



TECHNICAL SUPPORT OFFICE

Unit 2506 Raffles Corporate Center,
F. Ortigas Jr. Road, Ortigas Center,
Pasig City, Philippines 1605

NPM No. 21-2010

6 July 2010

MR. EDUARDO RAMON T. DIMAANO

President

BENDIMIL CONSTRUCTION AND DEVELOPMENT CORPORATION

Summerhill Subd., Pasonanca, Zamboanga City

Re : Financial Eligibility Documents/Forms of Bid Security

Dear Mr. Dimaano:

We respond to your letter dated 24 May 2010 requesting for an opinion on whether a procuring entity may (i) require that only a credit line certificate from a universal/commercial bank may be accepted as proof of financial eligibility and (ii) restrict the acceptable forms of bid security to cash and manager's/cashier's check.

With regard to the first query, please be advised that Section 23.1 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184 enumerates the documents which shall be submitted for purposes of determining the legal, technical, and financial eligibility of bidders. In terms of financial eligibility, said section expressly allows the bidder to submit either a computation of its Net Financial Contracting Capacity or a commitment from a universal or commercial Bank to extend a credit line if awarded the contract. Considering that the IRR recognizes either of these documents as acceptable and containing valid sources of information on a bidder's financial standing, it is our considered opinion that procuring entities may not limit or restrict these options.

On restricting the acceptable forms of bid security, please note that the issuance of the IRR marked a policy shift on this issue. Under the previous set of implementing rules, procuring entities have the option to identify and limit which form of bid security is acceptable to it. Under Section 27.2 of the IRR, however, procuring entities may no longer limit the forms of bid security available to bidders. The bidders should be granted the right to choose any of the forms of bid security enumerated in Section 27.2 of the IRR.

Lastly, we note that the foregoing concerns raised in your letter were borne from your participation in a procurement activity of the Zamboanga City Water District. In as much as this office has not been granted any role in the protest mechanism prescribed by RA 9184 and its IRR, we suggest that you take the necessary recourse provided under Rule XVII of the IRR to properly address any grievance you may have on decisions or actions of procuring entities you may deal with in the future.

We hope to have provided sufficient guidance on the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,)



RUBY U. ALVAREZ
Executive Director