

# TERMS OF REFERENCE

## Supply and Delivery of Diesel for the Generators at Cable Landing Stations and Repeater Stations

### I. Background of Item Being Procured

#### A. General Overview of the Procurement Project

The Department of Information and Communications Technology (DICT) is in charge of the planning, development, and promotion of the national ICT development agenda, pursuant to the Republic Act 10844. As such, the DICT is undertaking policy and regulatory reform; with express focus on the review, amendment, and development of critical laws, policies, and regulation that govern the ICT and telecommunications environment necessary to the effective implementation of the National Broadband Plan (NBP) and its infrastructure projects.

The DICT, in collaboration with the Bases Conversion Development Authority (BCDA), entered into an agreement to build a High-Speed Internet Infrastructure – the Luzon Bypass Infrastructure. Among the components are the two (2) Cable Landing Station (CLS) and four (4) Repeater Station facilities.

In accordance with this undertaking, DICT is tasked to operate and maintain the Cable Landing Station (CLS) and Repeater Station (RS) building facility, including the equipment, devices, and systems installed inside the facility.

#### B. Brief Description of the Item Being Procured

The project covers the supply and delivery of diesel to fuel generator sets in the Cable Landing Station (CLS) and Repeater Station (RS) facilities. The generator sets serve as a backup power source in case of a commercial power failure.

#### C. Approved Budget for the Contract (ABC) of Project and Fund Source

1. The ABC of the Project is Two Million One Hundred Thousand Pesos (Php 2,100,000.00)
2. The ABC is inclusive of 12% Value Added Tax (VAT)

### II. Purpose of the Procurement

#### A. Purpose

The purpose of this project is to procure diesel to fuel the generator sets. This is to ensure the government network and internet services for the public via Luzon Bypass Infrastructure (LBI) facilities are operational twenty-four (24) hours a day, seven (7) days a week in case of a commercial power failure.

The Luzon Bypass Infrastructure facilities consist of two (2) International Cable Landing Stations (ICLS) and four (4) Repeater Stations (RS). Below at the list of stations;

Cable Landing Stations (CLS)	
1.	Baler CLS: Aurora Trading Center, Baler, Aurora
2.	San Fernando CLS: Poro Point, San Fernando, La Union
Repeater Stations (RS)	
1.	Pantabangan RS: Brgy. Marikit, Pantabangan, Nueva Ecija
2.	San Jose RS: Brgy. Tulat, San Jose City, Nueva Ecija
3.	Sta. Maria RS: Poblacion, Sta. Maria, Pangasinan
4.	Rosario RS: Brgy. Cataguintangan, Rosario, La Union

### III. Mode of Procurement

- A. The mode of procurement is Public Bidding.

### IV. Nature of Procurement

- A. The nature of procurement is Goods and Services

### V. Technical Specifications

#### A. Scope of Work

1. The Winning Bidder shall supply and deliver the diesel fuel on an as-needed basis.
2. The Winning Bidder shall deliver and dispense the diesel fuel at the location, date, time, and volume specified in the Order Slip.
3. The Winning Bidder shall allocate up to 46,500 liters of diesel fuel per year more or less.

	Stations	Fuel allocation per year
1	Baler CLS	21,250 Liters
2	San Fernando CLS	21,250 Liters
3	Pantabangan RS	1,000 Liters
4	San Jose RS	1,000 Liters
5	Sta. Maria RS	1,000 Liters
6	Rosario RS	1,000 Liters
	Total	46,500 Liters

4. The Winning Bidder shall supply and deliver diesel fuel by volumes of 10,000 liters, 5,000 liters, 1,000 liters, 400 liters, and 100 liters as specified in the Order Slip.
5. The diesel Bid Price shall be based on the prospective supplier's Wholesale Posted Price (WPP) ten (10) days prior to the date of bid opening as verified with the Oil Industry Management Bureau of the Department of Energy.

*Note: The Pricing scheme is based on Revised 2016 IRR RA9184 Appendix 22 Section 5.1 guidelines.*

#### B. Definition of Terms

Wholesale Posted Price or WPP – refers to the reference fuel prices individually set by local refiners and traders subject to periodic changes based on the movement in crude oil prices, foreign exchange, and all other costs as verified and confirmed by the Department of Energy (DOE).

