



Bid Bulletin No. 5

May 6, 2020

Public Bidding No. 19-341-7

**Engineering, Procurement, Construction and Commissioning (EPCC) Contract for
 the Subic-Clark Railway Project
 for the Department of Transportation (DOTr)**

Issued pursuant to Sec. 22.5 of the IRR of R.A. 9184 to clarify and/or amend certain provisions in the Bidding Documents issued for this project, considering the issues raised and clarifications made by prospective bidders during the **Pre-Bid Conference** held on **January 10, 2020**, likewise, respond to bidders' written queries received within the prescriptive period for filing.

A. AMENDMENT

AMENDMENTS/INCLUSION	BASES FOR AMENDMENT/INCLUSION
<ul style="list-style-type: none"> Section VII. BIDDING FORMS 	
<p style="text-align: center;"><i>BID FORM</i></p> <hr/> <p>Annex A: Statement of Five Largest Completed Contract</p> <p>Annex A-1: Statement of: (1) Ongoing Contracts and; (2) Awarded But Not Yet Completed Contracts</p> <p>Annex A-2: Computation of NFCC</p>	<ul style="list-style-type: none"> <i>To include the duly accomplished forms, Annex A (as Tab 19), Annex A-1 (as Tab 20), and Annex A-2 (as Tab 21) (template forms attached) in the Forms to be submitted during opening of bids</i>

B. CLARIFICATIONS

ITEM	BIDDING DOCS	CLARIFICATION	BASES FOR AMENDMENT/INCLUSION
CHINA HARBOUR ENGINEERING COMPANY LIMITED¹			
1	<p>ITB 16.3 Unless otherwise specified in the BDS, payment of the contract price shall be made in Philippine Pesos.</p>	<p>Suggest putting following information in BDS 16.3:</p> <ol style="list-style-type: none"> 1. Payments for Advance Payment shall be made in Philippine Pesos. 2. Interim Payments and Final Payment shall be made in the currency determined in the Loan Agreement between GoP and EXIM Bank of China. 3. All applicable taxes imposed for making any payments shall be paid in Philippine Pesos. 	<ul style="list-style-type: none"> • Original requirement shall be retained pursuant to ITB sub-clause 16.3 of the Philippine Bidding Documents, whose provisions are required to be observed per Sec. 6.2 of the IRR of R.A. 9184 and the GPPB during the Bidding Documents approval process, subject to a Foreign Exchange Rate and Payment Mechanism for China ODA funded projects, as may be concurred to by the Export-Import Bank of China and/or the Chinese Embassy that will be issued through a subsequent Bid Bulletin.
			<p>Original requirement shall be retained pursuant to ITB sub-clause 16.3 of the Philippine Bidding Documents, whose provisions are required to be observed per Sec. 6.2 of the IRR of R.A. 9184 and the GPPB during the Bidding Documents approval process, subject to a Foreign Exchange</p>

¹ E-mail received on February 18, 2020

			Rate and Payment Mechanism for China ODA funded projects, as may be concurred to by the Export-Import Bank of China and/or the Chinese Embassy that will be issued through a subsequent Bid Bulletin.
2.	Contract Data 14.2.3 Percentage deductions for repayment of Advance Payment: 100%	Amend Contract Data 14.2.3 as follow: Percentage deductions for repayment of Advance Payment: 15%	<ul style="list-style-type: none"> • Original requirement shall be retained, subject to subsequent issuance from the GPPB re Modification of Payment Scheme that will be discussed through a subsequent Bid Bulletin.
3.	Contract Data 14.3 Percentage deductions for repayment of Advance Payment: 100%		<ul style="list-style-type: none"> • Original requirement shall be retained, subject to subsequent issuance from the GPPB re Modification of Payment Scheme that will be discussed through a subsequent Bid Bulletin.
		Delete Contract Data 14.3	

4.	<p>Contract Data 14.3</p> <p>Period of payment:</p> <p>Upon the completion of all civil and structural works (including buildings) for the following sections:</p> <ol style="list-style-type: none"> 1. Tunnel section; 2. All elevation sections and river crossing bridges; 3. 50% of at-grade sections; 4. The following terminals: <ol style="list-style-type: none"> i. Subic Logistic Terminal ii. Clark Logistic Terminal 5. Clark Depot Complex 	<p>Option 1:</p> <p>Delete this Contract Data</p> <p>Option 2:</p> <p>If milestones are preferred, we suggest the number be increased to at least fifty.</p>	<ul style="list-style-type: none"> • Original requirement shall be retained, subject to subsequent issuance from the GPPB re Modification of Payment Scheme that will be discussed through a subsequent Bid Bulletin.
5.	<p>Contract Data 14.5</p> <p>Payments for Plant and Materials Intended for the Works: Not applicable</p>	<p>Delete Contract Data 14.5</p> <p>And a list of Plants and Materials which are to be paid for when shipped/delivered shall be submitted by the Contractor.</p>	<ul style="list-style-type: none"> • Original requirement shall be retained, since General Conditions Sub-clause 14.5 is only applicable in cases where Plant and/or Materials are listed in the Contract Data, which is not the case here.
6.	<p>Contract Data 14.6.2</p> <p>Minimum amount of interim payment: 25% of the Contract Price</p>	<p>Amend Contract Data 14.6.2 as follow:</p> <p>Minimum amount of interim payment: 2.5% of the Contract Price</p>	<ul style="list-style-type: none"> • Original requirement shall be retained, subject to subsequent issuance from the GPPB re Modification of Payment Scheme that will be discussed through a subsequent Bid Bulletin.

