



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

BIDS AND AWARDS COMMITTEE
BAC Resolution No. 155-2022, Series of 2022

**RECOMMENDING THE BID SUBMITTED BY EASTERN TELECOMMUNICATIONS
PHILIPPINES, INC. FOR THE PROCUREMENT OF
INTERNET SERVICE PROVIDER (ISP) - MAIN BE DECLARED AS THE SINGLE
CALCULATED AND RESPONSIVE BID
(APP ITEM NO. 2023-0011)**

WHEREAS, the National Privacy Commission (NPC or *Commission*) is an independent body mandated to administer and implement Republic Act No. 10173 of the Data Privacy Act of 2012 and to monitor and ensure compliance of the country with international standards set for data protection;

WHEREAS, the Interim Management Information Unit (IMISU), acting as the Information Technology Division of the Commission, is tasked in supporting, maintaining, implementing Information and Communications Technology (ICT);

WHEREAS, being mindful of its duty, the IMISU sought the procurement of an Internet Service Provider (ISP) that will provide high availability of internet access and will act as failover link or redundancy whenever the internet connectivity through GovNet encounters connectivity issues as well as provide 250 megabits per second (MBPS) bandwidth that will serve as a reliable backup internet connectivity to link users, servers, web applications, network services and endpoint devices;

WHEREAS, on 21 October 2022 a Certification of Availability of funds for the above-mentioned procurement amounting to One Million Three Hundred Forty Thousand Pesos (P1, 340, 000.00) chargeable against Internet Subscription Expenses (GAS-MOOE) under the NPC CY 2023 Indicative APP with Item No. 2023-0011 was issued;

WHEREAS, this item shall be procured through Competitive Bidding pursuant to Section 10 Rule IV of the Revised Implementing Rules and Regulations (IRR) of Republic Act No. 9184 (R.A. 9184);

WHEREAS, on 18 November 2022, the National Privacy Commission-Bids and Awards Committee (NPC-BAC) conducted a Pre-bid Conference for the procurement of the item;

WHEREAS, on 1 December 2022, the conduct of the Bid Opening and Preliminary Bid Evaluation was held and was attended to by Eastern Telecommunications Philippines, Inc. (ETPI) as the lone supplier that submitted a bid for this procurement;

The original of this document (containing only the BAC member's signature) is in digital format

Ref No.: BAC-22-00932

NPC_BAC_RESO-V1.0, R0.0, 05 May 2021

5th Floor, Philippine International Convention Center, Vicente Sotto Avenue, Pasay City, Metro Manila 1307

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WHEREAS, the NPC-BAC proceeded to open the bid submitted and conducted preliminary evaluation to determine the bidder's compliance with the technical component documents. The NPC-BAC, with the assistance of the BAC Technical Working Group (TWG), checked the submitted documents of the bidder against a checklist of required documents to ascertain if they are all present, using a non-discretionary "pass/fail" criterion in accordance with Section 25 of the IRR of R.A. 9184;

WHEREAS, the NPC-BAC evaluated and inspected the first bid envelope (Technical Component) submitted by ETPI, and has determined that the latter passed all the eligibility and legal requirements prescribed in accordance with the provisions of the IRR of R.A. 9184;

WHEREAS, immediately after determining compliance with the requirements in the first envelope, the NPC-BAC opened the second bid envelope (Financial Proposal) of the eligible and technically compliant bidder, Eastern Telecommunications Philippines, Inc., and determined that it passed all the financial requirements and recommended for the same for bid evaluation;

WHEREAS, on 5 December 2022, the NPC-BAC with the assistance of the BAC-TWG conducted a bid evaluation in accordance with Section 32 of the Revised IRR of R.A. 9184;

WHEREAS, pursuant to the BAC-TWG's Bid Evaluation Report, the NPC-BAC determined that the 1) bid submitted is complete, 2) no computational errors were found, 3) and that it provided all the required items in the Bidding Documents;

WHEREAS, in accordance with the above, the NPC-BAC recommended on 9 December 2022 that the bid of ETPI be declared as the Single Calculated BID and be endorsed for post-qualification in accordance with Rule X - Post-Qualification under Section 34 of the Revised IRR of RA 9184 to determine whether the bidder has complied with and is responsive to all the requirements and conditions as specified in the bidding documents;

