



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 13-2017



19 October 2017

MR. ARNOLD C. SEGUNDO
Managing Director
ASTRID CONSULTANTS, INC.
Office

**Re: Statement of All Ongoing Contracts; Net Financial Contracting Capacity;
Committed Line of Credit**

Dear Mr. Segundo:

This refers to your letter requesting our opinion on whether the submission of a Statement of all ongoing government and private contracts is still necessary when a bidder opts to submit a committed Line of Credit to support its financial eligibility in lieu of the Net Financial Contracting Capacity (NFCC).

As represented, it is your understanding that the submission of a Statement of all ongoing contracts is no longer necessary when a bidder opts to submit a committed Line of Credit because you opine that the said Statement has relevance only if the bidder chooses to submit the NFCC computation to determine its financial eligibility. It is in this context that our opinion is requested.

Eligibility Requirements for the Procurement of Goods

Section 23.1 of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184 provides that:

For purposes of determining the eligibility of bidders using the criteria stated in Section 23.4 of this IRR, the following documents shall be required by the BAC using the forms prescribed in the Bidding Documents:

a) Class "A" Documents

Legal Documents

xxx

Technical Documents

...

iii) Verification and/or inspection and testing of the goods/product, after-sales and/or maintenance capabilities, in applicable cases, **as well as checking the following:**

- a. **Delay in the partial delivery of goods amounting to ten percent (10%) of the contract price in its ongoing government and private contracts;**
- b. **If any of these contracts shows the bidder's failure to deliver or perform any or all of the goods or services within the period(s) specified in the contract or within any extension thereof granted by the Procuring Entity pursuant to a request made by the supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price; or**
- c. Unsatisfactory performance of the supplier's obligations as per contract terms and conditions at the time of inspection.

If the BAC verifies any of these deficiencies to be due to the bidder's fault or negligence, the BAC shall disqualify the bidder from the award, for the procurement of Goods. (Emphasis supplied)

Accordingly, even if the bidder opts for the submission of a committed Line of Credit to support its financial eligibility for goods and services procurement, it shall likewise submit the Statement of all ongoing contracts as part of his technical documents. To prove compliance with the technical requirements of the procurement project, the Procuring Entity shall check the performance of the bidder, during the post-qualification stage, in all of its ongoing contracts identified in the said Statement. A finding of any of the aforementioned occurrence shall be a ground for the bidders' disqualification.

Financial Eligibility Requirements

The required submission of NFCC computation **OR** committed Line of Credit is for the purpose of establishing the bidder's liquidity, its capacity to absorb the additional obligations in connection with the contract submitted for bids, and to finance its implementation or completion. Compliance with this eligibility requirement is done in the alternative, such that submission of either the NFCC **OR** the committed Line of Credit is acceptable for purposes of determining a bidder's financial eligibility.

Consequently, the bidder has the choice to submit a committed Line of Credit or an NFCC that is at least equal to the approved budget for the contract (ABC) to be bid, which must be calculated as follows:

NFCC = [(Current assets minus current liabilities) (15)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started, coinciding with the contract to be bid.



iv) 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.

...

Financial Documents

vii) The prospective bidder's audited financial statements, showing, among others, the prospective bidder's total and current assets and liabilities, stamped "received" by the BIR or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two (2) years from the date of submission.

viii) The prospective bidder's computation of Net Financial Contracting Capacity (NFCC). However in case of procurement of Goods, a bidder may submit a committed Line of Credit from a Universal or Commercial Bank, in lieu of its NFCC computation.

b) Class "B Document

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Each Class "A" document has for its purpose the determination of the legal, technical and financial eligibility of the bidder to participate in the bidding process. In addition, all of the statements made and documents submitted shall be subject to post qualification under Section 34 of RA 9184 and the 2016 Revised IRR.

Technical Eligibility Requirements

Statement of All Ongoing Contracts

For the purpose of determining the technical eligibility of the bidder, the BAC shall require the submission of the statement of all ongoing contracts and the statement of the bidder's Single Largest Completed Contract (SLCC) similar to the contract to be bid. Hence, the primary purpose of the Statement of all ongoing contracts of the bidder is to support the bidder's compliance with the technical eligibility requirement. Thus, Section 34.3(b)(iii) of the 2016 Revised IRR on post-qualification provides that:

The post-qualification shall verify, validate, and ascertain all statements made and documents submitted by the bidder with the Lowest Calculated Bid/Highest Rated Bid, using non-discretionary criteria, as stated in the Bidding Documents. These criteria shall consider, but shall not be limited to, the following:

...

b) **Technical Requirements.** To determine compliance of the goods, infrastructure projects, or consulting services offered with the requirements specified in the Bidding Documents, including where applicable:



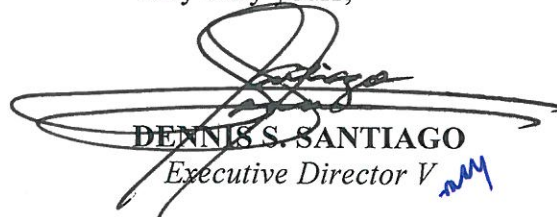

As such, the Statement of all ongoing contracts, while a technical eligibility requirement, serves a dual purpose as it is likewise relevant to the computation of the NFCC because the valuation of all outstanding or uncompleted portions of ongoing contracts will be deducted from the product of the "*current assets minus current liabilities multiplied by 15.*" For the Procuring Entity to determine the correct computation of the NFCC, the bidder shall declare all of 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.

Summary

All told, we wish to stress that whether the bidder submitted a computation of NFCC or committed Line of Credit, the submission of the Statement of all ongoing government and private contracts, including those awarded but not yet started, similar or not in nature and complexity to the contract to be bid, is still required as part of the technical eligibility requirement. Moreover, the Procuring Entity shall check the performance of the bidder, during the post-qualification stage, in all of its ongoing contracts identified in the said Statement to prove compliance with the technical requirements of the procurement project.

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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