



RESOLUTION NO. 21-2013

APPROVING AMENDMENTS TO SECTIONS 23.1(a), 24.1(a) AND 34.2 OF THE REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184 AND THE PHILIPPINE BIDDING DOCUMENTS FOR GOODS, INFRASTRUCTURE PROJECTS AND CONSULTING SERVICES

WHEREAS, Section 63.1(b) of Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR) authorize the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend, whenever necessary, the IRR;

WHEREAS, Sections 23.1(a) and 24.1(a) of the IRR of RA 9184, Clause 12.1 of the Instructions to Bidders (ITB) of the Philippine Bidding Documents (PBDs) for Goods and Infrastructure Project and Clause 2.1 of the Eligibility Documents of the PBDs for Consulting Services, require the following Class “A” legal eligibility documents during the submission/opening of bids:

“i) Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives, of any proof of such registration as stated in the Bidding Documents.

ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located.”

WHEREAS, Section 34.2(a) of the IRR of RA 9184, Clauses 29.2, 28.2 and 27.2 of the ITB of the PBDs for Goods, Infrastructure Projects and Consulting Services, respectively, require the submission of Tax Clearance during post-qualification of a bidder with the Lowest Calculated Bid or Highest Rated Bid;

WHEREAS, in the meeting held by the Inter Agency Technical Working Group (IATWG) on 9 July 2013, the Bureau of Internal Revenue (BIR) manifested that it will be issuing tax clearances indicating the current assets and current liabilities of the taxpayers, in relation to the computation of the Net Financial Contracting Capacity (NFCC) of prospective bidders;

WHEREAS, during the 5th Regular GPPB Meeting held on 30 July 2013, the Department of Finance (DOF), proposed to include the Tax Clearance as part of the Class “A” legal eligibility documents to be submitted during the opening of bids;

WHEREAS, the Board discussed the matter, and, after thorough and careful deliberations, favorably approved the recommendation of DOF;

NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to confirm, adopt and approve, as **WE** hereby confirm, adopt and approve the following:

1. **AMEND** Sections 23.1(a), 24.1(a) and 34.2 of the IRR of RA 9184, as shown in **Annex “A”** hereof; and,

2. **AMEND** Clauses 12.1(a) and 29.2 of the ITB, PBDs for Goods; Clauses 12.1(a) and 28.2 of the ITB, PBDs for Infrastructure Projects; and Clause 2.1 of the Eligibility Documents and Clause 27.2 of the ITB, PBDs for Consulting Services, as shown in **Annex “B”** hereof.

This resolution shall take effect immediately.

APPROVED this 30th day of July 2013 at Pasig City, Philippines

(Sgd.)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

DEPARTMENT OF HEALTH

**DEPARTMENT OF THE INTERIOR AND
LOCAL GOVERNMENT**

(Sgd.)

**DEPARTMENT OF NATIONAL
DEFENSE**

**DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

**DEPARTMENT OF TRADE AND
INDUSTRY**

(Sgd.)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

(Sgd.)

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

DENNIS S. SANTIAGO
Board Secretary, GPPB
Executive Director, GPPB-TSO

**REVISED IMPLEMENTING RULES AND REGULATIONS (IRR)
 OF REPUBLIC ACT (RA) NO. 9184**

ORIGINAL	AMENDED
<p>Section 23.1(a)</p> <p>For purposes of determining the eligibility of bidders using the criteria stated in Section 23.5 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:</p> <p>a) <u>Class “A” Documents</u></p> <p><i>Legal Documents</i></p> <p>(i) Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives, or any proof of such registration as stated in the Bidding Documents.</p> <p>(ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located.</p>	<p>Section 23.1(a)</p> <p>For purposes of determining the eligibility of bidders using the criteria stated in Section 23.5 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:</p> <p>a) <u>Class “A” Documents</u></p> <p><i>Legal Documents</i></p> <p>(i) Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives, or any proof of such registration as stated in the Bidding Documents.</p> <p>(ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located.</p> <p>(iii) <u>Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.</u></p>
<p>Section 24.1(a)</p> <p>For purposes of determining the eligibility and short list of bidders in accordance with Sections 24.4 and 24.5 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:</p>	<p>Section 24.1(a)</p> <p>For purposes of determining the eligibility and short list of bidders in accordance with Sections 24.4 and 24.5 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:</p>

