

TERMS OF REFERENCE

Project Title: Procurement for the Supply of Fuel for the Service Vehicles of the Office of the Solicitor General (OSG) for CY 2023

I. RATIONALE

The procurement for the supply of fuel (diesel and gasoline) for the OSG's service vehicles is a major operational requirement necessary for the pursuit of its principal mandate. This procurement also helps control fuel spending by setting limits and tracking consumption. To this end, the OSG intends to engage an entity which could provide such service.

The Revised Guidelines on Index-Based Pricing for Procurement of Petroleum, Oil and Lubricant (POL) Products, as amended, shall apply to this procurement.²

II. APPROVED BUDGET FOR THE CONTRACT

The total Approved Budget for the Contract (ABC) for this procurement is **Three Million Five Hundred Thousand Pesos (P3,500,000.00)**, inclusive of all applicable national and local taxes.

III. COMPUTATION OF LOWEST CALCULATED BID

The Lowest Calculated Bid shall be determined by identifying the bidder that offered the lowest bid price. For this purpose, bid price is defined as *the bid of the prospective Supplier, less discounts given, plus delivery cost, regardless of the index used in the procurement of POL products.*

IV. CONTRACT DURATION AND REQUIREMENTS

1. The Contract shall be for a period of **twelve (12) months, or until such Contract Price is consumed, whichever comes**

² See Appendix 22 of the Official Handbook on Philippine Government Procurement. This Revised Guidelines were recently amended by GPPB Resolution No. 26-2019.

first, to commence one (1) day after receipt by the Supplier of the Notice to Proceed (NTP).

2. If during contract implementation, the total contract price for the project would have been consumed notwithstanding that the requirements were not fully delivered in the units/volume contemplated, no further order and payments shall be made. For illustration, the illustration in Item 7.10 (vis-à-vis Items 7.6.1 and 7.8) of the Revised Guidelines on Index-Based Pricing for POL Products, as amended, shall form part of this ToR.³
3. In the event the Contract expires without a successful procurement for the Supply of Fuel, the Contract may be extended for one (1) month, or for such period necessary, until the successful procurement of a new contract for the Supply of Fuel; *Provided*, that in no case shall the extension or renewal of the total contract exceed two years.
4. The extension or renewal shall be subject to a) the approval of the Solicitor General, as Head of the Procuring Entity (HoPE); b) the availability of funds as certified by the OSG's Financial Management Service (FMS); and b) favorable assessment or evaluation of the contractor/supplier's performance.
5. Within **three (3) years** prior to the deadline of submission of bids, the Supplier must have completed a single contract that is similar to this project equivalent to at least fifty percent (50%) of the ABC;

V. BASIS OF PAYMENT

1. The Wholesale Price (WP) index shall be used in the procurement for the supply of fuel for the OSG's service vehicles. WP refers to the reference fuel prices individually set by local refiners and traders subject to periodic changes based on the movement in oil prices, foreign exchange, and all other costs *without* hauling charge, dealer's mark-up and dealer's E-VAT.
2. For purposes of payment, the bid price, discount and the delivery cost stated in the contract shall be fixed from the time of the bidding through the term of the contract. Delivery should be done at the end of the week.

³ These illustrations are collectively attached as Annex "A."

3. The amount to be paid by the OSG for fuel actually delivered and duly received by it shall be *the bid price, less the discounts offered, if any, plus or minus the weekly price adjustments duly posted by the Oil Industry Management Bureau (OIMB) of the Department of Energy (DOE) in its Price Watch / Price Adjustments / Fuel page in the DOE's website, and the delivery cost stated in the contract, at the date of actual delivery.* The formula is as follows:

$$\text{Payment} = [(\text{bid price} - \text{discounts}) +/- [(\text{DOE weekly price adjustments for gasoline and diesel}) + (\text{delivery cost or DC})]$$

4. The Supplier will provide a detailed price adjustment for the fuel actually delivered, as part of its billing (weekly price adjustments for WP index), together with its certification under oath that the supplier's price adjustments are those reported and duly posted at the DOE's website for products using the WP index.
5. The OSG shall issue an approved Purchase Order (PO) to be presented to the Supplier's Fuel Station. The OSG-authorized driver must also present his or her official OSG identification (ID) Card together with the approved PO. Without the approved PO, there shall be no refueling for any service vehicle of the OSG.
6. The Supplier shall provide a Statement of Account (SOA) or Billing Statement as basis for the payment of actual consumption per billing cycle. The SOA/Billing Statement or its documentary attachments should contain the following information:
 - a. Date and Time of Purchase
 - b. Amount of Purchase
 - c. Vehicle Plate Number
 - d. Number of liters
 - e. Name of Driver
 - f. PO Number
 - g. Invoice Number
7. For staggered deliveries, the OSG shall make, after every delivery, an accounting of the amount actually payable based on the date of the delivery receipt to determine the allowable unit/volume that may be ordered from the remaining amount allotted for fuel provisioning. The OSG shall be allowed to make

adjustments in the units/volume to be delivered per type of product to conform to the remaining amount in the total contract price.

