

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

NPM No. 20-2012

6 February 2012

ATTY. MA. VICTORIA C. MAGCASE
Chairperson, Bids and Awards Committee I
PHILIPPINE INTERNATIONAL TRADING CORPORATION
NDC Building, 116 Tordesillas Street,
Salcedo Village, Makati City

Re: Single Largest Completed Contract (SLCC)

Dear Atty. Magcase:

We respond to your letter dated 9 January 2012, requesting for opinion on possible alternatives to the SLCC requirement to bidders in the procurement of goods.

As represented, the Bids and Awards Committee (BAC) of the Philippine International Trading Corporation (PITC) has an on-going project with the National Computer Center and Civil Service Commission dubbed "Contact Center Ng Bayan". Queries received from interested bidders, who incidentally belong to the top Philippine-based call centers, focused on the SLCC requirement pertaining to contracts of similar nature. It appears that most of the highly reputable and large call center operators in the country do not have completed contracts of similar nature because most of their big clients have long-term contracts, which are existing and still on-going. Thus, PITC believes that it may not be possible to get eligible bidders for this project if the SLCC requirement is imposed.

For your guidance, the first paragraph of Section 23.5.1.3¹ of the Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184 is a mandatory provision. As we have stated in previous opinions², it is mandatory for a prospective bidder to show that the value of its largest single completed contract, that is similar to the contract to be bid, is at least 50% of the approved budget for the contract to be able to bid in such project. Thus, this eligibility criterion cannot be dispensed with or compromised as this is one of the minimum requirements that a prospective bidder has to satisfy to establish its track record and capacity to perform contractual obligations.

However, if the procuring entity determines that applying the SLCC requirement would lead to failure of bidding or monopoly that will defeat the purpose of public bidding, Section 23.5.1.3 of the IRR allows the submission of the following requirements in lieu of the SLCC; to wit:

- 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 ABC as required above; and

¹ The prospective bidder must have completed, within the period specified in the Invitation to Bid, a single contract that is similar to the contract to be bid, and whose value, adjusted to current prices using the National Statistics Office (NSO) consumer price indices, must be at least fifty percent (50%) of the ABC. However, in the case of Expendable Supplies, said single contract must be at least twenty five percent (25%) of the ABC.

² NPM Nos. 031-2009 dated 10 June 2009 and 041-2005 dated 20 September 2005

- b) The largest of these similar contracts must be equivalent to at least half of the percentage of the ABC as required above.

The SLCC criterion is so required in order to ensure that the Government is contracting with an entity that has accomplished at least one project with a value no less than fifty percent (50%) of the contract to be bid. This assures the Government that the bidder has sufficient experience and reliable track record or it is not the first time that the prospective bidder will be required to accomplish such an undertaking, and therefore, provides the Government a level of security that such bidder, if awarded the contract, will be able to satisfactorily fulfill the contract requirements.³ This assurance may not be achieved by the fact that a bidder has on-going contracts, considering that the proof of satisfactory performance of a contractual obligation is obtained only after fulfillment of the contractual obligations upon completion of a contract.

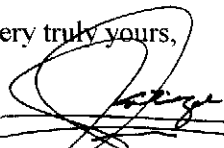
Nevertheless, if PITC fails to attract call centers that can satisfy the SLCC requirement under Section 23.5.1.3 of the IRR, it can encourage interested bidders to form a joint venture (JV) under Section 23.1 (b), wherein the eligibility criterion relative to the largest single contract of at least fifty percent (50%) of the approved budget for the contract to be bid should be complied with by at least one of the parties to the joint venture for purposes of determining its eligibility.⁴

In addition, we wish to note that we have discussed in a previous opinion that a contract shall be considered "similar" to the contract to be bid if it involves goods or services of the same nature and complexity as the subject matter of the project being procured. This requirement should not be interpreted strictly as to unreasonably limit competition and inequitably bar participation of capable suppliers, manufacturers, distributors, and service providers; much more, to constrain procuring entities in the performance of their constituent and ministrant functions. Hence, similarity of contract should be interpreted liberally in the sense that it should not refer to an exact parallel but only to an analogous one of similar category.⁵

Based on the foregoing, we are of the view that ongoing contracts cannot substitute for the requirement for completed contracts of similar nature to the contract subject for bidding as required by Section 23.5.1.3 of the IRR. If the implementation of the requirement will result in failure of bidding, the exceptions provided in the same Section may be applied.

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

Very truly yours,



DENNIS S. SANTIAGO
Executive Director III

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³ NPM No. 020-2005 dated 17 March 2005

⁴ NPM No. 021-2005 dated 17 March 2005

⁵ NPM No. 057-2004 dated 30 April 2004