<p>a) <u>Class “A” Documents</u></p> <p><i>Legal Documents</i></p> <p>(i) Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives, or any proof of such registration as stated in the Bidding Documents;</p> <p>(ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located;</p>	<p>a) <u>Class “A” Documents</u></p> <p><i>Legal Documents</i></p> <p>(i) Registration certificate from SEC, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives, or any proof of such registration as stated in the Bidding Documents;</p> <p>(ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located; and,</p> <p>(iii) <u>Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.</u></p>
<p>Section 34.2(a)</p> <p>Within three (3) calendar days from receipt by the bidder of the notice from the BAC that the bidder has the Lowest Calculated Bid or Highest Rated Bid, the bidder shall submit the following documentary requirements to the BAC:</p> <p>a) Tax clearance; b) Latest income and business tax returns; c) Certificate of PhilGEPS Registration; and d) Other appropriate licenses and permits required by law and stated in the Bidding Documents.</p> <p>Failure to submit the above requirements on time or a finding against the veracity of such shall be ground for the forfeiture of the bid security and disqualify the bidder for award.</p>	<p>Section 34.2(a)</p> <p>Within three (3) calendar days from receipt by the bidder of the notice from the BAC that the bidder has the Lowest Calculated Bid or Highest Rated Bid, the bidder shall submit the following documentary requirements to the BAC:</p> <p><u>a) Latest income and business tax returns;</u> <u>b) Certificate of PhilGEPS Registration; and,</u> <u>c) Other appropriate licenses and permits required by law and stated in the Bidding Documents.</u></p> <p>Failure to submit the above requirements on time or a finding against the veracity of such shall be ground for the forfeiture of the bid security and disqualify the bidder for award.</p>

**PHILIPPINE BIDDING DOCUMENTS
 FOR GOODS AND INFRASTRUCTURE PROJECTS**

INSTRUCTIONS TO BIDDERS

<i>Goods</i>	
ORIGINAL	AMENDED
<p>Clause 12.1(a)</p> <p>“Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:</p> <p style="padding-left: 40px;">(a) Eligibility Documents –</p> <p style="padding-left: 40px;"><u>Class “A” Documents:</u></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">(v) NFCC computation or CLC in accordance with ITB Clause 5.5;</p>	<p>Clause 12.1(a)</p> <p>“Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:</p> <p style="padding-left: 40px;">(a) Eligibility Documents –</p> <p style="padding-left: 40px;"><u>Class “A” Documents:</u></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">(v) NFCC computation in accordance with ITB Clause 5.5; and,</p> <p style="padding-left: 40px;"><u><i>(vi) Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.</i></u></p>
<p>Clause 29.2</p> <p>Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:</p> <p style="padding-left: 40px;">(a) Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR;</p> <p style="padding-left: 40px;">(b) Latest income and business tax returns in the form specified in the BDS;</p> <p style="padding-left: 40px;">(c) Certificate of PhilGEPS Registration; and</p> <p style="padding-left: 40px;">(d) Other appropriate licenses and permits required by law and stated in the BDS.</p>	<p>Clause 29.2</p> <p>Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:</p> <p style="padding-left: 40px;">(a) <u><i>Latest income and business tax returns in the form specified in the BDS;</i></u></p> <p style="padding-left: 40px;">(b) <u><i>Certificate of PhilGEPS Registration; and</i></u></p> <p style="padding-left: 40px;">(c) <u><i>Other appropriate licenses and permits required by law and stated in the BDS.</i></u></p> <p>Failure of the Bidder declared as Lowest Calculated Bid to duly submit the</p>

