



Republic of the Philippines
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

PRE-QUALIFICATION BIDS AND AWARDS COMMITTEE

Project: **INTEGRATED TRANSPORT SYSTEM (ITS) PROJECT – SOUTH TERMINAL**

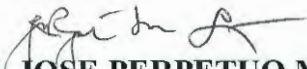
Special Bid Bulletin No.: 01-2014

TO ALL PROSPECTIVE BIDDERS:

Please find herewith as Annex "A" the responses to the queries for the above-mentioned project.

For your guidance and information.

Issued this 10th day of October 2014.


ATTY. JOSE PERPETUO M. LOTILLA
Chairman, Bids and Awards Committee
and Undersecretary for Legal Affairs

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SOUTH INTEGRATED TRANSPORT SYSTEM PROJECT RESPONSE TO QUERIES & COMMENTS ON PIM AND ITPB

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1.	Project Information Memorandum, Section 1 (3 rd paragraph)	<p>Section 6 of the Administrative Order No. 40, series of 2013 states that the operation of interim transport terminal shall be ceased within sixty (60) days from the date that DOTC has determined that the permanent ITS terminals are "fully operational".</p> <p>(1) Further define / categorize "fully operational"</p> <p>(2) Please confirm that the ITS terminal does not include concessionaire's commercial assets/businesses.</p>	<p>(1) Fully operational means that the Provisional Acceptance Certificate has been issued.</p> <p>(2) This is correct.</p>
2.	Project Information Memorandum, Section 2.2.1	<p>Site Area : 5.57 Hectares</p> <p>(1) What will be the developable land area for the ITS terminal if design should consider the Skyway Interchange within the property?</p> <p>(2) Will the Skyway Management / Operator consider inputs from DOTC and the winning bidder in designing the former's elevated ramps?</p>	<p>(1) Queries on the developable area will be addressed after the pre-qualification stage.</p> <p>(2) Queries pertaining to the design of elevated ramps will be addressed after the pre-qualification stage.</p>
3.	Project Information Memorandum, Section 2.2.1	<p>Max allowable top elevation: 67 meters (above mean sea level)</p> <p>If bidders can secure / request for a higher clearance, can this be considered in the project bid?</p>	<p>Yes, as long as the winning bidder/Concessionaire will be able to secure the necessary approvals, including the Height Clearance Permit (HCP) from CAAP.</p>

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4.	Project Information Memorandum, Section 2.2.1	Are there special easements and setbacks within the site area that bidders need to consider in planning for the South ITS?	The Bidders shall consider the requirements of the National Building Code and all the relevant laws, rules, procedures and applicable regulations/ norms/ standards.
5.	Project Information Memorandum, Section 4.1.a	The design, engineering, and construction of the ITS Terminal within eighteen (18) months from the start of construction Please confirm that the ITS Terminal component does not include the Concessionaire's commercial assets/businesses.	Yes, this is correct.
6.	Project Information Memorandum, Section 4.1.a, Section 4.1.e and section 4.3.6	Is there any restriction on the development period of allowed commercial assets?	No, there is no restriction on the development period for commercial assets.
7.	Project Information Memorandum, Section 4.1.e, Section 4.3.1 and Section 4.3.6	Kindly confirm if title or ownership over the Commercial Assets to be constructed by the Concessionaire [will] be transferred to the DOTC. If yes, kindly advise timing of ownership transfer.	Yes, ownership over the Commercial Assets will be turned over to the DOTC upon termination of the agreement.
8.	Project Information Memorandum, Section 4.3.5	DOTC shall effect the construction, operation and maintenance of the access road leading to the site project. Can the DOTC identify the "access roads" which will be under their management?	The details on the "access roads" shall be provided in the Bidding Documents as enumerated in Section 7.4.c of the Instructions to Prospective Bidders (ITPB).
9.	Project Information Memorandum, Section 4.3.6	Are there any Commercial Asset[s] that shall be financed, constructed, operated and managed by the Concessionaire under the Concession Agreement on behalf of DOTC and remitting any revenues generated there from to DOTC?	None. There are no Commercial Assets which will be financed, constructed, operated and managed by the Concessionaire on behalf of DOTC.
10.	ITPB, Section 1.1 and Section 1.17	The ITPB does not provide a mechanism to compute indirect ownership for purposes of determining Control and whether	Yes, Company Z is not an Affiliate of Company X based on the facts presented.