7.	Contract Data 14.8 Financing Charges for Delayed Payments: Not applicable	Delete Contract Data 14.8	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents that will be discussed through a subsequent Bid Bulletin.
8.	Contract Data 14.15 Currency of Payment: Philippine Pesos.	Amend Contract Data 14.15 as follow: <ol style="list-style-type: none"> 1. Payments for Advance Payment shall be made in Philippine Pesos. 2. Interim Payments and Final Payment shall be made in the currency that is determined in the Loan Agreement between GoP and EXIM Bank of China. 3. All the applicable taxes imposed for making any payments shall be paid in Philippine Pesos. 	<ul style="list-style-type: none"> • Original requirement shall be retained pursuant to ITB sub-clause 16.3 of the Philippine Bidding Documents, the provisions of which are required to be observed per Sec. 6.2 of the IRR of R.A. 9184 and the GPPB during the Bidding Documents approval process, subject to a Foreign Exchange Rate and Payment Mechanism for China ODA funded projects, as may be concurred to by the Export-Import Bank of China and/or the Chinese Embassy that will be issued through a subsequent Bid Bulletin.
9.	PCC 14.4 Delete the text of Sub-Clause 14.4	Delete PCC 14.4	<ul style="list-style-type: none"> • Original requirement shall be retained, subject to subsequent issuance from the GPPB re Modification of Payment Scheme that will be discussed

			<i>through a subsequent Bid Bulletin.</i>
10.	PCC 14.5 Delete the text of Sub-Clause 14.5	Delete PCC 14.5	<ul style="list-style-type: none"> • Original requirement shall be retained, since General Conditions Sub-clause 14.5 is only applicable in cases where Plant and/or Materials are listed in the Contract Data, which is not the case here.
11.	PCC 14.15 Delete the second sentence of Sub-Clause 14.15 and its subparagraphs (a) through (g).	Delete PCC 14.15	<ul style="list-style-type: none"> • Original requirement shall be retained pursuant to ITB sub-clause 16.3 of the Philippine Bidding Documents, the provisions of which are required to be observed per Sec. 6.2 of the IRR of R.A. 9184 and the GPPB during the Bidding Document approval process, subject to a Foreign Exchange Rate and Payment Mechanism for China ODA funded projects, as may be concurred to by the Export-Import Bank of China and/or the Chinese Embassy that will be issued through a subsequent Bid Bulletin.

12.	<p>ITB 31.2</p> <p>Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security, sign and date the Contract and return it to the Procuring Entity.</p>	<p>Amend ITB 31.2 as follow:</p> <p>Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall sign and date the Contract and return it to the Procuring Entity.</p>	<ul style="list-style-type: none"> • <i>The request is acceptable.</i>
13.	<p>ITB 32.1</p> <p>To guarantee the faithful performance by the winning Bidder of its obligations under the Contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than the signing of the Contract.</p>	<p>Amend ITB 32.1 as follow:</p> <p>To guarantee the faithful performance by the winning Bidder of its obligations under the Contract, it shall post a performance security within a maximum period of twenty-eight (28) calendar days from the date of full effectiveness of the Contract as per Sub-Clause 1.6.</p>	<ul style="list-style-type: none"> • ITB 32.1 is amended as follows: • <i>"To guarantee the faithful performance by the winning Bidder of its obligations under the Contract, it shall post a performance security within a maximum period of ten (10) calendar days from the date the Contract comes into full force and effect per Sub-Clause 1.6 of the Particular Conditions of Contract."</i>
14.	<p>ITB 33</p> <p>Within seven (7) calendar days from the date of approval of the Contract by the appropriate government approving authority, the Procuring Entity shall issue the Notice to Proceed (NTP) together with a copy or copies of the approved contract to the successful Bidder. All notices called for by the terms of the contract shall be effective only at the</p>	<p>Amend ITB 33 as follow:</p> <p>Within seven (7) calendar days after the date of full effectiveness of the Contract as per Sub-Clause 1.6, the Procuring Entity shall issue the Notice to Proceed (NTP). All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the successful Bidder.</p>	<ul style="list-style-type: none"> • <i>The request is acceptable, since pursuant to the applicable Philippines – China Executive Agreements, the effectivity of the Contract is contingent upon the effectivity of the Loan Agreement for the Project.</i> • <i>The following sentence is added to ITB 33: "The above</i>

	time of receipt thereof by the successful Bidder.		<p>notwithstanding, the Procuring Entity shall issue a Partial NTP for Advance Works together with a copy or copies of the approved contract to the successful Bidder within seven (7) calendar days from the date of approval of the Contract by the appropriate government approving authority. Advance works shall include the following: (1) geotechnical, soil, and topographic investigations and surveys, and other investigations and surveys that may be necessary for purposes of Preliminary, Concept, and other Design Works for the Project; (2) Preliminary, Concept, and other Design Works, to the extent agreed by the Employer and Contractor; (3) clearing, grubbing, and tree cutting works; (4) fencing and other site security works; (5) construction of roadways and other temporary access infrastructure; (6) construction of site offices and other related temporary facilities for the Employer and Contractor; and (7) establishment of construction yards, batching plants, and</p>