### C. Framework Agreement List

Item	Particulars / Location	Projected Quantity (Liters)	Unit Cost Per Liter (Php)	Total Cost (Php)
1	Supply, Delivery, and Dispensing of Diesel at San Fernando La Union Cable Landing Station (CLS).	21,250 li.	Bid Price	959,650.00
2	Supply, Delivery, and Dispensing of Diesel at Baler Cable Landing Station (CLS).	21,250 li.	Bid Price	959,650.00
3	Supply, Delivery, and Dispensing of Diesel fuel at Rosario Repeater Station (RS).	1,000 li.	Bid Price	45,160.00
4	Supply, Delivery, and Dispensing of Diesel at Sta Maria Repeater Station (RS).	1,000 li.	Bid Price	45,160.00
5	Supply, Delivery, and Dispensing of Diesel at San Jose Repeater Station (RS).	1,000 li.	Bid Price	45,160.00
6	Supply, Delivery, and Dispensing of Diesel at Pantabangan Repeater Station (RS).	1,000 li.	Bid Price	45,160.00

### VI. Order and Payment Terms

- A. The following documents shall be made integral parts of the Order(s) Slip issued to the Winning Bidder;
  1. Notice to Execute Framework Agreement
  2. Framework Agreement.
- B. Terms and conditions of payment;
  1. Payment shall be made within 15 working days after receiving the invoice from the supplier.
  2. Required documents for payment are as follows;
    - a.) Order Slip duly signed and approved.
    - b.) BIR VAT registered Winning Bidder's Invoice issued to the end-user.
    - c.) Winning Bidder's Delivery Receipt duly received/signed by end-users authorized representative.
    - d.) Acceptance Report issued and signed by end-users authorized representative

### VII. Framework Agreement Provision

## A. Definitions of Terms

1. **Call-Off.** Refers to a specific procurement request or order made by the procuring entity exercising the option and requiring a supplier or service provider to deliver the goods or render the services agreed upon under the terms of the Framework Agreement.
2. **Framework Agreement.** Refers to a written agreement between a procuring entity and a supplier or service provider that identifies the terms and conditions, under which specific purchases, otherwise known as “Call-Offs”, are made for the duration of the agreement.

The Framework Agreement is in the nature of an option contract between the procuring entity and the bidder(s) granting the procuring entity the option to either place an order for any of the goods or services identified in the Framework Agreement List or not buy at all, within a minimum period of one (1) year to a maximum period of three (3) years. The Framework Agreement shall have a fixed period of either one (1), two (2) or three (3) year(s).

3. **Framework Agreement List.** Refers to the list of goods or services, and their corresponding technical specifications, scope of work, projected quantities, and estimated prices, subject of the Framework Agreement.

This shall be limited to repeatedly required goods or services that are identified to be necessary and desirable, but, by its nature, use, or characteristic, the quantity and/or exact time of need cannot be accurately pre-determined and are not advisable to be carried in stock.

4. **Mini Competition.** Refers to the process by which the parties to a multi-year Framework Agreement bid as to their lowest price, prior to the issuance of a Call-Off by the procuring entity.

## B. Framework Agreement

1. Within ten (10) calendar days from receipt by the participating bidder(s) of the Notification to Execute a Framework Agreement with the procuring entity, the bidder or its duly authorized representative shall formally enter into a Framework Agreement with the procuring entity for an amount of One Peso (Php 1.00) to be paid by the procuring entity as a consideration for the option granted to the procuring entity to procure the items in the Framework Agreement List when the need arises.
2. Framework Agreements shall include the following: (a) Framework Agreement List; (b) a provision that the perfection of the actual procurement contract shall be reckoned from the execution of the Call-Offs; and (c) statement that upon the execution of the Call-Offs, all rules and guidelines governing implementation of procurement contracts under RA No. 9184 and its revised IRR shall be applicable.
3. Prices indicated in the Framework Agreement corresponding to the subject goods or services in the Framework Agreement List shall be fixed price per item or identified service. For a single-year Framework Agreement, the price shall be based on the actual bid price of the bidder, while for a multi-year Framework Agreement, it shall be based on the price offered in the Mini-Competition.

4. Framework Agreements shall not state or imply any agreement by the procuring entity to place future contracts or make orders with the supplier or service provider.
5. No modification of the Framework Agreement during its period shall be allowed.
6. Framework Agreements shall be valid only for the period stated in the bidding documents which, shall not exceed three (3) years from the time the Framework Agreement was entered into and executed by the parties, and shall not be extended beyond its lifetime.
7. To guarantee the faithful performance by the supplier or service provider of its obligations under the Framework Agreement, it shall submit a performance security in accordance with Section 39 of the revised IRR of RA No. 9184 or a Performance Securing Declaration as defined under this Guidelines prior to the signing of the Framework Agreement.
8. The basis for the computation of the performance security shall be the total contract price whether the procurement is for a single or multi-year framework agreement.
9. Notwithstanding the eligibility of a bidder, the BAC reserves the right to review the qualifications of the supplier or service provider. If there has been any change in the capability of the supplier or service provider to undertake its obligations under the framework agreement so that if it fails the eligibility criteria set thereon, the procuring entity shall consider the said supplier or service provider as ineligible and shall disqualify it from obtaining any award or contract.
10. Bidders executing the Framework Agreement either for single or multi-year shall ensure the continuing validity of their eligibility documents during the implementation of the contract.