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		an entity is an Affiliate of another. Please confirm that indirect ownership may be computed by multiplying shareholding percentage at each level of the corporate structure (similar to the Grandfather Rule). To illustrate, if Company X owns 50% in Company Y and Company Y owns 30% in Company Z, multiplying the percentage of ownership at each level of the structure, the ownership of Company X in Company Z would be 15%. Assuming that (a) there are no voting trusts or other voting agreements, (b) there is no agreement granting the ability to elect a majority of the members of the board of directors Company Z, and (c) no legal agreement that may otherwise indicate "Control" over Company Z, please confirm that Company Z is not an Affiliate of Company X.	
11.	ITPB, Section 1.11	<p>"Concession Period" means the period over which concession will be granted to the Winning Bidder, over a period of thirty five (35) years.</p> <p>When will the commencement of Concession Period be: upon contract signing, end of construction or upon Integrated Transport System ("ITS") being fully operational?</p>	The 35 year Concession Period shall commence from the Construction Start Date. This will be clarified further in the Concession Agreement.
12.	ITPB, Section 1.12	Is the Winning Bidder required to establish a special purpose corporation or can the Winning Bidder directly be the counter-party of the DOTC under the Concession Agreement?	The Winning Bidder is required to establish a special purpose corporation who will be the counter-party of the DOTC under the Concession Agreement.
13.	ITPB, Section 1.60	<p>Please confirm the following:</p> <p>(1) Disputes of Affiliates which will not be proposed by the Prospective Bidder to fulfill any of the Qualification Requirements will not be considered in determining Unsatisfactory Performance.</p>	(1) Yes, only those entities whose experience is proposed by the Prospective Bidder to meet any of the qualification requirements shall be considered in determining Unsatisfactory Performance.

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		<p>(2) Disputes with foreign entities/governments do not constitute Unsatisfactory Performance.</p> <p>(3) Disputes concerning non-transport related projects and contracts will not be included in determining Unsatisfactory Performance.</p> <p>(4) Sections 1.60.a(2) and 1.60.a(3) on expulsion from, or termination/suspension of projects or contracts, apply only to projects or contracts of entities that are proposed to meet the Technical Qualification Requirements.</p> <p>(5) The expulsion of an entity from, or termination or suspension of, a project or contract will not be considered Unsatisfactory Performance unless evidenced by a final judgment or award.</p> <p>(6) Section 1.60.a(4) on material violation of laws and/or regulations does not include foreign laws and/or regulations.</p> <p>(7) The Prospective Bidder may insert the qualification “to the best of my knowledge” in the certification under Annex QD-4 inasmuch as it may not necessarily know that it is in material violation of any law applicable to the</p>	<p>(2) No. Inclusion in the Debarred and Cross-Debarred Firms and Individuals list posted in the World Bank website, European Bank for Reconstruction and Development, Asia Development Bank, Inter-American Development Bank and African Development Bank Group, constitutes "Unsatisfactory Performance". The ITPB does not limit the dispute to Philippine government agencies, nor does it limit it to local projects.</p> <p>Section 1.60.b of ITPB is amended to read as follows:</p> <p>“1.60.b for any entity whose experience or qualifications is proposed by the Prospective Bidder to meet any of the Technical Qualification Requirements or Financial Capability Qualification Requirements, inclusion in a blacklist issued by any governmental agency of the Philippines or in the Debarred and Cross-Debarred Firms and Individuals list posted in the World Bank website (www.worldbank.org/debarr) <u>and other major international financial institutions such as the European Bank for Reconstruction and Development, Asian Development Bank, Inter-American Development Bank and African Development Bank Group, among others</u>, whether as an individual contractor, partnership or corporation or as a member of a joint venture or consortium; or...”</p>

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		<p>project or contract.</p> <p>(8) A final judicial, administrative or arbitral ruling, decision or award is necessary before a Prospective Bidder may be considered in material violation of a law or regulation applicable to the project or contract.</p>	<p>(3) The ITPB refers to "any project" and does not limit disputes to transport-related projects.</p> <p>(4) Section 1.60.a of the ITPB is amended to read as follows: "1.60.a in relation to any project or contract that was commenced or in the process of implementation within the last five (5) years prior to the Qualification Document Submission Date by any entity whose experience is proposed by the Bidder to meet any of the Technical Qualification Requirements –..."</p> <p>Further, the Note at Annex QD-4 is amended to read as follows: "Note: To be submitted by all entities which fulfil the Technical Qualification Requirements or Financial Capability Qualification Requirements, as identified in the Business Structure (Annex QD-2A or QD-2B)."</p> <p>(5) The expulsion of an entity from, or termination or suspension of, a project or contract need not be evidenced by a final judicial, administrative or arbitral ruling, decision or award.</p> <p>Section 1.60.a(2) is amended to read as follows "the expulsion by such entity from any such project or contract, <u>whether or not evidenced by a pending or final</u></p>