			<i>other temporary facilities, which are among the Works in Section VI: Employer's Requirements, Sub-clause 2.1.7 of the Bidding Documents."</i>
15.	<p>PCC 8.1</p> <p>1. Replace the text of Sub-Clause 8.1 to read as follows:</p> <p>"Within 7 days from the date of approval of the Contract by the appropriate government approving authority, the Employer shall issue the Notice to Proceed to the Contractor and give the Contractor a copy of the approved Contract. [PBD Infra ITB §33]</p> <p>2. The Notice to Proceed shall state the Commencement Date.</p> <p>"The Contractor shall commence the design of the Works not later than the Commencement Date. The Contractor shall commence the execution of the Works after the receipt by the Contractor of all approvals of the Contractor's Documents in accordance with Sub-Clause 5.2 [Contractor's Documents]."</p>	<p>Amend PCC8.1 as follow:</p> <p>1. Replace the text of Sub-Clause 8.1 to read as follows:</p> <p>"Within 7 days from the date of full effectiveness of the Contract, the Employer shall issue the Notice to Proceed to the Contractor. The Notice to Proceed shall state the Commencement Date."</p> <p>2. "The Contractor shall commence the design of the Works subject to the Contractor has received from the Employer the signed Contract and in the event that the Contract has not come into full force as per Sub-Clause 1.6, a Notice of Request to commence the preliminary design work. The Contractor shall commence the construction of the Works after the receipt by the Contractor of all approvals of the Contractor's Documents in accordance with Sub- Clause 5.2 [Contractor's Documents]."</p>	<ul style="list-style-type: none"> • <i>The request is acceptable, since pursuant to the applicable Philippines – China Executive Agreements, the effectivity of the Contract is contingent upon the effectivity of the Loan Agreement for the Project.</i> • <i>The following sentence is added to PCC 8.1: "The above notwithstanding, the Procuring Entity shall issue a Partial NTP for Advance Works together with a copy or copies of the approved contract to the successful Bidder within seven (7) calendar days from the date of approval of the Contract by the appropriate government approving authority. Advance works shall include the following: (1) geotechnical, soil, and topographic investigations and surveys, and other investigations and surveys that may be necessary for purposes of Preliminary, Concept, and other Design Works for the</i>

			<p>Project; (2) Preliminary, Concept, and other Design Works, to the extent agreed by the Employer and Contractor; (3) clearing, grubbing, and tree cutting works; (4) fencing and other site security works; (5) construction of roadways and other temporary access infrastructure; (6) construction of site offices and other related temporary facilities for the Employer and Contractor; and (7) establishment of construction yards, batching plants, and other temporary facilities, which are among the Works in Section VI: Employer's Requirements, Sub-clause 2.1.7 of the Bidding Documents."</p>
16.	<p>PCC 1.1.17</p> <p>Amend to read: "'Cost Plus Profit' shall have the same meaning as 'Cost.'"</p>	Delete PCC 1.1.17	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.

17.	<p>PCC 1.1.24</p> <p>Amend to read: “Defects Notification Period’ shall have the same meaning as ‘Defects Liability Period’, which means the period between contract completion and the date of issuance of the Performance Certificate, within which period the Contractor assumes the responsibility to undertake the repair of any damage to the Works at his own expense [PBD Infra GCC §1.14], with the duration of such period as stated in the Contract Data (with any extension under Sub-Clause 11.3 [Extension of Defects Notification Period]), calculated from the date on which the Works or Section is completed as certified under Sub-Clause 10.1 [Taking Over the Works and Sections].”</p>	<p>Amend PCC 1.1.24 as follow:</p> <p>Amend to read: “‘Defects Notification Period’ shall have the same meaning as ‘Defects Liability Period’, which means the period between contract completion and the date of issuance of the Performance Certificate, within which period the Contractor assumes the responsibility to undertake the repair of any damage to the Works at his own expense [PBD Infra GCC §1.14] subject to Sub-Clause 11.2 [Cost of Remedying Defects]; with the duration of such period as stated in the Contract Data (with any extension under Sub-Clause 11.3 [Extension of Defects Notification Period]), calculated from the date on which the Works or Section is completed as certified under Sub-Clause 10.1 [Taking Over the Works and Sections].”</p>	<ul style="list-style-type: none"> • <i>The request is acceptable.</i>
18.	<p>PCC 2.1</p> <p>If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall give Notice to the Employer within seven (7) days of the expiration of the time stated in the schedule of right of access produced under the Advance Contract or by BCDA for giving</p>	<p>Amend this paragraph as follow:</p> <p>If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall be entitled subject to Sub-Clause 20.2 [Claims For Payment and/or EOT] to EOT and/or payment of such Cost Plus Profit</p>	<ul style="list-style-type: none"> • <i>Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.</i>

	<p>such right or possession. Notwithstanding other terms in this Contract, in the event of any failure or delay by the Employer to hand over the Contractor possession of the lands necessary for the execution of the Works or to give the necessary notice to commence the Works or to provide the necessary drawings or instructions or any other delay caused by the consultant of the Advance Contract or BCDA or the Employer due to any other cause whatsoever, then such failure or delay shall in no way affect or vitiate the Contract or alter the character thereof or entitle the Contractor to damages or compensation there for, but in any such case,</p>		
	<p>the Employer may grant such extension or extensions of the completion date in accordance with Clause 20 [Employer's and Contractor's Claims] as may be considered reasonable.</p>		
19.	<p>PCC 3.5 For Sub-Clause 3.5.2 [Employer's Representative's determination]: Insert the following phrase at the end of the first paragraph" and after obtaining the Employer's approval"</p>	<p>Delete PCC 3:5</p>	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the amendment during the Bidding Documents approval process to align with the Philippine Bidding Documents.

