

NPM No. 126-2016

6 December 2016

MR. RENE E. COLOCAR
Director
DEPARTMENT OF AGRARIAN REFORM
Elliptical Road, Diliman,
Quezon City

Re: Nature of Business of Supplier

Dear Mr. Colocar,

This refers to your letter requesting our opinion on the following issues:

1. Whether or not goods/services that are the subject of procurement should be included in the "line of business" of the suppliers' BIR Certificate of Registration and Mayor's Permit;
2. Whether or not a supplier registered as "trading firm" qualify to submit bids for goods/services under Shopping or Small Value Procurement; and
3. Whether or not there is a need to conduct an on-site inspection of the office/place of business of suppliers to determine their capability to deliver and confirm that availability of goods to be procured.

**Nature of Business of Supplier as Indicated in the
BIR Certificate of Registration and Mayor's Permit**

As pronounced in our earlier opinion,¹ a Mayor's Permit is in the nature of a business permit which authorizes the person, natural or otherwise, to engage in business or some commercial activity. Similarly, the BIR Certificate of Registration includes the information on the business or commercial activities that the company, firm or sole proprietorship is authorized to engage in pursuant to its SEC or DTI registration and Mayor's Permit. Thus, a prospective bidder's business as stated in the Mayor's Permit and BIR Certificate of Registration should allow it to legally perform the requirements and obligations of the procurement project and the resultant contract.

From the foregoing, it is necessary for the BAC to determine whether the Mayor's Permit and BIR Certificate of Registration issued to the supplier authorizes it to engage in the business stated therein, such that a finding to the contrary would amount to non-compliance by the bidder and will result to its disqualification. A prospective bidder's business as stated in the Mayor's Permit should at the very least be similar to the project to be bid².

¹ NPM 036-2013 dated April 10, 2013

² NPM 077-2012 dated June 27, 2012

**Qualification of Supplier Engaged in Trading
in the Procurement of Goods/Services under
Shopping or Small Value Procurement**

Sections 52 and 53.9 of the revised IRR of RA No. 9184 prescribed the rules on Shopping and Small Value Procurement. The Guidelines do not prohibit nor prescribe that suppliers engaged in the business of trading from qualifying to submit bids for supply of goods or services under the alternative modalities of Shopping under Section 52 of the revised IRR and Small Value Procurement. So long as the bidders engaged in trading business are qualified under the guidelines, such supplier may not be prohibited from submitting its bid under these alternative modes of procurement.

**Conduct of On-Site Inspection
of the Office/Place of Business of Suppliers**

In an earlier opinion³, we pointed out that the objective of post-qualification under Section 34 of RA 9184 is to determine whether the bidder complies with and is responsive to all the legal, technical and financial requirements and conditions specified in the bidding documents. During post qualification, the procuring entity verifies, validates and ascertains all statements made and the documents submitted by the bidder with the Lowest Calculated Bid (LCB) or highest rated bid using non-discretionary pass/fail criteria as stated in the bidding documents.

These criteria shall consider the legal, technical and financial requirements, such as, but not limited to, the bidder's stated competence and experience, the availability and commitment, and/or inspection and testing of the equipment units to be owned or leased by the bidder. Hence, the verification entailed under the post-qualification stage is not limited to the examination of documents submitted by the bidder, but may include the inspection of the subject equipment *vis-à-vis* the technical specifications specified in the bidding documents.

[T]he act of the procuring entity in verifying, validating, and ascertaining the conformity of the goods/equipment to be delivered with the technical specifications is in accordance with the verification of technical requirements mandated under the rules for post-qualification. If, on the scheduled date of inspection, the bidder fails to present the subject equipment for examination or evaluation without justifiable cause, the BAC has the prerogative to declare the bidder post-disqualified for failure to comply with the requirements.

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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³ NPM 064-2012 dated May 25, 2012