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			<p><u>judicial, administrative or arbitral ruling, decision or award;</u>"</p> <p>(6) The ITPB does not limit material violation to local laws and/or regulations. Hence, this may include violation of foreign laws and/or regulations, as may be determined by PBAC.</p> <p>(7) The request is not granted.</p> <p>(8) Material violation of a law or regulation applicable to the project or contract includes pending cases/proceedings, as may be determined by PBAC. Hence, it need not be evidenced by a final judgment or award.</p> <p>Section 1.60.a(4) is amended to read as follows: <u>"the material violation, as determined by PBAC, of local or foreign laws and/or regulations, whether or not evidenced by a pending or final judicial, administrative or arbitral ruling, decision or award, applicable to any such projects or contracts, including but not limited to environmental, health, safety, labor and social welfare laws and regulations;"</u></p>
14.	ITPB, Section 2.2, Table 1	We are still in the process of collating documents from our proposed contractors and are still waiting for the answers to the queries on the ITPB which we submitted on September 3, 2014. In this regard, we would like to request that the	The request is granted. As per GBB 05-2014, the Qualification Documents Submission Date shall be set twenty one (21) days from issuance of the PBAC's responses to prospective bidders'

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		Qualification Documents Submission Date scheduled on October 6, 2014 be extended by at least two (2) weeks or until October 20, 2014.	queries.
15.	ITPB, Section 2.8.b	<p>For purposes of Pre-Qualification, the Bids and Awards Committee (“BAC”) will accept foreign documents which have not yet been authenticated if these have been stamped “received” by a Philippine Consulate or embassy or if the Prospective Bidder submits a copy of such documents together with a copy of the receipt issued by the same evidencing payment of the fee or the authentication.</p> <p>We note that in other jurisdictions, documents are required to be presented to the Department of Foreign Affairs/State Department for legalization (which takes considerable time) where the documents to be authenticated are in English. If English is not the native language of that country, such documents must first be translated in the native language before it can be presented to the Department of Foreign Affairs/State Department. Also, we note that some Philippine embassies or consulates do not stamp documents as having been “received” or they take considerable time stamping documents as such. In addition, notarization of documents in other jurisdictions is a governmental function and is beyond the control of the party executing the document.</p> <p>Please consider allowing the Prospective Bidder to submit ONLY the photocopies of the foreign documents and certifications although NOT yet notarized and/or legalized or presented for authentication to a Philippine embassy or consulate AND without any acknowledgment receipt stamped</p>	<p>For purposes of Pre-Qualification, the PBAC will accept (i) photocopies or certified true copy of the documents and certifications showing that such documents and certifications have been notarized in the foreign jurisdiction (although not yet legalized or presented before a Philippine embassy or consulate for authentication), provided that the duly authenticated copies shall be presented at the Bid Proposal Submission Date; (ii) where the documents have been presented to a Philippine embassy or consulate, photocopies or certified true copy of the documents that have been presented to the Philippine embassy or consulate with photocopies of the receipts showing that payments for authentication fees have been made; and (iii) such photocopies or certified true copy referred to in (i) and (ii) may be used in the "complete set of originals" required for the submission of the Qualification Documents referred to in Section 6 of the Instructions to Prospective Bidders.</p>

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		on or an official receipt attached to the photocopies, provided that the duly notarized and authenticated copies of the same documents shall be presented on the Bid Proposal Submission Date. This has been allowed in other biddings for Public-Private-Partnership (“PPP”) projects.	
16.	ITPB, Section 2.8.d	Section 2.8.d states that it is the Prospective Bidder and not the translator that should submit a notarized certification that the translation is accurate. We respectfully request that this provision be revised to allow the translator (aside from the Prospective Bidder) to issue the said notarized certification. It would be difficult for the Prospective Bidder to warrant the authenticity and certify the accuracy of the translation issued by the translator since the Prospective Bidder is not necessarily familiar with the foreign language which the document was originally written. It is the translator, and not the Prospective Bidder, which has the competence to certify the accuracy of the translation	The request is granted. Section 2.8(d) of the ITPB is amended to read as follows: “If the document is written in a foreign language, the Prospective Bidder should also submit an accurate English translation of such document, accompanied by a notarized certification by the Prospective Bidder <u>or translator</u> that such translation is <u>a complete and accurate translation of the original</u> , in addition to the authentication by the Philippine consular official or embassy official referred to in Section 2.8.b. In case of conflict, the English translation shall prevail.”
17.	ITPB, Section 3.1	Please confirm that a purchaser of the Invitation Documents may assign the benefits of such purchase to a Consortium that will be formed by the purchaser with other entities as members	Yes, the purchaser of the Invitation Documents may assign the benefits of such purchase to a Consortium that will be formed by the purchaser with other entities as members.
18.	ITPB, Section 3.1	Please confirm that if a company buys the Invitation Documents for its group of companies, such group will be able to nominate any subsidiary or Affiliate to participate in the bidding and still qualify. If so, how will the Affiliate(s) who participate in the bidding prove that it/they had bought the Invitation Documents?	The PBAC must be informed in writing on Bid Submission Date regarding the member of the group who will participate in the bidding.

