

NPM No. 091-2017

29 December 2017

MR. JOHN EMMANUEL TORRES
Bids and Awards Committee - Secretariat
HUMAN RESOURCE UNIT DOLE-NCR
hrsd.dole.ncr@gmail.com

Re: Non-Inclusion of Supplemental Bid/Bulletin in the Bid Submission -

Dear Mr. Torres:

This refers to your request for guidance on whether the bidder may be declared disqualified because of its failure to include the copy of the Supplemental Bid/Bulletin in its submitted bid, although it was able to comply with the documents required under the said Supplemental/Bid Bulletin.

Failure of the bidder to include in its bid the actual copy of the Supplemental/Bid Bulletin is not a ground for disqualification. A Supplemental/Bid bulletin is not a Class "A" or "B" eligibility document provided for under the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the Government Procurement Reform Act, or part of the technical and financial components of the bids, particularly Section 25.1, which states that:

Bidders shall submit their bids through their duly authorized representative using the forms specified in the Bidding Documents in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. **The first shall contain the technical component of the bid, including the eligibility requirements under Section 23.1 of this IRR for the procurement of Goods and Infrastructure Projects, and the second shall contain the financial component of the bid.** (Emphasis supplied)

Section 25.2 of the same IRR enumerated the documents contained in the first envelope (technical and eligibility documents), *to wit*:

- a) For the procurement of Goods:
 - i) PhilGEPS Certificate of Registration and membership in accordance with Section 8.5.2 of this IRR, except for foreign bidders participating in the procurement by a Philippine Foreign Service Office or Post, which shall submit their eligibility documents under Section 23.1 of this IRR: *Provided*, That the winning bidder shall register with the PhilGEPS in accordance with Section 37.1.4 of this IRR;
 - ii) Statement of all Ongoing Government and Private Contracts;



- iii) Statement of SLCC;
- iv) NFCC Computation or committed Line of Credit;
- v) JVA or the Duly Notarized Statement in accordance with Section 23.1(b) of this IRR, if applicable;
- vi) Bid security in the prescribed form, amount and validity period;
- vii) Technical Specifications, which may include production/delivery schedule, manpower requirements, and/or after-sales service/parts, if applicable;
- viii) Omnibus Sworn Statement in accordance with Section 25.3 of this IRR; and
- ix) For foreign bidders claiming eligibility by reason of their country's extension of reciprocal rights to Filipinos, a certification from the relevant government office of their country stating that Filipinos are allowed to participate in their government procurement activities for the same item or product.

For the Financial Envelope, Section 25.4 provides that: “[T]he second envelope shall contain the financial information/documents as specified in the Philippine Bidding Documents (PBDs).”

To reinforce these provisions of the 2016 IRR, the standardized PBDs for Goods under Clauses 12¹ and 13² also enumerated the documents that must be contained in the first

¹ **Clause 12. Documents Comprising the Bid: Eligibility and Technical Components**

12.1 Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:

a. Eligibility Documents –

Class “A” Documents:

- (i) PhilGEPS Certificate of Registration and Membership in accordance with Section 8.5.2 of the IRR, except for foreign bidders participating in the procurement by a Philippine Foreign Service Office or Post, which shall submit their eligibility documents under Section 23.1 of the IRR, provided, that the winning bidder shall register with the PhilGEPS in accordance with section 37.1.4 of the IRR.
- (ii) Statement 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; and

...

- (iii) NFCC computation in accordance with ITB Clause 5.5 or a committed Line of Credit from a universal or commercial bank.

Class “B” Document:

- (iv) If applicable, the Joint Venture Agreement (JVA) in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners in accordance with Section 23.1(b) of the IRR.

b. Technical Documents –

- (i) Bid security in accordance with **ITB Clause Error! Reference source not found.** If the Bidder opts to submit the bid security in the form of:

...

- (ii) Conformity with technical specifications, as enumerated and specified in Sections VI and VII of the Bidding Documents; and
- (iii) Sworn statement in accordance with Section 25.3 of the IRR of RA 9184 and using the form prescribed in **Error! Reference source not found.**
- (iv) For foreign bidders claiming eligibility by reason of their country's extension of reciprocal rights to Filipinos, a certification from the relevant government office of their country stating that Filipinos are allowed to participate in their government procurement activities for the same item or product.

² **Clause 13. Documents Comprising the Bid: Financial Component**

13.1 The financial component of the bid shall contain the following:

and second envelopes. The same can be said in the standardized PBDs for infrastructure projects. It will be noted that the copy of the Supplemental bid/bulletin is not one of these documents.

Accordingly, there is no legal basis under RA 9184, its 2016 IRR and the standardized PBDs for Goods that require bidders to attach the copy of the Supplemental/Bid bulletin in its bid submission.

We hope 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 you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director 

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