20.	PCC 4.2 Delete the second paragraph	Delete the wording of "Delete the second paragraph"	<ul style="list-style-type: none"> • Original requirement shall be retained but please refer to item 13 above.
21.	PCC 4.6 Delete the third paragraph of Sub-Clause 4.6.	Delete PCC 4.6	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
22.	PCC 5.2 Delete the fourth paragraph providing that the Employer is deemed to have given a Notice of No-objection if the Employer fails to give a Notice within the Review Period. For Sub-Clause 5.2.3 [Construction]: Delete the parenthetical phrase "(or is deemed to have been given)" in sub-paragraph (a) of the first paragraph.	Delete these two paragraphs.	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
23.	PCC 5.8 Delete the parenthetical phrase "(or deemed to be given)" in the first paragraph of Sub-Clause 5.8.	Delete PCC 5.8	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
24.	PCC 7.5 Delete the last sentence of the second paragraph of Sub-Clause 7.5 providing that the Employer is deemed to have given a	Delete PCC 7.5	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the

	Notice of No-objection if the Employer fails to give a Notice within a prescribed period.		Philippine Bidding Documents.
25.	PCC 7.7 Amend Sub-Clause 7.7 by deleting the phrase "at whichever is the earlier of the following times" and by deleting items (b) and (c). [PBD Infra GCC §6.1]	Delete PCC 7.7	<ul style="list-style-type: none"> • The request is acceptable.
26.	PCC 8.3 Delete the following sentence in the fourth paragraph, now renumbered as the third paragraph: "If the Employer gives no such Notice: - within 21 days after receiving the initial program; or - within 14 days after receiving a revised program the Employer shall be deemed to have given a Notice of No objection and the initial program or revised program (as the case may be) shall be the Program."	Delete this paragraph of PCC 8.3	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
27.	PCC 8.10 Amend the first paragraph of Sub-Clause 8.10 by deleting the phrase "and/or payment of such Cost Plus Profit".	Delete PCC 8.10	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.

28.	PCC 8.11 Delete the text of Sub-Clause 8.11.	Delete PCC 8.11	<ul style="list-style-type: none"> • <i>The request is acceptable.</i>
29.	PCC 8.13 Insert the phrase ", for the Contractor's account," between the phrase "The Contractor shall promptly make good" and the phrase "all such deterioration" in the last sentence of the second paragraph of Sub-Clause 8.13.	Delete PCC 8.13	<ul style="list-style-type: none"> • <i>Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.</i>
30.	PCC 9.2 Delete the first paragraph of Sub-Clause 9.2	Delete PCC 9.2	<ul style="list-style-type: none"> • <i>Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.</i>
31.	PCC 10.1 Amend item (i) of the fourth paragraph of Sub-Clause 10.1 to read as follows: "(i) issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract;" Delete the fifth paragraph of Sub-Clause 10.1, which refers to the Employer's failure to either issue the Taking-Over Certificate or reject the Contractor's application.	Delete PCC 10.1	<ul style="list-style-type: none"> • <i>The first part of the request (amendment to item i) is acceptable.</i> • <i>Re second part of the request (deletion of fifth paragraph), original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.</i>

32.	<p>PCC 10.3</p> <p>Delete the text of Sub-Clause 10.3.</p>	Delete PCC 10.3	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
33.	<p>PCC 11.5</p> <p>Replace the word "may" with "shall" in order that the relevant phrase in the last sentence of the third paragraph of Sub-Clause 11.5 shall read "the Employer shall require the Contractor".</p>	Delete PCC 11.5	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB instructed the replacement pursuant to Section 39.6 of the R.A. 9184 IRR during the Bidding Documents approval process.
34.	<p>PCC 11.6</p> <p>Replace the word "Party" with "Contractor" in the third paragraph of Sub-Clause 11.6.</p>	Delete PCC 11.6	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
35.	<p>PCC 11.11</p> <p>Amend the first paragraph of Sub-Clause 11.11 by replacing the phrase "Promptly after" with the phrase "As a requirement for".</p> <p>Amend the second paragraph of Sub-Clause 11.11 by deleting the phrase "within 28 days after the issue of the Performance Certificate".</p>	Delete PCC 11.11	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.

36.	<p>PCC 12.2</p> <p>Delete the phrase "Plus Profit" in sub-paragraph (b) of the first paragraph of Sub-Clause 12.2.</p> <p>PCC 12.4</p> <ul style="list-style-type: none"> - Delete the first paragraph of Sub-Clause 12.4. - Delete sub-paragraph (iii) of Sub-Clause 12.4, which refers to the Contractor not receiving a Notice during the relevant DNP. - Delete the phrase "Plus Profit" in the last paragraph of Sub-Clause 12.4. 	Delete PCC 12.2&12.4	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
37.	<p>PCC 14.1</p> <p>Delete the phrase "or Cost-Plus-Profit" in sub-paragraph (a) of Sub-Clause 14.1.</p>	Delete PCC 14.1	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
38.	<p>PCC 14.8</p> <p>Delete the text of Sub-Clause 14.8 and replace with the following:</p> <p>"The Employer shall not pay any interest for delayed payments and adjustments." [PBD Infra GCC §40.3]</p>	Delete PCC 14.8	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion pursuant to §40.3 of the Philippine Bidding Documents (Infrastructure) during the Bidding Documents approval process.

39.	<p>PCC 14.13</p> <p>Delete the phrase "and after giving credit to the Contractor for all amounts (if any) previously paid by the Contractor and/or received by the Employer under the Performance Security," in subparagraph (b) of the first paragraph of Sub-Clause 14.13.</p>	Delete PCC 14.13	<ul style="list-style-type: none"> • <i>The request is acceptable.</i>
40.	<p>PCC 14.14</p> <p>Delete the text of Sub-Clause 14.14.</p>	Delete PCC 14.14	<ul style="list-style-type: none"> • <i>Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.</i>
41.	<p>PCC 15.5</p> <p>-Amend the first paragraph of Sub-Clause 15.5 by inserting:</p> <p>the phrase "in whole or in part," after the term "the Contract"; and [PBD Infra GCC §18.1] the phrase "if it has determined the existence of conditions that make the implementation of the Project economically, financially or technically impractical or unnecessary, such as, but not limited to, fortuitous events or changes in the Law of the Country or the policies of the Country's national government," after the term "Employer's</p>	<p>Amend PCC 15.5 by inserting a new paragraph:</p> <p>The Employer shall not terminate the Contract under this Sub-Clause in order to execute the Works himself or to arrange for the Works to be executed by another contractor.</p>	<ul style="list-style-type: none"> • <i>Original requirement shall be retained. GPPB required the insertion pursuant to §18.1 of the Philippine Bidding Documents (Infrastructure) during the Bidding Documents approval process.</i>

