

NATIONAL POWER CORPORATION
Small Power Utilities Group
Luzon Operations Department

**TERMS OF REFERENCE
FOR THE HAULING SERVICES OF
OIL BASED FUEL TO SPUG PLANTS AND POWER BARGES**

SMALL VALUE PROCUREMENT

Part I - General Provisions

1.0 Scope of Bid

Bids shall be for the hauling services of oil based fuel to the power plants and barges indicated in Annex 1.

2.0 Contract Term

The contract shall have a term of twenty (20) days, commencing upon receipt of Notice of Award (NOA) . If, at the end of the contract term, a deliverable volume remains unserved from the original contracted volume, the contract period/term shall be automatically extended until the contracted volume of fuel to be hauled is fully served.

3.0 Approved Budget for the Contract

The Approved Budget for the Contract (ABC) for these hauling services are indicated in Annex 1.

4.0 Source of Funds

Internal Cash Generation of NPC

5.0 Deadline on submission of Request For Quotations (RFQ)

The bidder shall submit its quotation through its authorized representative using the appropriate quotation form on or before the deadline as specified in the RFQ in a sealed envelope addressed to the Chairman of the Bids and Awards Committee, Luzon Operations Department.

Quotations shall be submitted at the date, time and venue specified in the RFQ.

6.0 Scope of Works

The scope of works of the contractor shall be as follows:

- 6.1 Supply of labor, supervision, and provision of conveyances, equipment, materials and instruments for the duration of the hauling services.
- 6.2 Conduct of required volume determination of diesel fuel to be hauled at the fuel supplier's delivery point and at the recipient plant.
- 6.3 Receipt of diesel product to be withdrawn and hauled from supplier's designated source/pick-up location and safe delivery of the same to the designated recipient plant.
- 6.4 Transfer of fuel from drums/navy cubes/pails to the fuel storage tanks at the receiving plants.

7.0 Additional Documents to be Submitted

The Bidder shall submit the following documents (certified copies) with its quotation:

- 7.1 Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or Cooperative Development Authority (CDA) for cooperatives, or any proof of such registration.
- 7.2 Mayor's permit issued by the city or municipality where the principal place of business of the prospective bidder is located;
- 7.3 Audited financial statements, stamped "received" by the Bureau of Internal Revenue (BIR) for the preceding calendar year; or Tax clearance per Executive Order 398, Series of 2005; or Income and business tax returns for the last two (2) years.
- 7.4 Notarized Deed of Undertaking indicating -
 - a) that the contractor shall be held accountable for all liabilities resulting from oil spills, fires, and damage to properties and lives attributed to Contractor's fault for the duration of the hauling project;
 - b) that the hauler/contractor shall hold NPC free from any third party liability arising from damages to public and private properties, death or injury to people as a result of oil spillage, fire or any incident attributed to Contractor's fault, that may have occurred during the performance of the hauling contract.
- 7.5 If applicable, the JVA in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA.
- 7.6 Technical Documents
 - a) For Motor Launch /Motor Banca
 - (a.1) Proof of ownership/Contract of Lease.
 - (a.2) Valid Coastwise License or Certificate of Vessel Registry issued by MARINA.

- b) For Lorries /Trucks
 - (b.1) Valid DOST OR and Certificate of Registration
 - (b.2) Latest DOST Calibration Certificate
- c) For Barge/Vessel
 - (c.1) Proof of ownership/Contract of Lease.
 - (c.2) Certificate of Vessel Registry issued by MARINA

8.0 Quotation

Any quotations beyond the ABC shall be disqualified outright. The price (Peso/liter) quoted by the bidder shall be fixed for the duration of the contract and not subject to variation or price escalation on any account.

A quotation submitted with an adjustable price shall be treated as non-responsive and shall be rejected in accordance with the bidding procedures.

