



RESOLUTION NO. 11-2014

CLARIFYING GPPB RESOLUTION NO. 20-2013 DATED 30 JULY 2013 RELATIVE TO THE BASIS OF BIDDERS' CURRENT ASSETS AND CURRENT LIABILITIES FOR PURPOSES OF DETERMINING AND COMPUTING THEIR NET FINANCIAL CONTRACTING CAPACITY

WHEREAS, Republic Act (RA) No. 9184 entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and For Other Purposes,” took effect on 26 January 2003, while its revised Implementing Rules and Regulations (IRR) took effect on 2 September 2009;

WHEREAS, Section 63.1(b) of RA 9184 and its IRR authorize the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend, whenever necessary, the IRR;

WHEREAS, on 26 April 2013, the GPPB issued GPPB Resolution No. 11-2013 amending the Philippine Bidding Documents (PBDs), which mandated the filing of tax returns and payment of taxes through Electronic Filing and Payment System (EFPS) for taxpayers participating in government procurement;

WHEREAS, during the 3rd Regular Meeting of the GPPB-Inter Agency Technical Working Group (IATWG) held on 9 July 2013, Honorable Commissioner Kim Jacinto-Henares manifested that the Bureau of Internal Revenue (BIR) shall issue Tax Clearances indicating the current assets and current liabilities of the taxpayers in order to easily determine and compute the Net Financial Contracting Capacity (NFCC) of prospective bidders;

WHEREAS, during its 5th Regular Meeting held on 30 July 2013, the GPPB approved GPPB Resolution No. 20-2013, which amended Sections 23.1(a)(vi), 23.5.1.4 and 23.5.2.6 of the IRR of RA 9184 and pertinent provisions of the Philippine Bidding Documents removing the credit line commitment as an alternative financial eligibility document, and requiring that the values of the bidder's current assets and current liabilities in computing for the NFCC shall be based on the data submitted to the BIR, through its EFPS;

WHEREAS, since the publication of GPPB Resolution No. 20-2013 on 12 March 2014, the GPPB-Technical Support Office (GPPB-TSO) has been receiving queries and/concerns from bidders and procuring entities on the implementation of the afore-quoted amendment, including the basis of a domestic bidder's Current Assets and Current Liabilities filed through EFPS;

WHEREAS, in a 15 May 2014 meeting between representatives from the GPPB-TSO and Assistant Commissioner James Roldan and Ms. Rosanna P. San Vicente, Chief of Accounts Receivable Monitoring Division of the BIR, it was clarified that the BIR had already issued new forms of Income Tax Returns (ITRs) wherein the taxpayers are required to declare their Current Assets and Current Liabilities;

WHEREAS, the taxpayer's ITR filed through the EFPS shall include to the Audited Financial Statements (AFS);

WHEREAS, it was also clarified during the 15 May 2014 meeting that Non-Resident Foreign Corporations (NRFC) or Non-Resident Aliens Not Engaged in Trade or Business (NRANETB) are not required to file tax returns through EFPS as they are not considered as "doing business" in the Philippines;

WHEREAS, during the 3rd Regular GPPB Meeting held on 23 May 2014, the GPPB discussed, for purposes of clarification, the concerns on the basis of the Current Assets and Current Liabilities of both domestic bidders and foreign bidders;

WHEREAS, after due deliberation on the issue of a domestic bidder's basis of Current Assets and Current Liabilities, the GPPB adopted the recommendations of the GPPB-TSO;

WHEREAS, the GPPB resolved to further study whether foreign bidders shall be required to register with BIR and Securities and Exchange Commission, and agreed that in the meantime, the values of the Current Assets and Current Liabilities of foreign bidders shall be based on their AFS accomplished in compliance with International Financial Reporting Standards;

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 approve and adopt, as **WE** hereby confirm, adopt and approve the following:

1. **CLARIFY** that the phrase "the values of the bidder's current assets and current liabilities shall be based on the data submitted to the BIR, through its Electronic Filing and Payment System (EFPS).", which shall be the basis of a domestic bidder's Current Assets and Current Liabilities, refers to the Annual Income Tax Return and the accompanying Audited Financial Statements filed through the EFPS;
2. **WRITE** BIR inquiring on the status of their commitment to issue a Tax Clearance indicating the taxpayer's Current Assets and Current Liabilities;
3. **RECOMMEND** to the BIR the issuance of a Memorandum Circular or Revenue Regulation requiring taxpayers who wish to enter into contract with the government, to include in their Annual Income Tax Returns the corresponding Audited Financial Statements filed through the EFPS;
4. **ISSUE** a Policy Matter Opinion clarifying that for purposes of computing foreign bidders' NFCC, the value of the current assets and current liabilities shall be based on their Audited Financial Statements in accordance with International Financial Reporting Standards.

This Resolution shall take effect immediately.

APPROVED this 23rd day of May 2014 at Pasig City, Philippines.

(Sgd.)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF ENERGY

DEPARTMENT OF FINANCE

(Sgd.)

DEPARTMENT OF HEALTH

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

(Sgd.)

**DEPARTMENT OF NATIONAL
DEFENSE**

(Sgd.)

**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