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19.	ITPB, Section 3.2.a(9)	Please confirm our understanding that an ISO 9001:2008 certification issued in favor of a parent or holding company may be presented by its subsidiaries and/or Affiliates in order to comply with the requirement under Section 3.2.a(9), provided evidence of affiliation is presented.	Please refer to Section 3.2.a(9) of the ITPB which states that the entity proposed to meet the Development Experience must possess a valid ISO 9001:2008 certification or its equivalent. The entity that is proposed to meet the Development experience requirement should possess an ISO 9001:2008 certification or its equivalent in its own name. Hence, an ISO 9001:2008 certification issued in favor of a parent or holding company cannot be presented by its subsidiaries and/or Affiliates in order to comply with the requirement under Section 3.2.a(9).
20.	ITPB, Section 3.2.b(8)	Section 3.2(b)(8) requires that the entity qualified by the BAC to fulfill the Operation and Maintenance (“O&M”) Experience must own, directly or indirectly, at least thirty percent (30%) of the Facility Operator’s outstanding shares entitled to vote. Our understanding is that the 30% equity requirement does not apply if the Winning Bidder/Concessionaire itself will operate the ITS system (and will not designate a Facility Operator). Kindly confirm if our understanding is correct.	Yes, the understanding is correct.
21.	ITPB, Section 3.2.c in relation to Annex QD-9	Section 3.2.c of the ITPB provides that the individuals nominated as key personnel must have the required minimum experience in at least two (2) Eligible Projects. Further, the key personnel are required to be employed or engaged by the Prospective Bidder itself, Consortium Member or any of their proposed Construction Contractors, O&M Contractors of Affiliates. There is no requirement in the ITPB that the two (2) Eligible Projects must be undertaken by the key personnel while employed or engaged by the Prospective Bidder itself,	Yes, the understanding is correct.

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		Consortium Member or any of their proposed Construction Contractors, O&M Contractors of Affiliates. In this regard, please confirm our understanding that a key personnel is qualified even if the two (2) Eligible Projects were not undertaken or performed by him/her while employed or engaged by the Prospective Bidder itself, Consortium Member or any of their proposed Construction Contractors, O&M Contractors of Affiliates (e.g., one (1) Eligible Project was undertaken while the key personnel was already employed by the proposed O&M Contractor but the other Eligible Project was performed by the key personnel under a former employer or a different entity which is not involved in the bid/Project).	
22.	ITPB, Section 3.3.a(2), Section 4.12.b(2) and Annex QD-10	Kindly confirm if the entity proposed to meet the Financial Capability Qualification Requirements is required to submit letters of testimonial from at least two financial institutions. And if there is any limit in the number of letters of testimonial from potential lenders.	The entity proposed to meet the Financial Capability Qualification Requirements is required to submit at least one (1) letter testimonial. There is no limit on the number of financial institutions that may execute letters testimonial under Section 4.12.b(2) of the ITPB.
23.	ITPB, Section 3.3.a(2), Section 4.12.b(2) and Annex QD-10	Kindly confirm if each letter testimonial from a financial institution needs to show willingness to lend at least Php 2.1 Billion or if it is allowed to show letters of testimonial from two or more financial institutions with a cumulative total of at least Php 2.1 Billion.	Each letter testimonial need not show that the issuing financial institution is willing to lend the Prospective Bidder at least P2.1 Billion, provided that the aggregate amount of all letters testimonial presented will show willingness to lend at least P2.1 Billion.
24.	ITPB Section 3.3.a(2), Section 4.12.b(2) and Annex QD-10	Kindly confirm if the Winning Bidder can source debt financing from other financial institutions other than those that have submitted letters of testimonial during the Pre-Qualification Process.	Yes, the Winning Bidder is not prohibited from securing debt financing from financial institutions other than those that have submitted letters testimonial during the Pre-Qualification.
25.	ITPB, Section 4.4.c	The ITPB does not specify what document would qualify as	This is noted. Section 4.4.c of the ITPB is amended to read as

