



RESOLUTION NO. 29-2012

AMENDING SECTION 23.1(a)(iii) OF THE REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and its revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 2 September 2009, respectively;

WHEREAS, Section 63 of RA 9184 mandates the Government Procurement Policy Board (GPPB) to protect national interest in all matters affecting public procurement;

WHEREAS, Section 23.1(a)(iii) of the IRR of RA 9184 requires the submission of Statement of the prospective bidder of all its on-going and completed government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid, within the relevant period as provided in the Bidding Documents, for purposes of determining its technical eligibility;

WHEREAS, Section 23.1(a)(vi) of the IRR of RA 9184 requires the submission of the prospective bidder’s computation of its Net Financial Contracting Capacity (NFCC) or a commitment from a Universal or Commercial Bank to extend a credit line in favor of the prospective bidder if awarded the contract to be bid (CLC), for purposes of determining its financial eligibility;

WHEREAS, the information stated on on-going contracts is material in validating the bidder’s compliance with the eligibility criteria if it opts to submit its NFCC. But, it may not be necessary if the bidder chooses to submit a CLC. Further, the statement will also measure the performance of the bidder in its ongoing government and private contracts to determine any reported negative slippage; or substandard quality of work; or unsatisfactory performance;

WHEREAS, the information on completed contracts is material in validating the bidder’s experience of having completed a contract that is similar to the contract to be bid, and whose value and limitations are based on the provisions described under Sections 23.5.1.3 and 23.5.2.5 of the revised IRR;

WHEREAS, there is a need to clarify issues relative to the submission of the eligibility documents, particularly the technical requirements stated under Section 23 of the revised IRR of RA 9184 which may be summarized as follows:

1. Whether the submission of a Statement of all On-going and Completed Contracts may be dispensed with if the bidder opted to submit a Credit Line Commitment (CLC) instead of the Net Financial Contracting Capacity (NFCC).
2. In case a bidder opted to submit an NFCC computation, whether failure to include “immaterial” ongoing contract or failure to disclose complete information should be a ground for disqualification and blacklisting of the bidder.

WHEREAS, in its 10th meeting held on 9 November 2012, the Inter-Agency Technical Working Group, resolved to recommend the following:

1. Amendment of Section 23.1(a)(iii) to reflect the following:
 - a. That submission of a Statement of Ongoing Contracts should only be required if the bidder opts to submit an NFCC computation. If the bidder opts to submit a CLC, it need not submit said statement.
 - b. That a Statement of Completed Contract(s) should always be required for the purpose of showing the bidder's Single Largest Completed Contract that is similar to the contract to be bid.
2. To interpret that failure to include an immaterial ongoing contract or failure to disclose complete information in the statement of contracts shall result in the following:
 - a. Disqualification of the bidder for non-compliance with the eligibility requirement under Sections 23.1 or 24.1 of the revised IRR.
 - b. Blacklisting under Section 65.3 (a) or (b) of the revised IRR.

WHEREAS, in its 10th Meeting held on 23 November 2012, the GPPB, after a careful review and deliberation of the issues presented by the DPWH, resolved to adopt the recommendation of the IATWG in its meeting held on 9 November 2012;

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

1. Amendment of Section 23.1(a)(iii) as follows:

“Statement of the prospective bidder of all its ongoing government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid, within the relevant period as provided in the Bidding Documents; and

Statement identifying the bidder's single largest completed contract similar to the contract to be bid, except under conditions provided for in Section 23.5.1.3 of this IRR, within the relevant period as provided in the Bidding Documents in the case of goods.

All of the above statements shall include all information required in the PBDs prescribed by the GPPB.”

2. To interpret that failure to include an immaterial ongoing contract or failure to disclose complete information in the statement of contracts shall result in the following:

- a. Disqualification of the bidder for non-compliance with the eligibility requirement under Sections 23.1 or 24.1 of the revised IRR.
- b. Blacklisting under Section 65.3 (a) or (b) of the revised IRR.

This Resolution shall take effect immediately.

APPROVED this 23rd day of November, 2012 at Pasig City, Philippines.

(Sgd.)

**DEPARTMENT OF BUDGET AND
 MANAGEMENT**

**NATIONAL ECONOMIC AND
 DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF EDUCATION

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

(Sgd.)

DEPARTMENT OF HEALTH

(Sgd.)

**DEPARTMENT OF THE INTERIOR
 AND LOCAL GOVERNMENT**

**DEPARTMENT OF NATIONAL
 DEFENSE**

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS
 AND HIGHWAYS**

**DEPARTMENT OF SCIENCE AND
 TECHNOLOGY**

(Sgd.)

**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