

**[ GPPB RESOLUTION NO. 05-2005, April 01, 2005 ]**

**TO ADOPT THE GUIDELINES ON INDEX-BASED PRICING FOR THE  
PROCUREMENT OF PETROLEUM, OIL, AND LUBRICANT  
REQUIREMENTS**

WHEREAS, Republic Act No. 9184 (RA 9184), otherwise known as "Government Procurement Reform Act" and its Implementing Rules and Regulations Part A (IRR-A) took effect on January 26, 2003 and October 8, 2003 respectively;

WHEREAS, Section 61 of R.A. 9184 and Section 61.1 of the IRR-A provide that for the given scope of work in a procurement contract as awarded, all bid prices shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the Government Procurement Policy Board (GPPB);

WHEREAS, Section 61.2 of the IRR-A further provides that any request for price escalation under extraordinary circumstances shall be submitted by the concerned entity to the National Economic and Development Authority (NEDA) with the endorsement of the procuring entity;

WHEREAS, GPPB Resolution No. 07-2004 was issued in view of prescribing the rules and procedures in the approval by the GPPB of requests for price escalation and establishing the legal and technical parameters for an objective determination of events that will result to extraordinary circumstances in accordance with the Civil Code of the Philippines;

WHEREAS, the Guidelines for Contract Price Escalation, confirmed, adopted and approved by the GPPB in the aforementioned Resolution defines "Extraordinary Circumstances" as events or occurrences, or series of events or occurrences which give rise to an increase in the contract prices during contract implementation;

WHEREAS, the concept of "Ordinary Fortuitous Event," as used in the aforementioned Guidelines for Contract Price Escalation, contemplates an event which ordinarily happens or which could be reasonably foreseen but is inevitable; and thereby necessarily subsumes within it the volatility and precarious character of prices of petroleum, oil and lubricant products;

WHEREAS, due to circumstances affecting crude oil production, the unstable movement of market prices and foreign exchange, and varying transshipment differential and delivery charges, the prices of Petroleum, Oil and Lubricant (POL) products and their derivatives have acquired a volatile, inconstant and precarious character such that they cannot be possibly fixed without unfavorable cost to the government that may result from counterbalancing actions employed by suppliers/bidders;

WHEREAS, the situations mentioned in the foregoing, although ordinarily happen and its occurrence may be reasonably foreseen, are subject to erratically changing circumstances beyond absolute human control and, thus, inevitably results to the impossibility of making an accurate forecast of the movement of prices; hence, contemplated as an ordinary fortuitous event that justifies price adjustment;

WHEREAS, the Guidelines for Contract Price Escalation lacks the flexibility to address the peculiar nature of these commodities and the circumstances surrounding its procurement;

WHEREAS, during the 3rd GPPB meeting held on April 1, 2005 at Unit 2506 Raffles Corporate Center, Ortigas Center, Pasig City, the Members of the Board discussed, considered and unanimously agreed to adopt the Guidelines on Index-Based Contract Pricing for the Procurement of POL Products, a copy of which is attached hereto as Annex "A" to form an integral part hereof;

NOW, THEREFORE, premises considered, WE, the Members of the GOVERNMENT PROCUREMENT POLICY BOARD, by virtue of the powers vested on US by law, hereby RESOLVE to adopt, as WE hereby adopt the Guidelines on Index-Based Contract Pricing for the Procurement of Petroleum, Oil and Lubricant Requirements (POL) , attached hereto as Annex "A".

RESOLVED, FURTHER, to consider that compliance with these Guidelines approved by the GPPB shall be deemed compliance with Section 61 of R.A. 9184 and its IRR-A.

This resolution shall take effect immediately.

Adopted: 1 April 2005

(SGD.) EMILIA T. BONCODIN  
*Secretary*  
*Department of Budget and Management*

*Also Signed by the Representatives of the following agencies :*

DEPARTMENT OF NATIONAL DEFENSE

DEPARTMENT OF HEALTH

DEPARTMENT OF ENERGY

DEPARTMENT OF FINANCE

DEPARTMENT OF TRADE AND INDUSTRY

DEPARTMENT OF SCIENCE AND TECHNOLOGY

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(SGD.) JOSE MARTIN C. SYQUIA  
*Board Secretary, GPPB*  
*Executive Director, GPPB-TSO*

ANNEX A

# GUIDELINES ON INDEX-BASED PRICING FOR PROCUREMENT OF PETROLEUM, OIL AND LUBRICANT PRODUCTS

## 1. SCOPE AND APPLICATION

These guidelines shall govern the use, under extraordinary circumstances, of an index-based pricing scheme, in accordance with Section 61 of Republic Act No. 9184 (R.A. 9184), otherwise known as "Government Procurement Reform Act" and its Implementing Rules and Regulations Part A (IRR-A), and the GPPB Guidelines for Contract Price Escalation.

These rules and procedures shall govern the petroleum , oil and lubricant (POL) procurement of national government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units when POL is a major operational requirement necessary for the prosecution of their principal mandate. Procurement of POL products from retailers or dealers other than major suppliers as hereafter defined, or from those who are engaged in the business of selling the same to the general public for ultimate consumption and which are sold at pump prices shall not be subject to these guidelines.

## 2. PURPOSE

These guidelines are being formulated to meet the following objectives:

2.1 To identify the conditions for the applicability of the index-based pricing scheme on the procurement of POL products by a procuring entity.

2.2 To prescribe the rules and procedures on the use of index-based pricing scheme for the procurement of POL requirements.

## 3. DEFINITION OF TERMS

a. Average Wholesale Posted Price (AWPP) - Refers to the average of the major POL suppliers' individual Wholesale Posted Price (WPP) as computed and issued by the Oil Industry Management Bureau (OIMB) of the Department of Energy (DOE).

b. Bid Price - Refers to the difference of AWPP less the discounts given by the bidder, in case of procurement using the WPP index; and the sum of MOPS plus the premium imposed, in case of procurement using the MOPS index.

c. Bulk Procurement - Procurement which, by the totality of all POL product requirements and by their sheer volume, necessitates procurement from major suppliers.

d. Total Contract Price - Refers to the aggregate of the amounts set by a procuring entity, as the ceiling, to meet the volume requirement for each type of POL product; the value of which shall not exceed the ABC.

e. Discounts - Refer to the total deductions or downward allowances for supplier-controlled costs, expressed as a percentage of the AWPP, which shall be the basis for comparison of bids and shall be used in the computation of the unit contract price.

f. Extraordinary Circumstance - Refers to an event or occurrence, or series of events or occurrences, before or during contract implementation, which give(s) rise to price movements in petroleum and its derivative products.