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		evidence of affiliation. We note that in other PPP projects (i.e. LRT 1 and Cavite-Laguna Expressway), a General Information Sheet (" <u>GIS</u> ") was considered the acceptable evidence of affiliation.	follows: "If an Affiliate will be used to comply with any of the Technical Qualification Requirements or the Financial Qualification Requirements, evidence of affiliation must be submitted, <u>as in the document mentioned in Section 4.5.b(1).</u> "
26.	ITPB, Section 4.5.b(1) and Section 4.5.b(2)	Where the entity proposed to fulfill the Technical Qualification Requirements is a foreign entity, please confirm if a foreign notary public is authorized to certify as true copies the required attachments to Annex QD-3 (i.e. Articles of Incorporation, GIS, By-laws) as opposed to the corporate secretary. This is considering that, under the corporate rules of some foreign entities, the corporate secretary is prohibited from certifying documents which are to be used outside of its country of jurisdiction	<p>A foreign notary public shall be authorized to certify as true copies the required attachments to Annex QD-3 only if under the corporate rules of some foreign entities, the corporate secretary is not authorized to certify documents which are to be used outside of its country of jurisdiction.</p> <p>Paragraph b.1 of Annex QD-3 is amended to read as follows: "..... thereafter authenticated by a Philippine consular official. <u>In the event that under the corporate law or rules of the pertinent foreign entity, the corporate secretary is not authorized to certify documents which are to be used outside of its country of jurisdiction, a foreign notary public shall be authorized to issue the certified true copies in lieu of the corporate secretary's certification, provided that proof of the foreign law or rule, compliant with Rule 132 of the Revised Rules of Court of the Philippines, is attached to the certification of the foreign notary public.</u>"</p> <p>Further, all documents presented shall meet the requirements under Section 2.8 of the ITPB.</p>
27.	ITPB, Section 4.5.b(2)	Under Section 4.5.b(2) of the ITPB, the certified true copy of the Certificate of Incorporation must be issued by the SEC or	As per Section 4.5.b(2), the certified true copy of the SEC Certificate of Incorporation <u>Registration</u> , or the equivalent

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		its equivalent in case of foreign entities. The ITPB does not expressly provide that the certified true copy of the Certificate of Incorporation may be issued by the entity's corporate secretary or authorized representative (who are authorized to issue the certified true copies of the General Information Sheet, Articles of Incorporation and By-Laws under Sections 4.5.b(1) and 4.5.b(3). In this regard, please confirm that the entity's corporate secretary or authorized representative may issue the certified true copy of the SEC Certificate of Incorporation.	document for a foreign entity, must be issued by the SEC or its equivalent in a foreign country.
28.	ITPB, Section 4.7.b(1)	<p>Under Section 4.7.b(1) of the ITPB, the entity or entities which fulfill the Development Experience must submit a notarized certification of project completion from the project's owner or copy of the original certificate of project completion accompanied by a notarized certification issued by an officer of the entity which fulfils the Development Experience Requirement that such is a true and faithful reproduction of the original certificate.</p> <p>In case the entity which fulfils the Development Experience is also the project owner of the project to be submitted in order to comply with the Development Experience under Section 3.2.a, please confirm that the entity proposed to meet the Development Experience itself can issue the notarized certification of project completion.</p>	Yes, this is correct.
29.	ITPB, Section 4.10.b	Under Section 4.10.b of the ITPB, an entity which fulfils the O&M Experience Requirement is required to submit a notarized certification of project completion or that the project is ongoing or in operation from the project's owner or	Yes, this is correct.

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		<p>a copy of the original certificate of project completion or certificate that the project is ongoing or in operation accompanied by a notarized certification issued by an officer of the entity proposed to meet the O&M Experience Requirement that such is a true and faithful reproduction of the original certificate.</p> <p>In case the entity which fulfils the O&M Experience Requirement is also the project owner of the project to be submitted in order to comply with the O&M Experience under Section 3.2.b, please confirm that the O&M Contractor itself can issue the notarized certification of project completion.</p>	
30.	ITPB, Section 4.10.b	Typographical Error - Section "4.10.b" of the ITPB should read "Section 4.9.b", and the enumeration under this section which is currently "(i), (i), (i), (i)" should read "(i), (ii), (iii), (iv)."	Noted. The ITPB is revised accordingly.
31.	ITPB, Section 4.11	Kindly confirm the limit in terms of number of names that can be nominated for each position under the Key Personnel.	More than one key personnel per position may be nominated. There is no limit on the number of names that can be nominated per position. However, the same person cannot be nominated for more than one position.
32.	ITPB, Section 4.11	Can a Key Personnel be nominated by more that one Prospective Bidder?	Yes, provided that there is no Conflict of Interest. Note that Section 8.3.b(3) of Instructions to Prospective Bidders considers as Conflict of Interest when "a member of the board of directors, partner, officer, employee, professional advisor or agent of a Prospective Bidder, any Consortium Member, or any of their Affiliates (of either the Prospective Bidder or any of its Consortium Members) who is directly involved in the Bidding Process for the Project, is also directly involved in any capacity related to the Bidding Process for the Project for

