

Notification of the Office of the Eastern Economic Corridor Policy Committee
Re: Criteria for Leasing the Ratchaphatsadu Land Established as the Special
Economic Promotional Zone B.E. 2563

Whereas it is expedient to specify criteria for leasing the Ratchaphatsadu land established as the special economic promotional zone for convenience, flexibility, and efficiency in leasing the Ratchaphatsadu land.

By virtue of the provision under Section 5 (1) and (2) and Clause 6 of the Regulation of the Office of the Eastern Economic Corridor Policy Committee on Criteria, Procedures, and Conditions for Leasing the Ratchaphatsadu Land Established as the Special Economic Promotional Zone B.E. 2562 (2019), the Secretary-General of the Eastern Economic Corridor Policy Committee hereby issues the Notification as follows:

Clause 1 This Notification is called the “Notification of the Office of the Eastern Economic Corridor Policy Committee Re: Criteria for Leasing the Ratchaphatsadu Land Established as the Special Economic Promotional Zone B.E. 2563”.

Clause 2 This Notification shall come into force on the day following the date of notification onwards.

Clause 3 The Secretary-General shall be in charge of this Notification.

In case of problems incurred according to the implementation under this Notification, the Secretary-General shall be the person with the ruling power.

Section 1
Leasing by Bidding

Clause 4 The Office shall have authority to arrange lease by open bidding procedures at the EEC office and through the EEC electronic media, or any other advertising methods.

The bidding methods in Paragraph One is public bidding by issuing the invitation to bid to eligible bidders with the specified conditions, or selecting eligible bidders with specific qualifications to participate in the bidding as the case may be.

Clause 5 The invitation to bid under Clause 4 shall at least comprise the following information:

- (1) Details about the leasing Ratchaphatsadu Land;
- (2) Bidding methods;
- (3) Qualifications of eligible bidders, who shall not be a person with special privilege or immunity with which to refuse being taken to Thai court, unless the Bidder’s government shall have the order to waive for such privilege or immunity;
- (4) In case of necessity, it shall specify the bidder to submit drawings and details together with the quotation;
- (5) Conditions that the bid submitted and registered by the office cannot be withdrawn;
- (6) Venue, date, time of bid submission and opening;

(7) Approximate dates of commencement and completion of buildings construction and transferring ownership to the Ministry of Finance or the Office (if any);

(8) Bid security as prescribed by the Office, with the conditions that in case the bidder withdraws the quotation or does not sign or make an agreement with the Office within the specified period, the Office shall forfeit the bid security or request from the surety;

(9) Determination of conditions and rate of payment (if any);

(10) Requirements that the successful bidder shall furnish the performance security at the rate prescribed by the Office;

(11) Quotation shall identify the total bid amount in figures and words. In case of discrepancy, the words shall prevail.

(12) Bidding envelopes shall be sealed before submitting to the Office, and the bidder shall prepare a list of documents submitting together with the envelope.

(13) Contacts for inquiry about drawings and details together with contract forms (if any).

(14) Reservation of rights that the Office may cancel the bids or not accept the bidder offering the highest benefits. Additionally, the Office has the rights to discontinue the bids in case there are reasonable grounds for dishonesty or bid-rigging or any other cases deemed appropriate for the benefits of the Office.

Clause 6 Distribution or sale of bid document shall be undertaken at the EEC office. The documents shall be prepared sufficiently to the need of requesting or buying, one copy per person. The time shall be spare for calculating the price for the quotation. The distribution or sale shall be done in the following procedures and schedule at least:

(1) Distribution or sale of bid documents shall start on the day of invitation and shall be open not less than 15 days;

(2) After closing the distribution or sale under (1), prospective bidders may allow visiting the bidding site or the bidding clarification may be arranged. These shall be undertaken at least 15 days before the bid submission date.

In case of cancelling the bid to arrange new bidding, the prospective bidders have the rights to use the old bid documents or asking for new bid documents at no cost.

Clause 7 Prior to the bid opening date, in case of necessity to clarify the bid documents for benefits of the Office or to amend the substantial details of bid documents, the Office shall issue the addendums and notify in writing to those requesting or buying the bid documents.

In case the prospective bidder is unable to submit the bid within the specified time due to the undertaking under Paragraph One, it is deemed appropriate to postpone the date of bid submission and opening bid or proceed with any action as necessary.

Clause 8 Prior to signing the contract or making an agreement with any bidder, in the case that it is necessary to modify the substantial details or conditions in the invitation to bid for benefits of the Office and it affects the advantage or disadvantage of any prospective bidders, the Office shall cancel the bid.