WHEREAS, on 20 December 2022, the bid submitted by ETPI was subjected to post-qualification evaluation, and determined, after verification and examination of its bid documents, that it complied with the eligibility requirements (Legal, Financial and Technical), under the Revised IRR of R.A. 9184, and thus, passed the post-qualification evaluation, hence the BAC-TWG recommended that the bid of ETPI be declared as the Single Calculated and Responsive Bid (SCRB);

WHEREAS, on 26 December 2022, the NPC BAC conducted a Post-Qualification and resolved to affirm the findings of the BAC-TWG;

NOW, THEREFORE, for and in consideration of the foregoing, WE, the members of the NPC Bids and Awards Committee, hereby RESOLVE, as it is hereby RESOLVED, to declare that the bid submitted by Eastern Telecommunications Philippines Inc. amounting to SEVEN HUNDRED TWELVE THOUSAND THREE HUNDRED TWENTY PESOS (Php 712, 320.00) be declared as the Single Calculated and Responsive Bid and recommend the award of contract.

RESOLVED this 26th day of December 2022 via combination of videoconference meeting.

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NPC_BAC_RESO-V1.0, R0.0, 05 May 2021

5th Floor, Philippine International Convention Center, Vicente Sotto Avenue, Pasay City, Metro Manila 1307

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ATTEST:



Digitally signed
by Milanes Rainier
Anthony Mabias

ATTY. RAINIER ANTHONY M. MILANES

*Chief, CMD
BAC Member*



Digitally signed
by Mendoza Ma
Josefina Eusebio

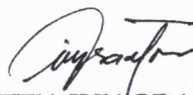
ATTY. MA. JOSEFINA E. MENDOZA

*Attorney IV, LD
BAC Member*

On leave

MR. JONATHAN RUDOLPH Y. RAGSAG

*Information Technology Officer II, DSTSD
BAC Member*



Digitally signed
by Ivy Grace T.
Villasoto

ATTY. IVY GRACE T. VILLASOTO

*Attorney V, PDD
BAC Vice Chairperson*

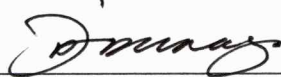


Digitally signed by
Patula Maria Theresita
Elnar

ATTY. MARIA THERESITA E. PATULA

*Director IV, LEO
BAC Chairperson*

Approved:



ATTY. JOHN HENRY D. NAGA

*Privacy Commissioner
Head of the Procuring Entity
Date: JAN 17 2023*



The original of this document (containing only the BAC member's signature) is in digital format

Ref No.: BAC-22-00932

NPC_BAC_RESO-V1.0, R0.0, 05 May 2021

5th Floor, Philippine International Convention Center, Vicente Sotto Avenue, Pasay City, Metro Manila 1307

URL: <https://www.privacy.gov.ph> Email Add: info@privacy.gov.ph Tel No. 8234-2228



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

NOTICE OF AWARD

JAN 17 2023

MR. STEPHEN S. YAP

Eastern Telecommunications Philippines Incorporated

[REDACTED]

Dear Mr. Yap:

Please be advised that upon the recommendation of the NPC Bids and Awards Committee, per BAC Resolution No. 155-2022, series of 2022, the contract for the procurement of INTERNET SERVICE PROVIDER (ISP) - MAIN (APP Item No. 2023-0011) amounting to SEVEN HUNDRED TWELVE THOUSAND THREE HUNDRED TWENTY PESOS (Php712,320.00), VAT inclusive, is awarded to Eastern Telecommunications Philippines Inc., consistent with Republic Act No. 9184 and its 2016 Revised Implementing Rules and Regulations.

Very truly yours,

ATTY. JOHN HENRY D. NAGA

Privacy Commissioner

Head of the Procuring Entity

Date: JAN 17 2023

Official Seal of the Privacy Commissioner

gnc

Conforms

MR. STEPHEN S. YAP

Eastern Telecommunications Philippines Incorporated

[REDACTED]



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

NOTICE TO PROCEED

Date Issued: JAN 30 2023

Eastern Telecommunications Philippines Incorporated
Provider

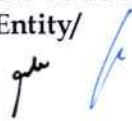
[REDACTED]

Dear Mr. Yap:

Notice is hereby given to Eastern Telecommunications Philippines Incorporated for the commencement of the procurement for the Internet Service Provider (ISP) - Main for the National Privacy Commission at the Philippine International Convention Center (PICC) in accordance with the terms and conditions of the attached Contract.