### **C. Call-Off**

1. When the procuring entity has determined that an item or service covered in the Framework Agreement is needed, it shall require the delivery of the item or rendition of the service identified in the Framework Agreement List in such quantity or scope and at the price for which it was awarded by executing a Call-Off.
2. For a single-year Framework Agreement, Call-off may be executed and issued to the winning supplier or service provider immediately upon determination that an item or service is needed.
3. For a multi-year Framework Agreement, Call-off shall be issued after conduct of mini competition in favor of the supplier or service provider that provided the lowest calculated and responsive bid.
4. The BAC may execute as many Call-Offs for the same item as may be needed within the period of the Framework Agreement as long as the total quantity for all Call-Offs do not exceed the maximum quantity in the Framework Agreement List and the aggregate amount of all executed Call-Offs do not exceed the total contract price specified in the Framework Agreement.
5. The succeeding Call-Offs shall have the same unit price based on the financial bid offer in case of single-year Framework Agreement. For multi-year Framework Agreement with multiple qualified bidders, the price depends on the result of each

Mini-Competition but not to exceed the price submitted during the initial submission of the bidders' financial bid as provided in Section 5.4.2 of this Guidelines.

6. The BAC may execute Call-Offs requiring delivery to multiple destinations or performance at multiple locations.
7. For purposes of participation in other public bidding activities, the aggregate of the Call-Offs for a particular item or similar items satisfactorily completed by the supplier or service provider shall be considered as one (1) completed contract with the cumulative amount thereof as the total contract amount. In such case, the date appearing in the Certificate of Acceptance issued by the procuring entity for the last delivery will be considered as the date of completion of the contract. On the other hand, only those undelivered items in the Call-Offs executed by the procuring entity shall be included in the Statement of All Ongoing Government and Private Contracts for purposes of participating in other bidding activities.
8. For purposes of the Certificate of Availability of Funds requirement, it shall be issued only every Call-Off subject to existing auditing and budgeting rules and regulations.

#### **D. Implementation and Termination Framework Agreements**

1. After receipt by the supplier or service provider of the Call-Off from the procuring entity, it shall deliver or perform the items within the period specified in the Framework Agreement, unless a different time is provided in the Call-Off.
2. Any extension of time for the delivery or performance shall be made in writing and prior to the date of deliver or performance indicated in the Framework Agreement or Call-Off and subject to prior approval by the procuring entity after consideration of reasonable and justifiable causes.
3. If the supplier or service provider fails to deliver or perform within the agreed period, including any time extension, it shall be liable to the procuring entity for liquidated damages of at least equal to one-tenth of one percent (.001) of the cost of the unperformed portion of the total amount of the items ordered per Call-Off for every day of delay.
4. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the total amount of the items ordered per Call-Off, the procuring entity may rescind the same, without prejudice to other courses of action and remedies open to it.
5. The Warranty provision for goods under Section 62 of RA No. 9184 and its revised IRR shall be observed under the Framework Agreement, and shall be required for each Call-Off.
6. Without prejudice to the provisions of applicable laws, rules, and guidelines, the Framework Agreement shall automatically terminate under any of the following conditions:
  - a.) When the total maximum quantity specified in the Framework Agreement has been exhausted; or
  - b.) When the specified duration of the Framework Agreement has expired.

7. All other rules governing contract implementation and termination under RA No. 9184, its revised IRR, and relevant procurement policies shall be applicable.

**E. Repeat Order**

1. No Repeat Order for an item in the Framework Agreement List shall be allowed until after the procuring entity has exhausted the maximum quantity for the same item specified therein or after the Framework Agreement has expired, whichever comes first and subject to the conditions provided in Section 51 of RA No. 9184 and its revised IRR. For this purpose, the Repeat Order may only be availed of within six (6) months from the date of the last or final Call-Off for a specific item where the maximum quantity has been exhausted or from the expiration of the Framework Agreement.
2. In case Repeat Order is allowed and resorted to, the twenty-five percent (25%) maximum allowable quantity shall be based on the aggregate quantity of actual items ordered and delivered.

**VIII. Project Cost**

<b>Particulars</b>	<b>Qty</b>	<b>ABC</b>
Supply and Delivery of Diesel for the Generators at Cable Landing Stations and Repeater	1 lot	PHP 2,100,000.00

**IX. Project Timeframe**

Twelve (12) months upon the receipt of Notice to Execute Framework Agreement.