



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 015-2017

27 October 2017

SSUPT. DOMINGO V. TAMBALO
Regional Director
REGIONAL OFFICE-IVB (MIMAROPA)
BUREAU OF FIRE PROTECTION (BFP)
FP Perez Bldg. 3, Brgy. Parian, Calamba City, Laguna

Attention: **CINSP. ALDWIN M. SALAZAR**
Assistant Regional Director for Operations, BFP

Re: **Single Largest Completed Contract (SLCC) Requirement
for the Procurement of Non-Expendable Goods**

Dear Director Tambalo:

This refers to your letter inquiring on the correctness of the interpretation of the BFP Bids and Awards Committee (BAC) relative to Clause 5.4, Paragraph 3b of the Bid Data Sheet (BDS) of the Philippine Bidding Documents (PBDs) for Goods on the acceptable amount for the larger of the two (2) contracts to comply with the SLCC requirement.

It is represented that the BFP BAC denied the request for reconsideration of Oliveros Protective Equipment and Maritime Supplies (OPEMS) for failure to satisfy the requirement of the Single Largest Completed Contract (SLCC) pursuant to BDS Clause 5.4 par. 3b, which requires that the largest of the similar aggregate contracts be at least half of the required percentage of the Approved Budget for the Contract (ABC). The BFP BAC asserts that the largest contract, which amounts to Php 680,888.88, is not at least half of the ABC, which is Php 1,587,800.00.

On the other hand, OPEMS avers that it complied with the requirement, with Php 680,888.88 being more than fifty percent (50%) of the required percentage of the ABC, which it claims to actually mean at least twenty five percent (25%) of the ABC. Moreover, in their Protest, OPEMS asserted that their interpretation was even validated as correct by the Government Procurement Policy Board-Technical Support Office (GPPB-TSO).

Thus, you inquire as to the correct interpretation of the phrase, "equivalent to at least half of the percentage of the ABC as required above" in BDS Clause 5.4 par. 3b.

At the outset, we would like to clarify that the Government Procurement Policy Board and its Technical Support Office render policy and non-policy opinions, respectively, on issues purely pertaining to the interpretation and application of procurement laws, rules and regulations. We have no authority to dictate upon the Procuring Entity on how to decide or resolve issues relative to their procurement activities. Moreover, we adhere to the position

that we cannot, nor any other agency, authority, or official, encroach upon or interfere with the exercise of the functions of the Head of the Procuring Entity, and the Bids and Awards Committee (BAC), since these duties and responsibilities fall solely within the ambit of their authority and discretion. In this regard, we shall limit our discussion on the interpretation of relevant procurement rules and regulations pertinent to the query presented.

Single Largest Completed Contract (SLCC)

The SLCC requirement under Section 23.5.1.3 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, as technical eligibility criterion, is imposed for the purpose of establishing a tangible gauge for the bidder's track record and capacity to perform contractual obligations.¹ This is a guarantee to all Procuring Entities (PEs) that only eligible and qualified private contracting parties can participate in public bidding. Nonetheless, this general rule on the SLCC requirement for the procurement of goods is subject to an exception. Thus, if at the outset and after conducting market research, the PE can already determine that imposing the SLCC requirement generally will likely result to failure of bidding, or monopoly that will defeat the purpose of public bidding, the PE, in lieu of the SLCC, may require the following:

- a) The prospective bidder should have completed at least two (2) similar contracts and the aggregate contract amounts should be equivalent to at least the percentage of the required ABC; and
- b) The largest of these similar contracts must be equivalent to at least half of the percentage of the required ABC.²

In relation to this, under BDS Clause 5.4, PEs shall select whether they will impose the general SLCC requirement or they will use the exception under the second paragraph of Section 23.5.1.3 of the IRR of RA 9184.

In this regard, upon BFP's prior determination that imposing the general SLCC requirement will likely result in failure of bidding, or monopoly that will defeat the purpose of public bidding, it may utilize the exception under the second paragraph of Section 23.5.1.3 of the IRR of RA 9184 by selecting in the BDS Clause 5.4 the following paragraph:

In view of the determination by the Procuring Entity that imposition of the provisions of Section 23.4.1.3 of the IRR of RA 9184 will likely result to *[State "failure of bidding" or "monopoly that will defeat the purpose of public bidding"]*, the Bidder should comply with the following requirements:

- a) Completed at least two (2) similar contracts, the aggregate amount of which should be equivalent to at least *[State "fifty percent (50%)" in the case of Non-expendable Supplies and Services or "twenty-five percent (25%)" in the case of Expendable Supplies]* of the ABC for this Project; and
- b) The largest of these similar contracts must be equivalent to at least half of the percentage of the ABC as required above.

¹ NPM No. 031-2009 dated 10 June 2009.

² Section 23.5.1.3, 2nd par. of the IRR of RA 9184.

SLCC Computation; Exception

It is noted that the BDS used in this BFP procurement did not specify which SLCC requirement shall be applicable to the procurement at hand, *i.e.* the general SLCC requirement or the exception. It bears stressing that the Procuring Entity should choose, depending on the results of its market research, whether to use the general SLCC requirement or the exception, and indicate the same in BDS Clause 5.4. In applying the exception to the SLCC requirement, the phrase “the largest of these similar contracts must be equivalent to at least half of the percentage of the ABC as required above” means that the largest contract between or among the contracts submitted should amount to at least 50% of the required percentage of the ABC, which is 50% of the ABC for non-expendable goods or services. Thus, 50% of the required percentage of the ABC is actually half of the percentage requirement, which is 25%.

Summary

In sum, if the general SLCC rule will be applied, which is 50% of the ABC, the SLCC will amount to PhP 793,900.00. Since the exception to the general SLCC rule is sought to be applied relative to the phrase “at least half of the percentage of the ABC as required above”, this would amount to PhP 396,950.00 - half (50%) of the required percentage of the ABC. Consequently, PhP 680,888.88 representing the amount of the larger of the two completed contracts submitted by OPEMS is more than PhP 396,950.00, 50% of the required percentage of the ABC. If it would be otherwise, that would already be satisfying the general rule of SLCC with a contract amount of at least 50% of the ABC, making the submission of two contracts unnecessary.

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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