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			another Prospective Bidder, any Consortium Member of any other Prospective Bidder, or any of their Affiliates (of either the Prospective Bidder or any of its Consortium Members); provided, however, that in relation to professional advisors, there shall be no Conflict of Interest if prior written disclosure is submitted by such professional advisor to its client Prospective Bidders and the DOTC, together with a conflict management plan which must be approved by the DOTC."
33.	ITPB, Section 4.12.b(1)	If the entity proposed to meet the Financial Capability Qualification Requirements does not have a designated chief financial officer, can the President of such entity certify the latest audited quarterly financial statements?	If the entity proposed to meet the Financial Capability Requirements does not have a designated chief financial officer (CFO), it must issue a certification that it does not have a designated CFO and that the person certifying the audited quarterly financial statements performs the functions of a CFO.
34.	ITPB, Section 4.12.b(1)	As with other PPP projects, please confirm that "business tax returns" refer to the Value Added Tax (VAT)/ Percentage Tax Returns filed with the Bureau of Internal Revenue. If so, please clarify which VAT/Percentage Return (i.e. monthly, quarterly, or annual) must be submitted.	Yes, the term "business tax returns" refers to the Value-Added Tax (VAT)/Percentage Tax Returns. Section 4.12.b (1) of the ITPB is amended to read as follows: "Certified true copies of the latest audited financial statements and latest income <u>tax returns (quarterly and annual)</u> and business tax returns (<u>monthly and quarterly</u>),....."
35.	ITPB, Section 4.12.b(1) in relation to Note 1 of Annex QD-10	Section 4.12.b(1) in relation to Note 1 of Annex QD-10 of the ITPB expressly requires the submission of the certified true copy of the latest unaudited financial statements for the quarter ending prior to the month of the Qualification Documents Submission Date. We understand that based on the foregoing, what must be submitted as attachment to Annex QD-10 is the unaudited quarterly financial statements	The request is granted. In addition to the submission of the latest available unaudited financial statements, the Prospective Bidder is required to submit a certification that the latest unaudited financial statements are currently unavailable with an undertaking to submit the same once available.

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		<p>for the third quarter, which for corporations operating on a calendar year (i.e., accounting period of twelve (12) months ending on the last day of December), covers the months of July, August, and September.</p> <p>In this connection, our finance team has informed us that Ayala Land, Inc. (“ALI”), which follows the calendar year, will close the books of all its subsidiaries only on October 4, 2014 and, thus, consolidation, review and finalization of the unaudited financial statements will only be done on or around November 10, 2014. Consequently, it would be difficult, if not impossible, for ALI to submit the unaudited financial statements for the third quarter on the Qualification Documents Submission Date.</p> <p>In this regard, please confirm that Prospective Bidders may instead submit the latest available unaudited quarterly financial statements considering the difficulty in submitting the unaudited quarterly financial statements for the third quarter by the Qualification Documents Submission Date (October 6, 2014). Accordingly, we also request that Section 4.12.b(1) and Note 1 of Annex QD-10 of the ITPB be revised to read as follows:</p> <p>4.12.b This document must be submitted together with the following attachments:</p> <p>4.12.b(1) Certified true copies of the latest audited financial statements and latest income and business tax returns, which must be for a fiscal period ending in any month of 2013 or 2014, whichever is applicable and certified true copy of the latest available unaudited quarterly financial statements for</p>	

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		the quarter ending prior to the month of the Qualification Documents Submission Date, *** **	
36.	ITPB, Section 4.12.b(2) in relation to Annex QD-10	Please confirm our understanding that as with other PPP Projects, there is no required form for the letter testimonial from the banks, and as long as the same is consistent with the requirements of the ITPB, it should be acceptable.	Yes, this is correct.
37.	ITPB, Section 4.12.b(2) in relation to Annex QD-10	<p>The ITPB does not provide a form for the letter testimonial from the banks. Please confirm that provided the language of the letter testimonial is consistent with the requirements of Section 4.12.b(2) of the ITPB, the letter testimonial would be acceptable.</p> <p>In this regard, we have spoken with our banks regarding the form of the letter testimonial, and they informed us that their standard language for letter testimonials is as follows:</p> <p>(a) That the Prospective Bidder has an existing credit line in the amount of [Pesos], which is available for drawdown for purposes, including the South ITS Project, and</p> <p>(b) In accordance with the requirements of the ITPB, the Prospective Bidder is banking with them and is in good financial standing.</p> <p>Please confirm that the foregoing would be acceptable to the DOTC.</p>	Sec. 4.12.b(2) provides that the letter testimonial should attest that "Prospective Bidder or Consortium Members, or their Affiliates, as the case may be, are banking with them, and that they are in good financial standing and/or are qualified to obtain credit accommodations from such banks to finance the project." Thus, the standard language for letter testimonials as presented is acceptable.
38.	ITPB, Section 6.1	Please confirm that the submission of one original document that is certified, notarized and authenticated, and which contains the same information or undertaking as, or serves as the equivalent of two or more other documents, shall be considered sufficiently compliant with the requirements of the	Yes, this is correct.

