Budget, Supplemental Budget, E-ICPM, and CAPEX which were consolidated into an Annual Procurement Plan (APP) (ANNEX A*).

The Annual Procurement Plan, shall also include provisions for foreseeable emergencies based on historical data/records. Implementation of projects not included in the APP shall not be allowed.

V. Public Bidding (Competitive Bidding)

This is a method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post qualification, award of contract, contract signing and Notice to Proceed.

This method shall be used for procurement or contracts amounting to P1 Million and above.

A. GUIDELINES ON PUBLIC BIDDING

1. Preparation of Bid Documents by the EC

The Bidding Documents shall include the following:

- a) Approved Budget for the Contract (ABC)
- b) Eligibility Requirements (ANNEX B*)
- c) Instructions to Bidders which include the following:
 1. criteria for eligibility
 2. bid evaluation and post qualification
 3. date, time, and place of the pre-bid conference
 4. submission of bids and opening of bids
- d) Terms of Reference
- e) Plans and Technical Specifications

The specifications and other terms in the Bidding Documents shall reflect minimum requirements or

relevant characteristics and or performance requirements to meet the needs of the EC in clear and unambiguous terms. Reference to brand names shall not be allowed.

- f) Form of Bid, Price Form, List of Goods or Bill of Quantities
- g) Delivery time or Completion Schedule
- h) Form, Amount and Validity Period of Bid Security
- i) Form and Amount of Performance Security and Warranty
- j) Form of contract, General Conditions of the contract and Special Conditions of the contract. Include in the contract a provision for liquidated damages/penalty clause and warranty.
- k) Certification of availability of funds for the project.

- 2.** Invitation to Bid advertised at least once in a newspaper of general and national circulation and posted in a conspicuous place in the EC premises (certified by BAC Chairman).

***Advertisement of Invitation to Bid (Contents) .**

- 1. Name of Contract to be bid and brief description
- 2. General statement on the criteria for eligibility check, examination and evaluation of bids and post qualification.
- 3. Date, time and place of the deadline for the submission and receipt of eligibility requirements, technical and financial proposals, the pre-bid conference, and the opening of bids.
- 4. The Approved Budget for the Contract (ABC), cite whether exclusive or inclusive of VAT.
- 5. Source of Funding.
- 6. Period of availability of bidding documents, place where they may be secured, and price of bidding documents (non-refundable).
- 7. Delivery Schedule/Completion of Project.
- 8. Name, address, telephone number, fax number, e-mail and website addresses as well as the designated contact persons.
- 9. **Reservation Clause**

EC reserves the right to:

- 1. Reject Any and All Bids
- 2. Declare Failure of Bidding
- 3. Not Award Contract

SITUATIONS:

- 1. Prima Facie Evidence of COLLUSION between any employee or appropriate officer of the EC
- 2. Collusion between or among the bidder themselves.
- 3. BAC failed in following the Prescribed Bidding Procedures
- 4. Project no longer necessary as determined by the EC

3. Pre-Bid Conference

A pre-bid conference should be conducted (at least 12 calendar days) before the deadline for the submission and receipt of bids. The pre-bid conference shall discuss among other things the eligibility requirements and the technical and financial components of the contract to be bid as stipulated in the Bid Documents. Attendance of the bidders to the pre-bid conference is optional, except when specifically stated in the Invitation to Bid. Only those who have purchased the Bidding Documents shall be allowed to participate in the pre-bid conference and raise or submit written queries or clarifications

***Conduct of Pre - Bid Conference**

- a. Attendees to the pre-bid conference are only the prospective bidders who have bought bid documents, or their authorized representative (duly notarized).
- b. The secretariat shall take the minutes of the meeting and preferably video taped; and made available to all participants not later than three (3) calendar days after the pre-bid conference.
- c. **Any statement made at the pre-bid conference shall not modify the terms of the bidding documents unless such statement is specifically identified in writing as an amendment or as Supplemental Bulletin.**
- d. Bidders who have submitted bids before the Issuance of Supplemental/Bid Bulletin have to be informed in writing and allowed to modify or withdraw their respective bids.
- e. Supplemental Bulletin by BAC must be issued not later than 7 calendar days before the deadline for the submission and receipt of bids.
- f. The BAC and the prospective bidders shall synchronize their timepieces in preparation for the scheduled Bid opening. The BAC shall have an official timer.

4. Receipt / Opening of Bids / Pre-qualification

- 4.a For purposes of determining the eligibility of bidders, the checklist of criteria stated in Section I of Annex B shall be required, using Non- Discretionary "Pass/Fail" Criteria.
- 4.b In the opening of bids, the Two Envelope System shall be adopted using Annex B as the working tool.

Envelope 1 containing the Class A and B documents segregatedly filed and labeled shall be opened in the following order:

- Folder 1 -
Legal Documents }
Folder 2 -
Technical Documents } See Annex B
Folder 3 -
Financial Documents }

Folder 4 - }
Class "B
Documents

The submitted documents of each bidders shall be examined and checked to ascertain they are all present using a non-discretionary "pass/fail" criterion. If a bidder submits the required document, it shall be rated "passed" for that particular requirement. Hence, bids that fail to include any requirement or are incomplete or insufficient shall be considered "failed" otherwise, the first envelope shall be rated as "passed".

The second envelope (ENVELOPE 2) of the Bid proposal of bidders that were rated failed or ineligible shall no longer be opened and should be returned to the bidder.

5. Bid Evaluation

5.a After determining compliance with the requirements in the first envelope, the second bid envelope (envelope 2) of each remaining eligible bidder whose first bid envelope (envelope 1) was rated "passed" shall forthwith be opened In the following order:

Envelope 2

Folder 1 - }
Technical

Folder 2 - } See Annex B
Financial

5.b The bidder whose technical bid proposal passed the technical requirements and specifications shall be rated as "passed", afterwhich Folder 2 of the second envelope containing the financial proposal shall be opened.

5.c Financial bid proposals higher than the ABC shall outrightly be disqualified for post-qualification. Computational errors and omissions are considered for proper comparison of bids.

5.d In the evaluation of bids, the BAC shall evaluate all bids on an equal footing to ensure fair and competitive bid evaluation. For this purpose, all bidders shall be required to include the cost of all taxes such as but not limited to Value Added Tax (VAT), Income tax, local taxes and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including taxes, shall be the bases for bid evaluation, comparison and for determining the LOWEST CALCULATED BID.

5.e Bids shall then be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, and other bid modifications to identify the "Lowest Calculated Bid"