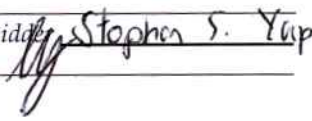
Kindly acknowledge receipt and acceptance of this notice by signing both the copies in the space provided below. Keep one (1) copy and return the other to the NPC within three (3) days upon receipt of this notice.

Very truly yours,


ATTY. JOHN HENRY DU NAGA
Head of the Procuring Entity/
Privacy Commissioner 

I acknowledge receipt of this notice on JAN 30 2023

Name of the authorized representative of the Bidder Stephen S. Yap

Signature of the authorized representative 

Ref No.: ASD-23-00086

NPC_FAO_ASD_NTP-V1.0, R0.0, 19 August 2021

5th Floor, Philippine International Convention Center, Vicente Sotto Avenue, Pasay City, Metro Manila 1307
URL: <https://www.privacy.gov.ph> Email Add: info@privacy.gov.ph Tel No. 8234-2228

INTERNET SERVICE PROVIDER AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This INTERNET SERVICES PROVIDER AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into this JAN 30 2023, in Metro Manila, Philippines, by and between:

The **NATIONAL PRIVACY COMMISSION**, a government agency mandated to administer and implement the Data Privacy Act of 2012, and to ensure compliance of the country with international standards set for data protection, with office address at the 5th Floor Delegation Building, PICC Complex, Vicente Sotto Avenue, Pasay City, Metro Manila, Philippines, represented herein by its Privacy Commissioner, **ATTY. JOHN HENRY D. NAGA** (hereinafter referred to as the "NPC");

- and -

EASTERN TELECOMMUNICATIONS PHILIPPINES INCORPORATED (ETPI), a corporation duly organized and existing under Philippine Laws, with principal office [REDACTED] herein represented by its duly authorized and designated representative, **SALES HEAD, MICHAEL S. CASTAÑEDA**, (hereinafter to as the "SERVICE PROVIDER").

The NPC and ETPI shall hereinafter be referred to collectively as the "PARTIES."

WITNESSETH, that:

WHEREAS, NPC has expressed its requirement for a service provider that is authorized and capable to deliver an Internet Services Provider (ISP) – Main that will provide high availability of internet access and will act as failover link or redundancy whenever the Internet connectivity through GovNet encounters connectivity issue and will provide 250 megabits per second (Mbps) bandwidth that will serve as a reliable backup internet connectivity to link users, servers, web applications, network services and endpoint devices;

WHEREAS, the ETPI has participated in the Competitive Bidding pursuant to Section 10 of the *2016 Revised Implementing Rules and Regulations of Republic Act 9184 Updated as of 31 March 2021 (Government Procurement Reform Act)*;

WHEREAS, the ETPI has complied with the eligibility and legal requirements prescribed in accordance with the provisions of the IRR of R.A. No. 9184;

WHEREAS, ETPI has presented itself to NPC as an entity authorized to render Internet Services Provider, and capable of performing all the SERVICES indicated herein;

WHEREAS, on 21 October 2022 the NPC Accountant issued Certificate of Availability of Funds (CAF) amounting Php1,340,000.00. A copy of the CAF is hereto attached as ANNEX "A" and made an integral part of this Agreement.

WHEREAS, on 17 January 2023, the Head of the Procuring Entity approved the NPC-BAC Resolution No. 155-2022, Series of 2023, recommending the Award of Contract for Internet Service Provider (ISP) to EASTERN TELECOMMUNICATIONS PHILIPPINES INCORPORATED;

WHEREAS, NPC has awarded above-mentioned project to ETPI and has confirmed award amounting to a total contract price of SEVEN HUNDRED TWELVE THOUSAND THREE HUNDRED TWENTY PESOS (Php712,320.00) inclusive of all applicable taxes, duties, fees, levies

Contract No. 2023-01-0001

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and other charges imposed under applicable laws. A copy of the Notice of Award is hereto attached as "ANNEX B" and made an integral part of this Agreement;

NOW, THEREFORE, NPC and ETPI, in consideration of the mutual covenants hereinafter set forth agree as follows:

1. **SCOPE OF WORK.** ETPI will provide services set forth in the Scope of Work, herein referred to as the "SERVICES". A copy of the SW is hereto attached as ANNEX "C" and made an integral part of this Agreement
2. **DURATION.** The ETPI shall supply, install, and deliver the Internet Connectivity within One Hundred Twenty (120) calendar days to the National Privacy Commission located at 5th Floor, Delegation Building, PICC Complex, Pasay City. The Contract will begin upon receipt of the Notice to Proceed (NTP) and continue until December 31, 2023.
3. **CONTRACT PRICE.** In consideration of the SERVICES to be provided by ETPI, the total contract price shall be SEVEN HUNDRED TWELVE THOUSAND THREE HUNDRED TWENTY PESOS (Php712,320.00), inclusive of all applicable taxes, duties, fees, levies and other charges imposed under applicable laws.
 - 3.1. ETPI shall issue a monthly statement of account. Payment shall be processed upon receipt of monthly billing statement and upon issuance of Certificate of Acceptance Output by the End-user and Inspection and Acceptance Committee. The mode of payment may either be cash or telegraphic transfer.
 - 3.2. In consideration of the government's procedure on the processing of payments, ETPI allows the NPC to pay within thirty (30) days from the indicated due date on the statement of account provided all supporting documents from ETPI have submitted.
4. **OWNERSHIP OF UNITS.** The ownership of the units to be installed at the NPC Office shall not be transferred to the NPC. The ownership of the units during the existence of this Agreement and after its completion shall be retained by ETPI.
5. **AMENDMENTS.** No modifications, amendments, or supplements to this Contract shall be effective for any purpose unless the same is in writing and signed by each party.
6. **SUSPENSION OF CONTRACT.** The NPC may, by written notice of suspension to ETPI, suspend this Agreement if ETPI fails to perform any of its obligations whether it be due to its own fault, force majeure or circumstances beyond the control of either party.

ETPI may be allowed by NPC to remedy any such failure within a period not exceeding thirty (30) days after receipt of such notice.

The NPC may order the resumption of work if the ground for the suspension no longer exists, and the continuation of the work is found practicable

7. **TERMINATION OF CONTRACT.** The NPC, by written notice sent to ETPI, may terminate the contract, in whole or in part in accordance with Annex "I" of IRR of RA No. 9184. The notice of termination shall specify the cause of termination in accordance with Annex "I" of IRR of RA No. 9184, the extent to which performance of the contractor under the contract is terminated, and the date upon which such termination becomes effective.

The NPC may terminate the contract in case it is determined prima facie that ETPI has engaged, before or during the implementation of the contract, in unlawful deeds and behaviors relative to contract acquisition and implementation.

The NPC may also terminate a contract for default when any of the following conditions attend its implementation: a) Outside of force majeure, ETPI fails to deliver or perform the SERVICES specified in the contract; b) As a result of force majeure, ETPI is unable to deliver

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or perform the SERVICES for a period of not less than sixty (60) calendar days after the its receipt of the notice from the NPC stating that the circumstance of force majeure is deemed to have ceased; or c) ETPI fails to perform any other obligation under the contract.

8. **FORCE MAJEURE.** Except in cases of willful neglect, either PARTY shall not have any liability whatsoever or be deemed to be in default for any delay or failure in performance under this Agreement resulting from acts beyond its control including, without limitation, acts of God, acts of regulations of any governmental or supranational authority, war or national emergency, accident, fire, lightning, riot, strikes, lock-outs, industrial disputes, whether or not involving either PARTY, or epidemics.
9. **INDEMNITY CLAUSE.** Each PARTY shall be responsible for, and hold the other harmless from, any injuries suffered by its personnel due to incidents caused by it or during the performance of this Agreement, including injuries which may be compensable under any workers' compensation laws, except for prohibited acts and omissions or gross negligence of the other party.
10. **INDEPENDENT CONTRACTOR.** ETPI is an independent contractor and is not an employee of NPC.
11. **DISPUTE RESOLUTION.** In the event of any dispute or difference of any kind whatsoever arising out of or relating to this Agreement, the PARTIES shall exercise their best efforts to resolve the dispute or difference by mutual consultation as soon as possible. In case best efforts fail, the dispute or difference shall be submitted to alternative dispute resolution, including arbitration in accordance with the rules provided in Republic Act No. 9285 or Alternative Dispute Resolution Law.

If any party contends that a claim cannot be submitted to alternative dispute resolution, that party shall be limited to filing a lawsuit in the appropriate courts in Pasay City or Makati City, at the option of the complaining party, to the exclusion of all others.