	<p>convenience". [IRR Annex I, §III.B] [PBD Infra GCC§18.1]</p> <p>-Replace the third paragraph of Sub-Clause 15.5 with the following:</p> <p>"Termination under this Sub-Clause shall take effect 28 days after the Contractor receives this Notice."</p>		
42.	<p>PCC 15.6</p> <p>- Delete sub-paragraph (b) in the first paragraph of Sub-Clause 15.6.</p> <p>- Delete the phrase "without the need for the Contractor to submit a Statement" in the third paragraph of Sub-Clause 15.6.</p> <p>- Insert the following as the fourth paragraph of Sub-Clause 15.6:</p> <p>"Notwithstanding any provision in the Contract to the contrary, if the Contract is terminated for the Employer's convenience under Sub-Clause 15.5, the Employer's Representative shall issue a certificate for (i) the value of the Works done and the Materials ordered, (ii) the reasonable Cost of removal of Equipment and repatriation of the Contractor's Personnel employed solely for the Works, and (iii) the Contractor's Cost in protecting and securing the Works, less any</p>	<p>Amend PCC 15.6 by deleting the paragraph of "Delete sub-paragraph (b) in the first paragraph of Sub-Clause 15.6" such that the Sub-paragraph (b) in the first paragraph of Sub-Clause 15.6 of GCC shall be retained.</p>	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the amendment pursuant to § 46.2 of the Philippine Bidding Documents (Infrastructure) during the Bidding Documents approval process. Also, GPPB required the deletion of sub-paragraph (b) in the first paragraph of Sub-Clause 15.6 to align with the Philippine Bidding Documents.

	amount of advance payments received up to the date of the certificate." [PBD Infra GCC §46.2]		
43.	<p>PCC 17.3</p> <p>Delete the third paragraph of Sub-Clause 17.3</p> <p>Amend the fifth paragraph (now re-numbered as the fourth paragraph) of Sub-Clause 17.4 by replacing the terms "a Party" and "the other Party" with the term "the Employer", and by replacing the term "the indemnifying Party" with the term "the Contractor".</p>	Delete PCC 17.3	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion and amendment during the Bidding Documents approval process to align with the Philippine Bidding Documents.
44.	<p>PCC 17.4</p> <p>Amend sub-paragraph (a) of Sub-Clause 17.4 by deleting the phrase ", unless attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents".</p>	Delete PCC 17.4	<ul style="list-style-type: none"> • The request is acceptable.
45.	<p>PCC 18.4</p> <p>- Replace the character ":" in the chapeau of the first paragraph of Sub-Clause 18.4 with "EOT."</p> <p>- Delete sub-paragraphs (a) and (b) of Sub-Clause 18.4.</p>	Delete PCC 18.4	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.

46.	<p>Contract Data 19.2.3 - Period of Insurance for Liability for Breach of Professional Duty: 12 years from issuance of Taking-Over Certificate or as required under applicable law, whichever period is longer.</p> <p>Contract Data 19.2.3(a) - Amount of Insurance Required for Liability for Breach of Professional Duty: P5 billion or the amount as required by applicable law, whichever is greater</p>	<ol style="list-style-type: none"> 1. According to the latest market feedback, regardless of the market capacity and premium, the longest period of insurance available is 12 years (including the construction period) for similar project in similar region. 2. However, Professional Indemnity Insurance is now in a total Seller's Market. If the period and limit are as per the current Contract conditions, the premium will be very high indeed and a massive deductible will be required. 3. High limit and long period makes the market terms and conditions less attractive, with a narrow coverage, high premium, and most importantly a high deductible. In case of high deductible, we are apparently deviating from the purpose of insurance. 	<ul style="list-style-type: none"> • <i>The request is acceptable.</i>
		As explained above, for more practical concerns, we would like to propose a total 8-years of PI period (including construction period) with a liability amount of 1.5 billion Peso.	
47.	Contract Data 19.2.4 Amount of Insurance Required for Injury to Persons and Damage to Property: 30% of Contract Price	<p>As this is a new-built project, we do not see much risk exposure on Third Party Liability.</p> <p>We propose that the amount of Insurance required for Injury to Persons and Damage to Property be limited to 10% of Contract Price.</p>	<ul style="list-style-type: none"> • <i>The proposal is accepted.</i>
48.	ER 6.2.1 The Design shall be carried out in accordance with the Regulations, Standards, and Codes of Practice	We have noted specific requirements in some other Clauses in the ER to be inconsistent with this principle (i.e. some requirements are following neither the Regulations, Standards, and	<ul style="list-style-type: none"> • <i>It is confirmed that notwithstanding anything to the contrary in the Employer's Requirements, ER 6.2.1 shall prevail,</i>