Clause 9 The Office shall appoint the committee to undertake actions under this Notification as follow:

(1) Bid acceptance and opening committee;

(2) Bid evaluation committee.

Clause 10 Each group of the committee under Clause 9 shall comprise one chairman and at least 2 members, depending on the work characteristics, duties, and responsibilities of the appointees.

In the same bidding, it is prohibited to appoint a bid acceptance and opening committee to be a bid evaluation committee.

Clause 11 The committee meeting shall be with the presence of at least half of the members of the committee. The chairman and each member shall have one vote for resolving.

The resolution of the meeting shall be made by majority votes. In the case of equal voting, the Chairman of the meeting shall have an additional casting vote for the ruling.

In the case that any members disagree with the committee resolution, a dissenting opinion shall be filed.

Clause 12 The bid acceptance and opening committee shall have duties as follows:

(1) Receive the bid envelop, make registration as evidence, initial the envelop and identify the bidder's names on the face of the envelope;

(2) Examine the bid security with the financial staff of the Office. The financial staff shall issue the bid receipt as evidence. In case of incorrectness, it shall be noted as a remark in the bid receipt and the report.

In case bid security is a letter of guarantee, the copy of the letter of guarantee shall be submitted to the bank or the investment company issuing such letter of guarantee to verify.

(3) Accept documents according to the list of bid documents together with drawing and details (if any). In case of incorrectness, it shall be written down in the report.

(4) Open the bid and read the quotation or the list of documents offered together with the bid of all bidders. The bid opening shall be in public and at the time and place specified and all members of the committee shall initial the quotation and every page of the supporting documents. The prices and/or benefits from all quotations shall be listed on the bid comparison table.

In case the bid included technical proposals or any other proposals apart from the quotation and it shall consider technical and other aspects according to specified conditions, the bid acceptance and opening committee shall not undertake the duties in Paragraph One and the bid evaluation committee shall proceed instead.

(5) After the undertaking under (4), all quotations, copies of the letter of guarantee verification, other documents, the bid comparison table, together with the report shall be submitted to the bid evaluation committee immediately within the same day.

Clause 13 The bid evaluation committee shall have duties as follows:

(1) Examine qualifications of the bidders, quotations, drawings and details (if any), letter of guarantee examination results, and any other supporting evidence.

In case the bid included technical proposals or any other proposals apart from the quotation, the bid evaluation committee shall undertake according to conditions specified in the bid documents, and open the bid. The provision in Clause 12 (4) Paragraph One shall be applied to the bid opening mutatis mutandis.

In case any bidders submit the details other than the required substantial parts of conditions specified in the invitation, and such differences cause no advantage or disadvantage effect to other bidders or are minor mistakes, it shall be flexible to such bidder to continue bidding and may not disqualify such bid.

In evaluating the bid, the committee may ask any bidders to clarify facts and information to support the consideration. However, the committee shall not permit any bidders to change the substance of the bid.

(2) Select the bidder qualified under (1) for benefits of the Office and offer the highest beneficial proposals as the successful bidder.

In the case more than one eligible bidders offer the equal price or benefits, the committee shall request the bidders to submit a new quotation by submitting the bid envelop with a price not lower than the previous offer. Any bidder who does not submit the new quotation is deemed to confirm the offered quotation.

In any bidding, if it appears that the highest price and/or benefits lower than specified, comments shall be submitted to the Office for consideration whether to modify the bid or cancel the bid and arrange new bidding.

(3) When the bid evaluation committee has considered and it appears only one bidder submits correct and complete documents according to the specified details and conditions, if the bid evaluation committee deems it reasonable to continue the bid, the bid can continue proceeding. In this case, the committee shall present to the Office together with the reason and necessity for consideration.

(4) In the case that no bidder submits the quotation or no bidder correctly submitting documents according to specified details and conditions or in the case the bid evaluation committee deems there are no reasonable grounds to undertake according to the bid result, the committee shall propose to the Office to cancel the bid.

(5) When the bid evaluation committee has considered and agreed with the bid result, the committee shall report the bid result together with comments and all relating documents to the Office for undertaking the Ratchaphatsadu land lease.