12. **CONFIDENTIALITY AND DATA PRIVACY.** In the course of the undertaking between the NPC and ETPI, any data received by latter from the NPC shall be treated as confidential information, which may not be disclosed to any person without authority from the NPC or the relevant Government department or agency. Further, should there be any data containing personal and sensitive personal information received by ETPI from the NPC, the processing of such, if any, shall comply with the provisions of the Data Privacy Act of 2012, its Implementing Rules and Regulations (IRR), and other issuances.

12.1. All persons employed by and/or connected with ETPI shall not disclose any information or document which they will obtain from the NPC by reason of this Agreement.

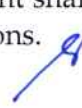
12.2. The NPC system, its components, parts and all the product samples and specifications, data, ideas, technology, and technical and non-technical materials, all or any of which may be derived from any of the foregoing (all of which, individually and collectively, referred to as "Proprietary Information") are confidential.

12.3. ETPI agrees to hold the Proprietary Information in strict confidence. ETPI furthermore agrees NOT to reproduce, transcribe, or disclose the Proprietary Information to third parties without prior written approval of NPC.

12. **INSURANCE.** ETPI shall be responsible for taking out any appropriate insurance coverage to ensure its compliance with this Agreement.

13. **ASSIGNMENT.** ETPI shall not assign nor subcontract this Agreement, in whole or in part.

14. **GOVERNING LAW.** This Agreement is governed by the laws of the Republic of the Philippines and interpretation of the provisions of this Agreement shall be pursuant to RA 9184 and its IRR, and all other pertinent laws, rules, and regulations.

15. MISCELLANEOUS PROVISIONS

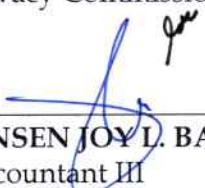
- 15.1 The PARTIES agreed that the duly approved Scope of Work, Financial Proposals, and all the bidding documents in relation to this procurement are deemed integral part of this Agreement.
- 15.2 In case of conflict between the terms of this Agreement and those in the Annexes or related documents, the former shall prevail.
- 15.3 If any of the provisions or any portion of the provisions in this Agreement shall be declared invalid, *illegal* or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, of the parties have caused this Agreement to be executed by and through their duly authorized representatives on JAN 30 2023 2023.

NATIONAL PRIVACY COMMISSION

By:


 ATTY. JOHN HENRY D. NAGA
 Privacy Commissioner


 JENSEN JOY L. BALLICUD
 Accountant III

EASTERN TELECOMMUNICATIONS PHILIPPINES INCORPORATED

By:


 MICHAEL S. CASTAÑEDA
 Sales Head

Signed in the Presence of:


 ATTY. IVIN RONALD D.M. ALZONA


 JUNE PATRICK P. PILAPIL



ACKNOWLEDGMENT

Republic of the Philippines)
City of CITY OF MANILA) S.S.

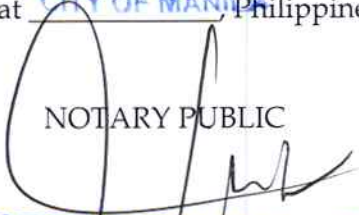
BEFORE ME, a Notary Public for and in the above jurisdiction on this JAN 30 2023
personally appeared:

NAME	VALID ID	DATE/PLACE ISSUED
ATTY. JOHN HENRY D. NAGA		
MICHAEL S. CASTAÑEDA		

Known to me to be the same persons who executed the foregoing Contract Agreement for the entities that they each represent and acknowledged to me that it is their free act and deed, consisting of only ____ () pages, including this page in which this Acknowledgement is written, duly signed by them and their instrumental witnesses on each and every page hereof.

WITNESS MY HAND AND SEAL this JAN 30 2023 at CITY OF MANILA, Philippines.

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Series of 2023

NOTARY PUBLIC

ATTY. HENRY D. ADASA
NOTARY PUBLIC CITY OF MANILA
APPOINTMENT 097/12/31/2023 MANILA
IBP NO. 192139 / 01/03/2023
PTR NO. 0862145 / 01/03/2023
ROLL NO. 29679, TIN NO. 172-528-620
MCLE COMP. NO. VII-0000165 VALID UNTIL APRIL 14, 2025
(15) 1411 TAYUMAN ST., STA. CRUZ, MANILA

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