	of the People's Republic of China, except to the minimum extent necessary to comply with the laws of the Philippines.	<p>Codes of Practice of the People's Republic of China, nor the laws of the Philippines).</p> <p>Please can it be confirmed that all the Regulations, Standards, and Codes of Practices shall be in accordance with those of PRC, except to the minimum extent necessary to comply with the laws of the Philippines.</p> <p>Please can references to other standards be removed from the ER and please can it be clearly stated that should any discrepancies occur Clause 6.2.1 of the ER shall prevail.</p>	<p><i>provided, that in cases where the Contractor believes that the Regulations, Standards, and Codes of Practice ("Regulations") of the People's Republic of China ("PRC") are equivalent to the corresponding Regulations of the Philippines, then the Contractor may use the Regulations of PRC after providing sufficient substantiation to demonstrate functional equivalence between the concerned PRC and Philippines Regulations, and provided further, that in cases where the Regulations of PRC have no corresponding Regulations in the Philippines, then the Contractor may use the Regulations of PRC, upon sufficient substantiation of the absence of functionally equivalent Regulations in the Philippines.</i></p>
49.	Bid Bulletin No. 1 January 27, 2020 Public Bidding No. 19-341-7 Deadline of Submission and Receipt of Bids	Due to Coronavirus (COVID-19) outbreak in global, a temporary travel restriction is issued by Philippines Government against Chinese Citizen. Therefore, we would like to request for another one-month extension of the deadline of submission of the Bid from 28th February 2020 to 31th March 2020.	<ul style="list-style-type: none"> • <i>Refer to Bid Bulletin No 2 dated February 27, 2020.</i>

		Kindly be advised that the COVID-19 outbreak is a continuous event of Force Majeure, thus the date of submission of the Bid shall be depending on the release of travel restriction to Chinese Citizen by Philippines Government as well.	
CHINA STATE CONSTRUCTION ENGINEERING COMPANY LIMITED²			
1.	Public Bidding No.19-341-7 Deadline of Submission and Receipt of Bids: January 27, 2020	Request for the POSTPONEMENT of the scheduled submission of bids due to travel ban in going out China to the Philippines	<ul style="list-style-type: none"> • Refer to Bid Bulletin No 2 dated February 27, 2020.
2	Refer to the Particular Condition Sub-Clause 14.3, the Total Amount of the Interim Payment will be 40% of the Contract Price, the rest 60% of the contract price will be paid after project completion.	Suggested the Interim Payment as 100% monthly payment.	<ul style="list-style-type: none"> • Original requirement shall be retained, subject to subsequent issuance from the GPPB re Modification of Payment Scheme that will be discussed through a subsequent Bid Bulletin.
3	Refer to the Particular Condition Sub-Clause 14.2.3, the Advance Payment will be repaid 100% within one time.	Suggested the repayment as the FIDIC Condition as 15% of each payment pro rata.	<ul style="list-style-type: none"> • Original requirement shall be retained, subject to subsequent issuance from the GPPB re Modification of Payment Scheme that will be discussed through a subsequent Bid Bulletin.
4	Refer to the Contract Condition Sub-Clause 14.15, the Currency of the Payment should be Philippine Pesos.	Suggested that the Payment Currency to be US Dollar, and fix the exchange rate as which was published by Bangko Sentral ng Pilipinas (BSP) 28 calendar days before Tender Submission Date.	<ul style="list-style-type: none"> • Original requirement shall be retained pursuant to ITB sub-clause 16.3 of the Philippine Bidding Documents, the provisions of which are required to be

² Email received on February 4, 2020 and February 18, 2020.

			<p>observed per Sec. 6.2 of the IRR of R.A. 9184 and the GPPB during the Bidding Documents approval process, subject to a Foreign Exchange Rate and Payment Mechanism for China ODA funded projects, as may be concurred to by the Export-Import Bank of China and/or the Chinese Embassy that will be issued through a subsequent Bid Bulletin.</p>
5	<p>Refer to the ITB 32.1, the contractor should submit the Performance Security within Ten (10) calendar days from the receipt of the Notice of Award, in consideration of the time between the effective of China-Philippine loan agreement and receipt of the Notice of Award will be more than 6 months based on experience.</p>	<p>Suggest the Performance Security submission time to be within 30 calendar days after the main contract take effect.</p>	<ul style="list-style-type: none"> • ITB 32.1 is amended as follows: "To guarantee the faithful performance by the winning Bidder of its obligations under the Contract, it shall post a performance security within a maximum period of ten (10) calendar days from the date of full effectiveness of the Contract as per Sub-Clause 1.6 of the Particular Conditions of Contract."
6.	<p>Refer to the Particular Conditions Sub-Clause 2.1, delay by the Employer's possession of the land and the Sub-Clause 8.9, suspension by the Employer, the contractor's claim for the cost will not be accepted; Refer to the Particular Sub-Clause 15.6, the Employer</p>	<p>Suggested keeping the Sub-Clause 2.1, 8.9, and 15.6 as the original FIDIC contract terms for the reason of fairness:</p>	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.

	have the right to terminate the contract unconditionally, and the Contractor cannot acquire the due compensation.		
7	Refer to the Particular Conditions Sub-Clause 21.6 Arbitration.	Suggested to change the Place of Arbitration as Singapore	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required this revision pursuant to Section 59 of R.A. 9184 during the Bidding Documents approval process.
CHINA RAILWAY INTERNATIONAL GROUP CO. LTD³			
1.	There is a Letter Testimonial document from the Bank which shall be submitted by the Bidders in accordance with the No.19 item of Checklist and Tabbing of Bidding Requirements in the bidding documents, but no further descriptions and forms of which is stipulated in the bidding documents.	<p>If its purpose and function is similar to NFCC as provided in the Article 5.5of the bidding documents on page 13.</p> <p>Can we select one for submission? Please make it clear.</p>	<ul style="list-style-type: none"> • It is clarified that the Letter Testimonial document from the Bank shall no longer be needed. Instead, Annex A-2: Computation of NFCC (as Tab 21) shall be submitted.
2.	Due to the Christmas and New Year's Day and the Spring Festival (Chinese New Year) are included in the duration of bidding which started on Dec 20 2019 and ended on February 28, 2020. Unfortunately, the novel corona virus outbreak recently struck in Wuhan, China. The procedure of notarization and authentication on related documents in Chinese issued by the China government is	<p>All our document transactions were affected to be delayed. Due to this, may we request to extend the date of submission of the Tender Bid Documents to 15 days after the temporarily ban was revoked.</p> <p>So, shall the related documents be only notarized in the Philippines?</p>	<ul style="list-style-type: none"> • Refer to Bid Bulletin No 2 dated February 27, 2020. • Refer to ITB Section 11. Language of Bids.

