

NPM No. 003-2018

30 January 2018

MS. HANNAH LOPEZ GOMEZ
hannahlopezgomez@gmail.com

Re: Requirements for Two-Failed Biddings under the 2009 IRR -

Dear Ms. Gomez:

This refers to your electronic mail asking for the documentary requirements to be submitted by the bidders in the case of Negotiated Procurement (Two-Failed Biddings), under Section 53.1 of the 2009 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the Government Procurement Reform Act. Particularly, you ask for the required documents to be submitted by the winning supplier, or if its Price Quotation and Certificate of Availability of the items would already suffice. In addition, you inquired if a Notice to Proceed (NTP) is still necessary to be issued by the Procuring Entity (PE).

Please be advised that relative to Negotiated Procurement through the Two-Failed Biddings modality under the 2009 revised IRR of RA 9184, we have issued several non-policy matter opinions¹ clarifying that the same eligibility documents required in public bidding must likewise be submitted when resorting to alternative methods of procurement where there is competitive bidding or a semblance thereof is present, *i.e.* Limited Source Bidding and Negotiated Procurement (Two-Failed Biddings). Thus, the price quotation and certificate of availability of the items to be submitted by the bidders would not suffice. The bidder must submit the eligibility requirements under Section 23 for the procurement of goods and infrastructure projects, and under Section 24 for the procurement of consulting services.

As to whether there is necessity to issue an NTP when procuring under this Negotiated Procurement modality, the 2009 revised IRR is silent. Thus, it is not mandatory, but is not prohibited.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director V

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¹ NPM No. 124-2014 dated 12 November 2014.