8. To illustrate the provisions of the aforementioned V.3 and V.7 of this Terms of Reference (ToR), the illustrations in Items 7.6.1 and 7.8 of the Revised Guidelines on Index-Based Pricing for POL Products, as amended, shall form part of this ToR.⁴
9. To guarantee the faithful performance by the winning bidder of its obligations under the contract in accordance with the Bidding Documents, it shall post a **performance security** prior to the signing of contract.
10. The OSG shall be given **thirty (30) calendar days** to settle its monthly obligations reckoned from receipt of the Billing/Statement of Account by the Administrative Division.

VI. SCOPE OF SERVICES AND DELIVERABLES

1. Fuels to be supplied must conform to the **latest** Philippine National Standards on Fuel, i.e., **a) PNS/DOE QS 008:2018**, with Research Octane Number (RON) of **91** minimum for **regular grade gasoline and RON of 95 for premium grade gasoline**; and **b) PNS/DOE QS 004:2017**, with Automotive Diesel Oil (ADO) **of 50** for diesel.
2. The Supplier must have a service station within the 10-kilometer radius of the OSG. If required under any exigency during fueling, the Supplier shall provide, free of charge, basic services necessary for the maintenance of a vehicle, such as but not limited to, a) checking of radiator; b) checking of oil level; c) checking of brake fluid level; d) checking of battery; e) cleaning of wind shield, etc.
3. The Supplier must submit the **monthly billing statement** and **detailed transaction report** for all OSG vehicles within **five (5) working days** from the billing cut-off and ensure that the same is consistent with the transaction slips issued by stations and applying to the total bill the discount offered per Supplier's bid.

⁴ *Supra* note 2.

4. The OSG shall submit to the Supplier a list of service vehicles that are covered under the Fuel Supply Contract. The OSG shall be allowed to revise the list of service vehicles to include new vehicles.
5. The OSG shall submit to the Supplier the list and specimen signatures of its officers authorized to sign the required PO.
6. Availability and replenishment of fuel based on the hereunder estimated volume/quantity:

Fuel allocation per vehicle on a month-to-month basis	
SKL 802 (Pacita bus)	600 liters (diesel)
SKL 815 (Cavite bus)	670 liters (diesel)
SKE 791 (Monumento bus)	460 liters (diesel)
SKE 781 (Fairview bus)	650 liters (diesel)
SAA 2851 (Marikina mini-bus)	350 liters (diesel)
Four (4) Admin Dispatch Vehicles	
SAB 6334 (Toyota Hi-Ace)	40 liters (diesel)
SJR 753 (Toyota Innova)	40 liters (gasoline)
SJR 763 (Toyota Innova)	40 liters (gasoline)
SJR 781 (Toyota Innova)	40 liters (gasoline)

VII. PENALTIES FOR BREACH OF CONTRACT

Failure to deliver the services according to the standards and requirements set by the OSG shall constitute an offense and shall subject the Contract to applicable provisions of Republic Act (RA) No. 9184 and its Revised Implementing Rules and Regulations.

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

VIII. LIQUIDATED DAMAGES

Where the Contractor/Supplier refuses or fails to satisfactorily complete the work within the specified contract time, or in case of Supplier's delay in the delivery of goods and/or performance of services, the amount of the liquidated damages shall be at least equal to one-tenth of one percent (0.1%) of the cost of the unperformed portion of every day of delay. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, the procuring entity shall rescind the

contract, without prejudice to other courses of action and remedies available to it.

IX. CANCELLATION OR TERMINATION OF CONTRACT

Should there be any dispute, controversy or difference between the parties arising out of this TOR, the parties herein shall exert efforts to amicably settle such dispute or difference. However, if any dispute, controversy or difference cannot be resolved by them amicably to the mutual satisfaction of the parties, then the matter may be submitted for arbitration in accordance with existing laws, without prejudice for the aggrieved party to seek redress before a court of competent jurisdiction.

The extension or renewal of the Contract as described in Section V (2-3) shall be subject to termination upon thirty (30) day's written notice by one party to the other.

X. RESERVATION CLAUSE

The OSG reserves the right to reject any and all bids, declare a failure of bidding or not award the contract at any time prior to contract award in accordance with Section 41 of RA No. 9184 and its IRR, without thereby incurring any liability to the affected bidder or bidders.