



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 13-2014

31 March 2014

HON. ARDELIZA R. MEDENILLA, MNSA, CESO II
Assistant Secretary for Support Services
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH)
2/F Sitio Grande Bldg., 409 A. Soriano Ave., Intramuros, Manila

Re: Cash Deposit Certificate (CDC)

Dear Assistant Secretary Medenilla:

We refer to your letter dated 2 January 2014, which we received on 8 January 2014, seeking clarification on whether the Cash Deposit Certificate (CDC) may be submitted as part of the financial eligibility documents of a prospective bidder in lieu of the Net Financial Contracting Capacity (NFCC) computation or a Credit Line Commitment (CLC).

It is represented that the DPWH disqualified The Manila Times in its public bidding held on 25 September 2013 when it submitted a CDC instead of either an NFCC computation or a CLC. The Manila Times contended that this requirement is inappropriate because the bidding involves an advertising space in a national daily, and that such requirement would be appropriate if the former is a contractor for a construction or infrastructure project where the contractor is required to advance the funds for the construction work. It is for this reason that you seek our opinion on whether the contention of the Manila Times is correct and that the CDC may be accepted.

Certificate of Cash Deposit

We refer you to an earlier opinion¹ where we addressed a similar concern, thus:

[S]ection 23.1 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 enumerates the eligibility 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 requires the bidder to submit either a computation of its NFCC or a CLC.

This amendment marked a policy shift on this issue. It will be noted that under the IRR Part A, a Cash Deposit Certificate (CDC) in an amount of

¹ NPM No. 108-2012, dated 31 August 2012.

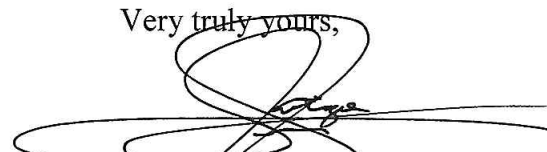
at least equal to ten percent (10%) of the ABC may be submitted as an alternative to NFCC computation and CLC.

For further guidance, however, please note that Section 23.1 (a)(vi) was further amended pursuant to GPPB Resolution No. 20-2013², to remove CLC as an alternative financial eligibility document. Hence, upon effectivity of GPPB Resolution No. 20-2013, the CLC is no longer acceptable for purposes of complying with the financial eligibility requirements and, thus, cannot substitute for the NFCC computation.

In view of all the foregoing, we wish to clarify that prior to the issuance of GPPB Resolution No. 20-2013, the options available to bidders insofar as compliance with the financial eligibility requirement is concerned are NFCC computation and CLC. This rule unqualifiedly applies to procurement of goods and infrastructure projects, as well as to all kinds of bidders without any exemption or qualification. Accordingly, bidders for advertising space, the Invitation to Bid for which was published prior to the issuance of GPPB Resolution No. 20-2013, are required to submit a computation of its NFCC or CLC as part of its financial eligibility document.

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.

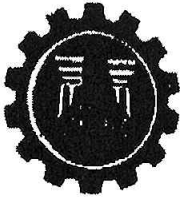
Very truly yours,



DENNIS S. SANTIAGO
Executive Director VSA

lrd3 ~~caro~~

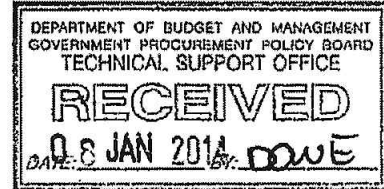
² Dated 30 July 2013, and was published on 12 March 2014.



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

2 January 2014

Atty. Dennis Santiago
Executive Director
Government Procurement Policy Board
Technical Support Office
Unit 2506 Raffles Corporate Center
F. Ortigas Jr. Road, Ortigas Center
Pasig City



Sir:

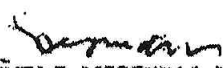
This is to seek clarification whether the Certificate of Cash Deposit may be used as compliance to Section 23, Eligibility Requirements for the Procurement of Goods and Infrastructure Projects, Financial Documents vi), of Rule VIII, Receipt and Opening of Bids of the Revised Implementing Rules and Regulations of R.A. 9184.

Here, in this case, The Manila Times was disqualified in the public bidding held last September 25, 2013 conducted by the DPWH. They have submitted a Certificate of Cash Deposit instead of the prospective bidder's computation for its Net Financial Contracting Capacity (NFCC) or a commitment from a universal or commercial bank to extend a credit line in favor of the prospective bidder if awarded this contract to bid. The Manila Times was saying that this requirement is inappropriate because the said bidding involves DPWH *BUYING* advertising space in a national daily. It also said that the requirement would be appropriate if the Manila Times was a contractor bidding for a construction or infrastructure project of the DPWH requiring a contractor to advance the money for the construction work.

Attached is the letter dated December 12, 2013 of the Manila Times.

Thank you.

Very truly yours,


ARDELIZA R. MEDENILLA, MNSA, CESO II
Assistant Secretary for Support Services
Chairperson, BAC for Goods

2/F Sitio Grande Bldg., 409 A. Soriano Ave.
Intramuros, Manila

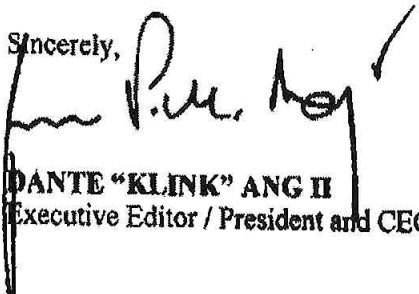
which was that it had to publish daily or seven days a week. At the time of the bidding, it was publishing only six days a week or Mondays to Saturdays. Despite a clear deficiency, our competition was not disqualified outright. It was allowed to participate and even awarded the contract by simply promising, repeat promising, to publish seven days a week or Mondays to Sundays. To recall, one of your bidding requirements was for a newspaper of national circulation to published seven days a week.

On a related matter, we were reliably informed that the new advertising contract of DPWH has not yet been officially awarded. That being so, and since the old ad contract has already expired, our understanding is that the placing of ad placements during the interim should be raffled to newspapers. Obviously, this is not being done, as evidenced by the fact that the ads of DPWH appear exclusively in the *Manila Standard-Today*. Again, we urge you to look into this aspect, because it appears to be another violation of the law.

We hope to hear from your office soon.

Thank you.

Sincerely,



DANTE "KLINK" ANG II
Executive Editor / President and CEO