



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

NPM No. 21-2012

16 February 2012

MR. PLACIDO Q. URBANES III
General Manager
CATALINA SECURITY AGENCY
626 G. Araneta Avenue,
Quezon City

Re: Additional Eligibility Requirements in the Bidding Documents

Dear Mr. Urbanes:

We respond to your letter dated 3 February 2012 requesting for clarification on whether a procuring entity can prevent a bidder, who filed a case against it, from joining a public bidding by placing a prohibition to that effect in its bidding documents.

As represented, Catalina Security Agency (CSA) intended to participate in the procurement activities of the Social Security System (SSS) relative to security and protective services for its branch offices. While reviewing the bidding documents, CSA came across ITB Clause 5.1 of Section III of the Bid Data Sheet where it provides that "[t]he bidder should not have any pending case filed against the SSS". CSA sought clarification from SSS in view of a pending case it filed in the Office of the Ombudsman against the chairman and members of the Bids and Awards Committee (BAC) I of SSS in connection with the 2005 security services for SSS Luzon cluster. In response, the SSS BAC replied that the prohibition applies to CSA since the pending case filed by CSA against the officers and employees of SSS in the performance of their function can be construed as a case filed against the SSS.

As we have discussed in a previous opinion¹, procuring entities are proscribed from requiring additional eligibility requirements. The list of minimum eligibility requirements under the Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184 has been streamlined/simplified, such that only those requirements enumerated in Sections 23.1, 24.1, and 25.1 of the IRR are necessary for purposes of determining bidders' eligibility. The rationale afforded by the GPPB for this is to allow greater participation, enhance competition among prospective bidders, and reduce transaction costs.²

¹ NPM No. 010-2010 dated 14 April 2010.

² NPM No. 65-2009 dated 17 December 2009.

Based on the foregoing, procuring entities are proscribed from requiring additional eligibility requirements as this may defeat competition.³ Therefore, it is our considered view that the requirement that participating bidders must not have filed any case against the SSS is not in accord with the procurement law and its associated rules.

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. 44-2009 dated 18 August 2009.