9.0 Detailed evaluation and comparison of bids

- 9.1 Minor arithmetical corrections covering computational errors /omissions shall be considered to enable proper comparison of all eligible bidders. Any adjustment shall be calculated in monetary terms to determine calculated price.
- 9.2 In case there is a difference in the computation by the bidder and NPC due to rounding off, the computation of the latter shall prevail and be considered in the evaluation.
- 9.3 In case of discrepancy between : a) bid price in figures and bid price in words, the latter shall prevail b) total price per item and unit price for an item multiplied by the quantity of that item, the latter shall prevail.
- 9.4 Based on the detailed evaluation of bids, those that comply with the above mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors to identify the Lowest Calculated Bid.
- 9.5 Total calculated bid price as evaluated and corrected for computational error which exceed the ABC shall not be considered.

10.0 Delays in the Supplier's Performance

- 10.1 Should the Contractor fail to deliver or incur delay in the performance of its hauling services under the contract, or encounter rejected delivery, Contractor shall pay NPC-SPUG Liquidated Damages, not by way of penalty, an amount equal to one tenth of one percent (1/10 of 1%) of the cost of the rejected or undelivered quantity of fuel per calendar day of delay reckoned from NPC-SPUG's date of need as indicated in the fuel orders of the recipient plants up to the actual date of delivery of the volume deficiency or replacement of the rejected fuel delivery. This

provision is imposed without NPC-SPUG having to prove that it incurred any damage as a consequence of the delay.

- 10.2 Without prejudice to the right of NPC-SPUG to impose Liquidated Damages, the hauler/contractor is duty-bound to inform NPC-SPUG in writing immediately of any delay in the fuel delivery to enable NPC-SPUG to make necessary adjustments if needed.

11.0 Force Majeure

- 11.1 The Contractor shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of a Force Majeure.

- 11.2 For purposes of this Clause, Force Majeure shall mean any cause or condition beyond the control of the party affected thereby which causes may include but are not limited to any of the following: acts of God; acts of a public enemy; war (declared or undeclared); civil war, sabotage, revolution, civil disturbance, epidemic, hurricane, cyclone, tidal wave, landslide, lightning, earthquake, flood, storm, typhoon, fire, adverse weather conditions, expropriation, act of eminent domain, insurrections, riots, terrorism, breakdowns of or damage to plant, port facilities or NPC plant and/or its facilities, labor stoppages, lockouts, strikes; order or acts of civil or military authorities; blockades; any restrictions imposed by government in receiving, order or acts of a competent court or governmental or other statutory authorities; explosion, accident on facilities, and acts of NPC in its sovereign capacity.

- 11.3 No party shall, however be relieved of liability for failure of performance if such failure is due to causes arising out of its own negligence or to causes, which could be removed or remedied with reasonable despatch. Instances or events that could be avoided or prevented by Contractor shall not be deemed a Force Majeure occurrence.

11.4 Effect of Force Majeure

- 11.4.1 The party affected by Forced Majeure shall give prompt written notice to the other, setting forth the particulars thereof in reasonable detail. The obligations of the party giving such notice shall be excused to the extent made necessary by such Force Majeure and during the continuance of such Force Majeure and said party shall incur no liability by reason of its failure to perform the obligations so excused; provided, however that the party giving such notice shall use its best efforts to eliminate such Force Majeure as soon as and to the extent reasonably practicable (taking into account costs). The affected party shall give written notice of the termination of such Force Majeure.

- 11.4.2 Nothing herein contained shall cause the party affected by the Force Majeure to submit to unreasonable conditions or restrictions imposed by a governmental authority, or to submit to

an unfavorable labor agreement, and it is agreed that any settlement of labor strikes or differences with workmen or government authority shall be entirely within the discretion of the party affected thereby.

12.0 Taxes and Duties

- 12.1 The Contractor shall be responsible for all taxes, duties, licenses, permits, fees and other charges that may be required in the hauling of oil based fuel to the plants.
- 12.2 NPC is a VAT registered entity subject to the payment of EVAT on all its hauling services.