³ Email received on February 14, 2020 and February 17, 2020.

	<p>not available for the bidders to complete before the deadline.</p> <p>Late last week, the Philippine government thru the directive of the President Rodrigo R. Duterte, all entry of Chinese national in the country was temporarily ban. Those who arrived thru the entry ports will be subjected for quarantine for an unspecified duration.</p>		
3.	<p>In the Instruction to bidder clause 33, Notice to Proceed Within seven (7) calendar days from the date of approval of the Contract by the appropriate government approving authority, the Procuring Entity shall issue the Notice to Proceed (NTP) together with a copy or copies of the approved contract to the successful Bidder.</p> <p>All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the successful Bidder.</p> <p>But in Section V. Particular Conditions (Part B: Special Provisions) Replace the text of Sub-Clause 1.6 with this: <i>"The Parties shall enter into a Contract Agreement within 10 days from receipt of the Notice of Award by the</i></p>	<p>The Contract Agreement shall be in the same form as the document denominated "Form of Contract Agreement in Section VII [Bidding Forms] of the Bidding Documents. The costs of notarial fees and documentary stamp tax and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Contractor. The Contract shall come into full force and effect on the date of Loan Agreement effectivity"</p> <p>Is there a contradiction between the above two points?</p>	<ul style="list-style-type: none"> • Refer to ITB Clause 33
			<ul style="list-style-type: none"> • There is none.

	<i>Contractor. [IRR §37.2.1}]”</i>		
4.	The proof of completion of FLCC & on-going and awarded contracts not started shall be submitted by the LCB for post qualification purposes according to the presentation in the Pre-bid Conference on Jan 10 2020, so does it mean that no need for all bidders to submit the proof of completion of FLCC & on-going and awarded contracts such as contracts and taking over certificate and performance certificate etc. before post qualification, and the bidders just make the list of FLCC & on-going and awarded contracts not started with signature of authorized person in the bidding proposal components.	Please confirm it.	<ul style="list-style-type: none"> • <i>Bidder’s understanding is correct, but please note the requirement to submit Annex A: Statement of Five Largest Completed Contracts (as Tab 19), Annex A-1: Statement of: (1) Ongoing Contracts; and (2) Awarded But Not Yet Completed Contracts (as Tab 20), and Annex A-2: Computation of NFCC (as Tab 21) as part of the bid. It is noted that bidders are not precluded to submit the supporting documents during the submission and opening of bids to facilitate post-qualification.</i>
5.	According to the requirements of Clause 14.3 of Special Conditions, the Contractor can only receive 40% progress payment during the project implementation, which leads to high	The Employer is requested to consider adjusting payment clauses of project funds, that is, the progress payment shall be paid on a monthly basis according to FIDIC’s agreement and the advance payment shall be deducted at 15% of the measurement payment of each	<ul style="list-style-type: none"> • <i>Original requirement shall be retained, subject to subsequent issuance from the GPPB re Modification of Payment Scheme that will be discussed through a subsequent Bid Bulletin.</i>

	capital cost of the Contractor's advance payment and is not conducive to the project implementation. At the same time, according to the provisions of the EIBC (Export-Import Bank of China), after the output value completed by the Contractor is to be confirmed by the Employer, EIBC will directly pay the progress payment to the Contractor.	time.	
6.	According to Sub-Clause 2.1 Right of Access to the site of Special Conditions, if the Employer's land acquisition causes project delay, the Contractor shall be entitled to obtain duration compensation, rather than expense compensation. As the land acquisition is the responsibility of the Employer, the loss of duration delay caused to the Contractor due to land acquisition shall also be compensated reasonably, in addition to the extension of duration.	It is recommended to follow FIDIC's agreement.	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
7.	According to the requirements of Clause 8.9 and 8.10 of Special Conditions, if the Project is suspended due to reasons other than the Contractor, the Contractor can only obtain duration compensation, rather than expense	In order to reflect fairness and justice, the Employer is requested to consider performing according to FIDIC's agreement.	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.

	compensation, which is a high risk for the Contractor and is unequal.		
8.	According to the agreement of PCC 5.2, "the Employer is deemed to have given a Notice of No-objection if the Employer fails to give a Notice within the Review Period" is deleted. If the Employer fails to reply within the agreed time, how should the Contractor perform? In order to successfully implement the Project.	It is recommended to follow Fidic clauses.	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
9.	According to Clause 9.2 of Special Conditions, "the first paragraph of Sub-Clause 9.2." is deleted. Due to the substantial impact of the Contractor's experiment caused by the Employer's reason, the Contractor cannot	It is suggested to perform according to Fidic's agreement.	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
	make a claim according to Clause 10.3, which is adverse to the Contractor to perform the Project.		
10.	According to Clause 10.1 of Special Conditions, "Delete the fifth paragraph of Sub-Clause 10.1, which refers to the Employer's failure to either issue the Taking-Over Certificate or reject the Contractor's application". In order to reflect fairness and justice.	It is recommended to maintain the original Fidic clause.	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
11.	According to Clause 10.3 of Special Conditions, "Delete the	It is recommended to maintain the original Fidic clause.	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the