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		ITPB. Thus, the use of photocopies of the same document in other parts of the original set should be acceptable.	
39.	ITPB, Section 6.1.a(1)	One (1) complete original set, clearly marked on each page as "QUALIFICATION DOCUMENTS-ORIGINAL," and numbered continuously; Please confirm if the phrase "numbered continuously" refers to pagination.	Yes, this is correct. The ITPB is amended to read as follows: "6.1.a(1) one (1) complete original set, clearly marked on each page as "QUALIFICATION DOCUMENTS-ORIGINAL," and numbered continuously <u>each document must have pagination in continuous sequential order;</u> "
40.	ITPB, Section 6.1.d	It would be very difficult, if not impossible, to continuously paginate Qualification Documents authenticated by the Philippine consular offices pursuant to Section 2.8.b of the ITPB. In this regard, please confirm that the pagination from one (1) Qualification Document to the next need not be in computerized or typewritten form and in continuous sequential order, but that the <u>pagination of each Qualification Document may start a new at page 1.</u> Please also confirm that the pagination may be made on these documents by stamping or manually writing the pagination on the relevant documents. Lastly, please confirm if there is a specific font type to be used for the Qualification Documents.	The pagination shall be on each Qualification Document and may start anew at page 1 for each document. This may be done manually or by stamping. There is no required font type to be used for the Qualification Documents.
41.	ITPB, Section 9.1.a	Question: Would this prohibition apply to a corporation which is in the process of implementing a corporate re-structuring program based on a prior agreement among its shareholders, executed even before its participation in this Project, and which pertains to an increase in its paid-up capital stock, and transfers of ownership from individual to corporate shareholders?	The request is granted. The last paragraph of Section 9.1 of the ITPB is amended to read as follows: "Nothing in this section shall operate to prohibit a transfer of equity interest in a corporation listed in any recognized stock exchange for the duration of the Bidding Period. <u>Likewise, nothing in this section shall operate to prohibit any transfer of equity interest in a non-listed corporation pursuant to a pre-</u>

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		Proposed Revised Language: "Nothing in this section shall operate to prohibit a transfer of equity interest in a corporation listed in any recognized stock exchange for the duration of the Bidding Period. Likewise, nothing in this section shall operate to prohibit any transfer of equity interest in a non-listed corporation pursuant to a pre-existing shareholder's agreement, executed even prior to its participation in this Project, for the duration of the bidding."	<u>existing shareholder's agreement, executed even prior to its participation in this Project, for the duration of the Bidding Period and provided that a certified true copy of the pre-existing shareholder's agreement is submitted to the DOTC together with the Qualification Documents."</u>
42.	ITPB, Annex QD-1B	<p>Please confirm that two (2) joint authorized representatives may be designated in QD-1B to execute, sign, submit and receive documents but either one (1) of such joint authorized representatives may initial the Qualification Documents such that the wording of the second, third and last resolutions of paragraph 3 of QD-1B would read as follows (with our proposed amendments underscored):</p> <p>"RESOLVED FURTHER, that (name of representative) <u>and (name of representative)</u> be and are is hereby appointed as the authorized representatives of the Prospective Bidder during the Pre-Qualification, authorized to jointly execute, sign, submit and receive documents and otherwise act in the name of, the Prospective Bidder, and to singly or alternately initial any such documents for the Prospective Bidder;</p> <p>RESOLVED FURTHER, that (name of representative) <u>and (name of representative)</u> be and are is hereby appointed to <u>jointly</u> sign the Certification of Absence of Unsatisfactory Performance (Annex QD-4A) for and on behalf of the Prospective Bidder jointly with its Affiliates and Subcontractors;</p>	<p>The request is granted. Paragraph 3 of QD-1B is amended to read as follows:</p> <p>"At a (regular/special) meeting of the (board of directors/partners) of the Prospective Bidder, held on (date) at (place), in which meeting a quorum was present and acting throughout, the following resolutions were unanimously passed and approved:</p> <p>RESOLVED, AS IT IS HEREBY RESOLVED, that (name of Prospective Bidder) be, and is, authorized to participate in the Bidding Process for the South Integrated Transport System Project ("Project") and to apply for Pre- Qualification as Bidder for the Project;</p> <p>RESOLVED FURTHER, that (name of representative) <u>and/or (name of representative)</u> be and isare hereby appointed as the authorized representatives of the Prospective Bidder during the Pre-Qualification, authorized to execute, sign, submit and receive documents and otherwise act in the name of, the Prospective Bidder, <u>and to singly or alternately initial any such documents for the Prospective Bidder;</u></p> <p>RESOLVED FURTHER, that (name of representative) <u>and/or</u></p>