Clause 14 The bid security or performance security for the Ratchaphatsadu land lease shall be one of the following:

- (1) Cash;
- (2) Cheque or bank draft, dated not exceeding 3 working days before payment;
- (3) A letter of guarantee issued by a bank in the country. It may be in an electronic form according to forms or procedures under the law on the government procurement and supplies management *mutatis mutandis*;

(4) Thai government bonds or state enterprise bonds or other instruments certified by the Bank of Thailand;

(5) A letter of guarantee of an investment company or securities company authorized to operate the commercial finance business and guarantee business according to the Notification of the Bank of Thailand and listed in the investment companies informed by the Bank of Thailand. The letter of guarantee shall be as specified forms and procedures under the law on the government procurement and supplies management *mutatis mutandis*.

Clause 15 The security under Clause 14 shall be collected at the rate as follows:

(1) The bid security shall be at the full number of 10 percent of the beneficiary fee. The rest of ten baht shall be deemed ten baht.

(2) The performance security for the Ratchaphatsadu land lease to construct buildings with the ownership transfer to the Ministry of Finance or the Office as the case may be shall be at the full number of 10 percent of the building construction value. The rest of ten baht shall be deemed ten baht. Any other case shall be as prescribed in the invitation to bid.

Clause 16 The security shall be returned to the bidder under the following criteria as follows:

(1) The bid security shall be returned to the unsuccessful bidder within 15 days from the date the selection has been completed. Unless there are not more than 3 bidders participating, it shall be returned after informing the successful bidder. In all case, it shall be not exceeding 30 days from the bid submission date.

(2) The performance security shall be returned within 30 days from the date the obligation of a contract is ended.

Section 2

Lease without Bidding

Clause 17 The lease without bidding shall be under Clause 5 (2) of the Regulation of the Office of the Eastern Economic Corridor Policy Committee on Criteria, Procedures, and Conditions for Leasing the Ratchaphatsadu Land Established as the Special Economic Promotional Zone B.E. 2562 (2019). The Office shall proceed with the lease without bidding or assign the public or state enterprise agencies who possess or use the Ratchaphatsadu land to select appropriate persons to be a tenant and sign the contract with the Office. The Office may specify conditions for selection and assign the public and state enterprise agencies to undertake.

Clause 18 The Office shall appoint the lease committee, consisting of one chairman and at least 2 members to consider the proposal for leasing the Ratchaphatsadu land under Clause 19 by taking into account work characteristics, duties, and responsibilities of the appointees.

Clause 19 The lease committee shall prepare the invitation to lease to the public, state enterprise, or private entities who operate businesses as specified in Clause 5 (2) (a) or (b) or (c) of the Regulation of the Office of the Eastern Economic Corridor Policy Committee on Criteria, Procedures, and Conditions for Leasing the Ratchaphatsadu Land Established as the Special Economic Promotional Zone B.E. 2562 (2019) as the case may be. The eligible persons shall submit a proposal to lease the Ratchaphatsadu land to the Office. The invitation to lease shall comprise at least the following information:

- (1) Objectives, reason, and necessity;
- (2) Details of the leasing Rachaphatsadu land;
- (3) Activities operating on the leasing land;
- (4) Lease term;
- (5) Conditions for leasing the Rachaphatsadu land;
- (6) Price, lease rate, or other returns collected;
- (7) Venue, date and time of proposal submission;
- (8) Other relevant details (if any).

Clause 20 The lease committee shall consider and conduct negotiations to obtain the proposal under objectives for leasing the Ratchaphatsadu land as the case may be as follows:

(1) Lease out to the state agency or state enterprise to conduct businesses in response to the government policy;

(2) Lease out to private entities for the purpose and policy specified by the government in response to the development of the Eastern Economic Corridor under the Eastern Special Development Zone Act B.E. 2561 (2018);

(3) Lease out to private entities for businesses with limited entrepreneurs necessary for the development of Eastern Special Development Zone.

After the undertaking under Paragraph One, the lease committee shall prepare a result report together with comments and all relevant documents to submit to the Office for approval for the Ratchaphatsadu land lease.

Clause 21 In case the public or state enterprise agencies assigned by the Office under Clause 17 has selected the eligible tenant to sign the lease contract with the consent of the authorised person of such agency, the agency shall report the selection result with relevant details of leasing to Office for approval for the Ratchaphatsadu land lease.

The provisions of Clause 18, Clause 19, and Clause 20 shall not apply to the undertaking under Paragraph One.

Transitory Provision

Clause 22 The lease of the Ratchaphatsadu land established as the special economic promotional zones with or without bidding procedures has implemented before the effective date of this Notification, whether completed or in process, it shall be deemed with consent and approval to continue the implementation under this Notification.

Issued on the 16th day of June B.E. 2563 (2020)

Kanit Sangsubhan

Secretary-General of the Eastern Economic Corridor Policy Committee