	text of Sub-Clause 10.3". In order to reflect fairness and justice.		deletion during the Bidding Documents approval process to align with the Philippine Bidding Documents.
12.	According to Clause 6.2 of Bidding Document ER, the design specifications and standards of the Project adopt Chinese standards and meet the minimum legal requirements of the Philippines. However, in other contents of ER, the Employer also introduces other standards, such as fire protection requirements.	Please confirm the priority of Chinese standards and the minimum legal requirements of the Philippines. In case of conflict, the Chinese standards and the minimum legal requirements of the Philippine laws shall prevail to ensure the smooth implementation of the Project.	<ul style="list-style-type: none"> It is confirmed that notwithstanding anything to the contrary in the Employer's Requirements, ER 6.2.1 shall prevail, provided, that in cases where the Contractor believes that the Regulations, Standards, and Codes of Practice ("Regulations") of the People's Republic of China ("PRC") are equivalent to the corresponding Regulations of the Philippines, then the Contractor may use the Regulations of PRC after providing sufficient substantiation to demonstrate functional equivalence between the concerned PRC and Philippines Regulations, and provided further, that in cases where the Regulations of PRC have no corresponding Regulations in the Philippines, then the Contractor may use the Regulations of PRC, upon sufficient substantiation of the absence of a functionally equivalent

			Regulations in the Philippines.
13.	According to the Contract Data 14.8 of Bidding Document, if the Employer delays the payment, the Contractor has no right to claim for interest, which is unfair to the Contractor.	It is recommended to follow the Fidic's agreement.	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required the revision pursuant to §40.3 of the Philippine Bidding Documents (Infrastructure) during the Bidding Documents approval process.
14.	According to the requirements of Contract Data 19.2.2(a) and 19.2.3 of Bidding Document, the designed Insurance period is 12 years after the completion of the Project, and the guarantee limit is ₱ 5 billion. According to experience, the requirement is relatively high, and no insurance company agrees to underwrite after inquiry.	It is suggested that the guarantee period is 5 years after the completion of the Project, and the guarantee limit is ₱ 1.0 billion.	<ul style="list-style-type: none"> • Please refer to the response in Clarification Item No. 46 above
15.	According to the agreement of Contract Data 21.6 of Bidding Document, the place of dispute arbitration is the Philippines.	It is suggested to change it to an independent third country (such as Singapore), or Hong Kong China. Please consider.	<ul style="list-style-type: none"> • Original requirement shall be retained. GPPB required this revision pursuant to Section 59 of R.A. 9184 during the Bidding Documents approval process.

By Rules, all other related provisions in the Bidding Documents correspondingly affected by these amendments are likewise deemed amended to conform to this Bid Bulletin.

Amendments made herein shall be considered an integral part of the Bidding Document.

The clarifications explain in greater detail the purpose or intent of the requirement and do not necessarily amend that particular provision in the Bidding Documents

SIGNATURE REDACTED

MR. JULIUS M. SANTOS

Chairperson, SBAC

STATEMENT OF FIVE LARGEST COMPLETED CONTRACT SIMILAR TO THE CONTRACT TO BE BID

This is to certify that _____ (company) has the following completed contracts for the last ten (10) years.

Date of the Contract	Contracting Party	Name of Contract	Nature of Work	Amount of Contract	Date of Delivery/ End-user's Acceptance	Date of Official Receipt	Bidder is A) Contractor B) Subcontractor

Name and Signature of Authorized Representative

Date

- *Instructions:
- a) Cut-off date as of: _____
 - b) (i) Up to the day before the deadline of submission of bids.
 (ii) In the column under "Dates", indicate the dates of Delivery/ End-user's Acceptance and Official Receipt.
 - c) "Name of Contract". Indicate here the Nature/ Scope of the Contract for the Procuring Entity to determine the relevance of the entry with the Procurement at hand. Example: "Supply and Delivery of Generator Set"

Statement of (i) Ongoing Contracts and; (ii) Awarded But Not Yet Started Contracts

This is to certify that _____ (company) has the following ongoing and awarded but not yet started contracts:

Date of the Contract	Contracting Party	Name of Contract	Nature of Work	Amount of Contract	Value of Outstanding Contracts	Bidder is A) Contractor B) Subcontractor

_____ Date

Name and Signature of
Authorized Representative

***Instructions:**

- a) State all ongoing contracts including those awarded but not yet started (government and private contracts which may be similar or not similar to the project called for bidding) as of:
 - i. **The day before the deadline of submission of bids.**
- b) If there is no ongoing contract including awarded but not yet started as of the aforementioned period, state none or equivalent term.
- c) The total amount of the ongoing and awarded but not yet started contracts should be consistent with those used in the Net Financial Contracting Capacity (NFCC) in case an NFCC is submitted as an eligibility document.

"Name of Contract". Indicate here the Nature/ Scope of the Contract for easier tracking of the entries/ representations.
Example: "Supply and Delivery of Generator Set"

FINANCIAL DOCUMENTS FOR ELIGIBILITY CHECK

- A. Summary of the Applicant Firm's/ Contractor's assets and liabilities on the basis of the Firm's/Contractor's audited financial statements prepared in accordance with international reporting standards for the immediately preceding year, as submitted to the Applicant Firm's / Contractor's concerned statutory regulator (e.g., counterpart in China of the Philippines' Securities and Exchange Commission, Philippine Stock Exchange, and / or Bureau of Internal Revenue).

		Year 20__
1	Total Assets	
2	Current Assets	
3	Total Liabilities	
4	Current Liabilities	
5	Total Net Worth (1-3)	
6	Current Net Worth or Net Working Capital (2-4)	

- B. The Net Financial Contracting Capacity (NFCC) based on the above data is computed as follows:

$NFCC = [(current\ assets\ minus\ current\ liabilities) \times (15)]$ minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract for this Project

NFCC = Php _____

Submitted by:

Name of Firm / Contractor

Signature of Authorized Representative

Date : _____

NOTE:

1. If Partnership or Joint Venture, each Partner or Member Firm of Joint Venture shall submit the above requirements