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		RESOLVED, FINALLY, that any and all acts done and/or performed by (name of representative) <u>and (name of representative)</u> under and by virtue of this resolution be, as they are hereby, confirmed and ratified.”	<u>(name of representative)</u> be and is are hereby appointed to <u>jointly</u> sign the Certification of Absence of Unsatisfactory Performance (Annex QD-4A) for and on behalf of the Prospective Bidder jointly with its Affiliates and Subcontractors; RESOLVED, FINALLY, that any and all acts done and/or performed by (name of representative) <u>and/or (name of representative)</u> under and by virtue of this resolution be, as they are hereby, confirmed and ratified.”
43.	ITPB, Annex QD-1D	Section 3.1.c of the ITPB provides that the Prospective Bidder or its Affiliates cannot be a Public Transport Operator. The note/instructions in Annex QD-1D, however, only require the [Prospective] Bidder and Consortium Members to submit QD-1D. Please confirm our understanding that only the Prospective Bidder or Consortium Members (and not the Affiliates of the Prospective Bidder that are proposed to fulfill the Technical and Financial requirements) are required to submit Annex QD-1D.	Annex QD-1D is required to be submitted by the Bidder and any Consortium Members that are not Public Transport Operators and are not Affiliates of Public Transport Operators.
44.	ITPB, Annex QD-4	Section 3.1.a of the ITPB provides that the Prospective Bidder must certify that it and its Affiliates whose projects and experience are being submitted as evidence of fulfillment of the Technical Qualification Requirements or Financial Capability Qualification Requirements have no record of Unsatisfactory Performance. Sections 3.2.a(7), 3.2.b(6) and 3.3.e require the entities proposed to meet the Development Experience, O&M Experience and Financial Capability Qualification Requirements to certify that they have no record	If the Prospective Bidder is a partnership or corporation, then the Prospective Bidder must certify that it and its Affiliates whose projects and experience are being submitted as evidence of fulfillment of the Technical Qualification Requirements or Financial Capability Qualification Requirements have no record of Unsatisfactory Performance. If the Prospective Bidder is a Consortium, then each Consortium Member must certify that it and its Affiliates whose projects and experience are being submitted as

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		<p>of Unsatisfactory Performance.</p> <p>The note/instructions in Annex QD-4, however, only require the entities which fulfill the Technical Qualification Requirements or Financial Capability Qualification Requirements to submit QD-4.</p> <p>Please confirm that the Certificate of Absence of Unsatisfactory Performance must be submitted only by the entities which fulfill the Technical Qualification Requirements or Financial Capability Requirements, but not by the Prospective Bidder.</p>	<p>evidence of fulfillment of the Technical Qualification Requirements or Financial Capability Qualification Requirements have no record of Unsatisfactory Performance.</p> <p>The Note at Annex QD-4 is amended to read as follows: “Note: To be submitted by all entities which fulfil the Technical Qualification Requirements or Financial Capability Qualification Requirements, as identified in the Business Structure (Annex QD-2A or QD-2B).”</p>
45.	ITPB, Annex QD-6 and Annex QD-8	<p>Please confirm that a Prospective Bidder (that is a corporation), which will also be the entity fulfilling the Development Experience and O&M Experience requirement, is not required to submit QD-6 and QD-8 respectively inasmuch as it will already submit QD-1.</p> <p>Please also confirm:</p> <p>(1) That if the Prospective Bidder will be the entity fulfilling the Development Experience or O&M Experience requirement, but is only using the experience of its Affiliate, the Prospective Bidder or Affiliate need not submit QD-6 or QD8 as may be applicable;</p> <p>(2) That if an Affiliate (of the Prospective Bidder) itself will be the entity fulfilling the Development Experience or O&M Experience requirement, such Affiliate will be considered a Construction or O&M Contractor, which would mean it</p>	<p>If a Prospective Bidder is a corporation, then Annex QD-6 is to be submitted by Construction Contractor proposed by the Prospective Bidder to meet the Construction Experience (as identified in the Business Structure in Annex QD-2A) and Annex QD-8 is to be submitted by O&M Contractor proposed by the Prospective Bidder to meet the Construction Experience (as identified in the Business Structure in Annex QD-2A).</p> <p>We confirm the following:</p> <p>(1) If the Prospective Bidder is the entity fulfilling the Development Experience or O&M Experience requirement, then the Prospective Bidder need not submit QD-6 or QD8 as may be applicable.</p> <p>(2) If an Affiliate (of the Prospective Bidder) is the entity fulfilling the Development Experience or O&M Experience requirement, such Affiliate will be considered a</p>

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		would have to submit QD-6 or QD-8, as may be applicable.	Construction or O&M Contractor, which would mean it would have to submit QD-6 or QD-8, as may be applicable.
46.	Letter dated September 22, 2014	We would like to request for a further extension of thirty (30) days from October 6, 2014 to November 5, 2014 within which to submit the qualification requirements for the Integrated Transport System Project - South Terminal.	The request is granted. As per GBB 05-2014, the Qualification Documents Submission Date shall be set twenty one (21) days from issuance of the PBAC's responses to prospective bidders' queries.
47.	Letter dated September 29, 2014	We respectfully request for the postponement of the deadline for submission of Pre-Qualification Documents for the South Terminal ITS Project from 6 October 2014 to a later date.	