13.0 Payment

- 13.1 The Contractor shall be paid for hauling services based on the volume of fuel entrusted to him by fuel Supplier at the pick-up point and received by the recipient plant.
- 13.2 Should the delivery fall short of the volume turned over by fuel Supplier, only the delivered volume at the recipient plant shall be paid for the hauling cost and the corresponding amount of volume losses shall be deducted from the contractor's receivables. The basis of computation of the amount of fuel lost shall be the fuel Supplier's contracted amount per liter plus surcharge of 10%.
- 13.3 In case of any gain in volume received by the recipient plant, payment shall be computed based on the volume entrusted to the Contractor at the pick-up point net of BS&W.
- 13.4 Payment is within thirty (30) calendar days after completion of each delivery and submission by the Contractor of complete supporting documents.
- 13.5 Invoicing and Documentary Requirements (Per delivery basis)
The following documents shall be required for payment:
 - 13.5.1 Original Statement of Account or Invoice
 - 13.5.2 Certified true copy of Abstract of Bids
 - 13.5.3 Original Bill of Lading (B/L) with receipt of cargo stated in the face of the original B/L

14.0 Contract Amendment

Subject to applicable laws, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

15.0 Termination

- 15.1 If a Force Majeure condition affects either NPC or Supplier such that the Force Majeure situation remains for a continuous duration of thirty (30) days, either party may, by written notice to the other, terminate the

contract in its entirety effective as of receipt of the notice of termination and both parties shall be released from further obligations except for obligations accrued prior to such termination.

- 15.2 NPC-SPUG has the option to terminate the contract, in whole or in part at any time of its convenience, for any of the following grounds:
- 15.2.1 Outside of *force majeure*, the Contractor fails to deliver fuel within the delivery period resulting to either reduced operating hours of the plant, load shedding, or fuel runout;
 - 15.2.2 Short deliveries;
 - 15.2.3 Contamination of the Goods;
 - 15.2.4 Unsafe storage/hauling conditions/practices; and
 - 15.2.5 In case it is determined prima facie that the Contractor has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation.
 - 15.2.6 In case the NPC-SPUG determines the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.

16.0 Responsibilities of the Contractor

- 16.1 Secure all necessary permits and licenses, etc. from all concerned regulatory agencies or local government units for the duration of the hauling project.
- 16.2 Maintain an updated record of all fuel hauling and deliveries.
- 16.3 Inform the Plant in writing any delays/deviation in the schedule of delivery and the reasons thereof.
- 16.4 Comply with the procedures stated in the hauling protocol

17.0 Responsibilities of NPC

- 17.1 Monitor the volume hauled by the contractor for each site and prepare a report on total liftings made against the contracted amount for purposes of reconciliation with the contractor.
- 17.2 Inform in writing the contractor of any changes in the original schedule of hauling services sent to the contractor.
- 17.3 End User shall immediately relay to the contractor delays in the arrival of fuel and the new schedule of arrival at pick up point.

