



CLARIFICATORY BULLETIN NO. 2
16 October 2018

NMP SELECTION PROCESS

Issued under Sec. 5.2 of the Instruction to Participants (ITP) to clarify certain provisions of the ITP for the NMP Selection Process based on the questions propounded by the prospective Participants and attendees to the Selection Committee during the Pre-Selection Information Session held on 15 October 2018 at 9:30AM, NTC Multi-Purpose Hall.

Queries/Issues	Clarification
<p>1. Re ₱10B aggregate paid capital by foreign committed investors that must be certified by the Philippine Embassy in the country of origin.</p> <p>Are the actual intra-corporate agreements between the parties not part of those documents required to be processed as above?</p>	<p>For aggregate paid capital by foreign committed investors, please refer to Sec. 4.2(b)(2) of the ITP.</p> <p>For the consular authentication of the latest audited financial statements, see Sec. 6.3 of the ITP.</p> <p>For purposes of the Selection Process, only the binding Bidding Agreement executed between and among the parties needs to be submitted.</p> <p>If the binding Bidding Agreement is executed in a foreign country, please see Sec. 6.3 of the ITP.</p>
<p>2. Re authorized capital stock to be increased to sufficient levels (under the Bidding Agreement) does not specify the reasonable level, is there a standard expected by NTC?</p> <p>Based on 70/30 debt-to-equity ratio guidelines, does the NMP have to come up with 30% equity of its annual committed bid?</p>	<p>Aside from being guided by the 70/30 debt-to-equity ratio, the amount of increase in the paid capital would depend on the provisions of Participant's binding Bidding Agreement with its committed investors and its business/rollout plan. The Capital and Operational Expenditures is just one of the considerations in a company's asset, liability and equity structure.</p>
<p>3. Re Bidding Agreement, is there a <i>pro forma</i> binding Bidding Agreement in order to make sure a Participant is compliant?</p>	<p>No, there is no <i>pro forma</i> Bidding Agreement with regard to content. The Participant under Sec. 4.1(b) of the ITP can formulate the terms of its own binding Bidding Agreement with its committed investors, but it must contain the three (3) minimum required provisions found in Section 4.1(b)(1, 2 and 3) of the ITP.</p> <p>However, participants are reminded that the Bidding Agreement must be notarized.</p> <p>Consularization/Authentication of the Bidding Agreement, if necessary, shall be done in compliance with Section 6.3 of the ITP.</p>
<p>4. Re the details, amount and schedule of payment of the parties to the bidding agreement, is it necessarily for five years or just for the first year?</p>	<p>A binding Bidding Agreement with committed investors shall necessarily contain such details to ensure the attainment of the CLoS for the entire Commitment Period.</p>

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5. Re National Broadband Plan, is there any level of commitment from NTC that the policies enumerated in the National Broadband Plan would be implemented?	The National Broadband Plan is provided by the NTC for reference only. The DICT is the agency with the express mandate to implement the National Broadband Plan.
6. Re multilateral investment treaties, which include similar commitments to facilitate infrastructure sharing and competitive safeguards, what is the practice of compliance from the NTC's part and what is the level of commitment that would be undertaken?	As found in the Omnibus Sworn Statement, a prospective Participant acknowledges, among others, that it has done its due diligence on the laws, rules and regulations, prevailing market environments, regulatory process and timelines of the relevant government agencies relating to the telecommunications industry.
7. Re frequency interference, does NTC have a timeline to clear such frequency before the declaration of NMP, and if interference is existing, how will it extend the commitment period?	The NTC warrants that the Covered Radio Frequencies are vacant. Any detected interference originating from unlicensed and illegal sources will be resolved by the NTC promptly through the subsisting administrative and quasi-judicial processes.
8. Re Document Verification Phase, what would be the basis for the Selection Committee to say that the provisional NMP's document is not valid?	The Selection Committee will verify, validate and ascertain that all the documents submitted by the provisional NMP overcome the test of genuineness and due execution.
9. Re technical capability, if the foreign investor cannot nominate its subsidiary, is there a minimum financial commitment from that entity (subsidiary)?	<p>While the subsidiary, affiliate or related-company tasked to meet the technical capability requirements must also be a committed investor in the binding Bidding Agreement, there is no minimum financial commitment prescribed under the MC and ITP.</p> <p>While there is no minimum, total foreign equity participation should comply with relevant rules on the limitation of foreign equity ownership.</p>
10. Re technical capability, for tie-up with foreign partner to fulfill the 10-year technical capability who also has to be a committed party to the binding agreement, is there a minimum threshold or requirement on the participation?	No, there is none. This is only subject to the Constitutional limitation of foreign equity ownership.
11. Re standby letter of credit, is this also equivalent consideration in compliance with the Government Procurement Reform Act?	On the letter of credit form allowed for Securities, the MC and ITP only allows for the submission of an irrevocable letter of credit.
12. Re One-week extension, would NTC consider a one-week extension on the deadline of submission of selection documents to allow people to pay their respects to dearly-departed loved ones?	The Selection Committee regrets to deny the request for a one-week extension.

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13. Re SEC review of the Bidding Agreement, what is the contingency plan in the event that SEC refuses to issue a certification?	The SEC is one of the key government agencies that assisted the NTC in crafting relevant corporate provisions in the MC. The SEC will issue a clearance that the terms of the Bidding Agreement comply with the relevant rules on the limitation of foreign equity ownership, provided the NMP passes its review.
14. Re foreign committed investors whose countries do not require the submission of a GIS or an AFS in their jurisdictions, how can the equivalent document requirement be complied?	<p>The concerned parties must secure a certification from its country's equivalent corporate regulator, or its Embassy or Consulate in the Philippines, attesting to the absence of equivalent documents in their jurisdiction. The certificate shall be included in the submission package and submitted in lieu of the concerned document/s.</p> <p>Participants are advised to immediately notify and furnish the Philippine SEC a copy of their equivalent documents or the certificate of absence of equivalent documents. The SEC shall be consulted by the NMP SC-TWG during the Document Verification Phase in determining the documents submitted.</p> <p>Nonetheless, participants are still required to submit their Annual Audited Financial Statements (AAFS) and Latest Audited Financial Statements pursuant to ITP Section 8.3 (g) (3) and (4) even if their respective government regulators do not mandate their submission.</p>
15. Section 13.5(b)(3) in relation to Sec. 3.2 of the ITP, if a barangay has access to 80% on fixed network only, not fixed wireless or mobile, will that be considered a covered barangay?	Yes.
16. Re payment of ITP fee, if the official receipt is issued to at least one of the committed investors but not necessarily the congressional franchise holder, will this be considered compliant with Sec. 9.2?	Yes.
17. Re measurement of the Minimum Average Broadband Speed for fixed and mobile broadband services, will they be measured jointly (and/or)?	Please see Section 12 of the ITP in relation to Sections 10 and 13 of the MC.
Questions Sent by Email	
Queries/Issues	Clarification
18. Re Exaggerated Bids, what if other Participants put in high numbers that they cannot justify to secure the spectrum unfairly?	It is up to the participants to determine their respective capabilities and commitment levels. To safeguard the NMP Selection Process against "exaggerated bids", the Participant is subject to the following: forfeiture of participation and