<p>Failure of the Bidder declared as Lowest Calculated Bid to duly submit the requirements under this Clause or a finding against the veracity of such shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.</p>	<p>requirements under this Clause or a finding against the veracity of such shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.</p>
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<i>Infrastructure Projects</i>	
ORIGINAL	AMENDED
<p>Clause 12.1(a)</p> <p>“Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:</p> <p style="padding-left: 40px;">(a) Eligibility Documents –</p> <p style="padding-left: 40px;"><u>Class “A” Documents:</u></p> <p style="padding-left: 80px;">...</p> <p style="padding-left: 40px;">(v) NFCC computation or CLC in accordance with ITB Clause 5.5;</p>	<p>Clause 12.1(a)</p> <p>“Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:</p> <p style="padding-left: 40px;">(a) Eligibility Documents –</p> <p style="padding-left: 40px;"><u>Class “A” Documents:</u></p> <p style="padding-left: 80px;">...</p> <p style="padding-left: 40px;">(v) NFCC computation in accordance with ITB Clause 5.5; and,</p> <p style="padding-left: 40px;"><u><i>(vi) Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.</i></u></p>
<p>Clause 28.2</p> <p>Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:</p> <p style="padding-left: 40px;">(a) Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR;</p> <p style="padding-left: 40px;">(b) Latest income and business tax returns in the form specified in the BDS;</p> <p style="padding-left: 40px;">(c) Certificate of PhilGEPS Registration; and</p> <p style="padding-left: 40px;">(d) Other appropriate licenses and permits required by law and stated in the BDS.</p>	<p>Clause 28.2</p> <p>Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:</p> <p style="padding-left: 40px;">(a) <u><i>Latest income and business tax returns in the form specified in the BDS;</i></u></p> <p style="padding-left: 40px;">(b) <u><i>Certificate of PhilGEPS Registration; and</i></u></p> <p style="padding-left: 40px;">(c) <u><i>Other appropriate licenses and permits required by law and stated in the BDS.</i></u></p> <p>Failure of the Bidder declared as Lowest Calculated Bid to duly submit the requirements under this Clause or a finding</p>

Failure of the Bidder declared as Lowest Calculated Bid to duly submit the requirements under this Clause or a finding against the veracity of such shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.	against the veracity of such shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.
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**PHILIPPINE BIDDING DOCUMENTS
FOR CONSULTING SERVICES**

ELIGIBILITY DOCUMENTS

ORIGINAL	AMENDED
<p>Clause 2.1(a)</p> <p>“The following eligibility requirements shall be submitted on or before the date of the eligibility check specified in the Request for Expression of Interest and Clause 5 for purposes of determining eligibility of prospective bidders:</p> <p>a) Class “A” Documents:</p> <p><u>Legal Documents</u></p> <p>...</p> <p>(ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located;</p>	<p>Clause 2.1(a)</p> <p>“The following eligibility requirements shall be submitted on or before the date of the eligibility check specified in the Request for Expression of Interest and Clause 5 for purposes of determining eligibility of prospective bidders:</p> <p>a) Class “A” Documents:</p> <p><u>Legal Documents</u></p> <p>...</p> <p>(ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located; and,</p> <p><u>(iii) Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.</u></p>

INSTRUCTIONS TO BIDDERS

<p>Clause 27.2</p> <p>Within a non-extendible period of three (3) calendar days from receipt by the Consultant of the notice from the BAC that it is the HRB, the Consultant shall submit the following documentary requirements:</p> <p>(a) Tax clearance per Executive Order</p>	<p>Clause 27.2</p> <p>Within a non-extendible period of three (3) calendar days from receipt by the Consultant of the notice from the BAC that it is the HRB, the Consultant shall submit the following documentary requirements:</p> <p>(a) <u>Latest income and business tax</u></p>
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<p>398, Series of 2005, as finally reviewed and approved by the BIR;</p> <p>(b) Latest income and business tax returns in the form specified in the BDS;</p> <p>(c) Certificate of PhilGEPS Registration; and</p> <p>(d) Other appropriate licenses and permits required by law and stated in the BDS.</p> <p>Failure of the Consultant declared as HRB to duly submit the requirements under this Clause or a finding against the veracity of such, shall be ground for forfeiture of the bid security and disqualification of the Consultant for award.</p>	<p><u><i>returns in the form specified in the BDS;</i></u></p> <p>(b) <u><i>Certificate of PhilGEPS Registration; and</i></u></p> <p>(c) <u><i>Other appropriate licenses and permits required by law and stated in the BDS.</i></u></p> <p>Failure of the Consultant declared as HRB to duly submit the requirements under this Clause or a finding against the veracity of such, shall be ground for forfeiture of the bid security and disqualification of the Consultant for award.</p>
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