

NPM No. 040-2016

22 September 2016

MR. EDUARDO D. LAGMAN

Assistant Vice President

BIDS AND AWARDS SERVICES DEPARTMENT

PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR)

Pedro Gil, Malate, Manila

**Re: Submission of Collection Receipts as Proof
of Single Largest Completed Contract (SLCC)**

Dear Assistant Vice President Lagman:

This refers to your letter requesting for an opinion on whether Collection Receipts may be accepted as proof of SLCC in lieu of Official Receipts in accordance with Instruction to Bidders (ITB) Clause 12.1(a)(iii)(6) of the Philippine Bidding Documents (PBDs) for the Procurement of Goods.

As represented, in the course of conducting competitive biddings for the procurement of goods, PAGCOR received queries from prospective bidders on whether Collection Receipts from the previous year may be submitted as proof of SLCC in accordance with Bureau of Internal Revenue (BIR) Revenue Memorandum Circular (RMC) No. 2-2014 recognizing Collection Receipts issued to customers as supplementary evidence of delivery, agreement or transfer of goods and services.

ITB Clause 12.1(a)(iii) of the PBDs for the Procurement of Goods and Services¹ provides that:

[t]he bidder should submit, among others, a statement identifying the bidder's single largest completed contract (SLCC) similar to the contract to be bid. The statement **shall** include, for each contract, the following information: (1) name of the contract; (2) date of the contract; (3) kinds of Goods; (4) amount of contract and value of outstanding contracts; (5) date of delivery; and (6) end user's acceptance or official receipt(s) issued for the contract, if completed. (*Emphasis supplied.*)

In using the word "shall", ITB Clause 12.1(a)(iii) makes the submission of either the end user's acceptance or official receipts issued for the contract mandatory, in addition to the other required supporting information. Accordingly, the word "shall" means ought to, must, obligation used to express a command or exhortation used in laws, regulations or directives to express what is mandatory as opposed to what is discretionary.² Moreover, ITB Clause 12.1(a)(iii)(6) explicitly identifies the end-user's acceptance or the official receipt as the only

¹ As amended by GPPB Resolution No. 16-2014, dated 20 June 2014.

² Baranda vs. Gustillo, 165 SCRA 757.

acceptable documents which can substantiate and corroborate the SLCC for public bidding purposes.

In view of the foregoing, ITB Clause 12.1(a)(iii) is clear and unambiguous in providing that the end-user's acceptance or the Official Receipt issued for the contract are the recognized documents to be submitted by the bidder in support of its SLCC. Accordingly, Collection Receipts cannot substitute for the submission of the Official Receipt.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is being 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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