Part II- Technical Provisions

18.0 Hauling Guidelines

- 18.1 Upon receipt of the Notice of Award (NOA) from NPC-SPUG, the Contractor shall, within three (3) working days, mobilize and secure its personnel, equipment, tools, materials and supplies for the contract.
- 18.2 As may be required by NPC's fuel Supplier, the Contractor shall ensure that its vessel is duly accredited by the said Supplier. NPC reserves the right to impose Liquidated Damages should the Contractor fail to obtain vessel accreditation and incur delay in fuel delivery as a result thereof.
- 18.3 The Contractor shall ensure complete delivery of fuel not later than the date of need as indicated in the B/L.
- 18.4 The Contractor shall acknowledge receipt of the B/L and shall notify NPC-SPUG of the identity of the vessel/lorry/tank truck to be used and ETAs at pick up point and delivery point.
- 18.5 In areas where availability of NPC-SPUG personnel is a constraint, the Office of the Area Manager may deputize the Contractor to receive the fuel from the Supplier.
- 18.6 Upon receipt of the B/L, the Contractor shall coordinate the schedule of hauling and immediately dispatch its equipment/vessel to the pick-up site or source of fuel to be hauled.
- 18.7 The Contractor shall secure berthing permit and shall be responsible for all taxes, duties and other fees imposed by port authorities.
- 18.8 At the pick up point of fuel, the Contractor or its representative shall present proper identification papers to Supplier's representative for validation.
- 18.9 The authorized NPC representative shall conduct an ocular inspection of the Contractor's hauling equipment for safety and seaworthiness.
- 18.10 The Contractor shall proceed with the loading of fuel to the vessel/tank truck or transfer of fuel to the prescribed container/drum.
- 18.11 All fuel compartments, outlet/inlet valves, and drain valves of the vessel or lorries/tank trucks, or drums as may be applicable, shall be properly sealed immediately after loading. The sealing plan shall be provided to the end-user prior to start of unloading.
- 18.12 The volume of diesel fuel (net of BS&W) measured at 15 degrees Celsius to be entrusted to the Contractor by Supplier shall be mutually conformed and acknowledged by both representatives of Contractor and Supplier.
- 18.13 The Contractor shall immediately transport the diesel fuel to the recipient plant using the required mode of delivery.
- 18.14 As soon as the diesel fuel delivery reaches the recipient plant's fuel receiving facilities, and after presentation of the B/L, the recipient plant shall conduct the pre-unloading activities, such as sampling and quality tests including inspection of the fuel cargo for traces or hints of possible

pilferage or leaks or tampered/broken seals or damage drum/plastic containers.

18.15 Once the Plant Head has determined that the delivery is in order, he shall give the instructions to the Contractor to unload the fuel cargo.

18.16 For barge/drumming/tank trucks, the Contractor shall transfer the fuel content to the fuel storage tanks using appropriate transfer pumps provided by the Contractor.

18.17 The determination of volume of fuel hauled shall be by means of tank sounding or by an appropriate metering device depending on the condition of the plant.

18.18 The recipient plant and the Contractor shall take measurements of the volume of diesel fuel received by the plant net of BS&W measured at 15 degrees Celsius.

19.0 Modes of Delivery

19.1 The Contractor may utilize different means of fuel hauling depending on the requirements of each plant. For each mode of delivery, the Contractor shall ensure adherence to the following conditions:

19.1.1 For Barge/Vessel Deliveries

- a) The barge/tanker vessel shall comply with the requirements imposed by MARINA.
- b) The barge/tanker vessel shall comply with the safety requirements of the Supplier's fuel loading facilities.
- c) The Contractor shall employ the services of a surveyor to perform official sounding measurements of fuel on all barge compartments.
- d) Broken or tampered fuel compartments seals shall be rejected.
- e) If vessel figure is used for payment, volume shall be measured at ambient air and corrected to 15°C.
- f) Prior to discharging, the recipient plant shall take temperature and density measurements of each fuel compartment. In the absence of measuring instruments, the density indicated in the Certificate of Analysis provided by fuel Supplier shall be used.

19.1.2 For Tank Truck/Lorry Deliveries

- g) Fuel compartments with tampered or broken seals or whose fuel cargo levels fall below the gauge marker shall be rejected.
- h) The volume of fuel hauled shall be determined using the tank truck gauge markers for each fuel compartment corrected to 15°C and net of water contamination.

19.1.3 For Drumming/Package Deliveries

- i) Hauler shall provide sufficient number of standard 200 – liter capacity plastic/steel drums as may be applicable, ensuring that

the same are properly cleaned, not contaminated and without damage.

- j) Partially filled drums or with tampered or broken seals shall be rejected.
- k) Hauling services of fuel using this scheme shall be paid based on volume received at the plant net of free water contamination and BS & W and corrected to 15°C.

19.2 The reference volume to be paid computed at 15° C shall be based on the Fuel Receiving/Turnover Report (FRTR). In computing for the volume for payment, the amount of free water shall be deducted first before converting the volume at 15° C. The BS & W volume shall then be removed from the volume converted at 15° C for the final volume for payment.

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