



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

NPM No. 50-2012

30 April 2012

MR. VICTOR G. GARLITOS
Vice-Chairman, Bids and Awards Committee
BANGKO SENTRAL NG PILIPINAS (BSP)
A. Mabini St., Malate, Manila

Re: Statement of All Ongoing and Completed Government and Private Contracts

Dear Mr. Garlitos:

We respond to your letter seeking clarification on the eligibility requirement under Section 23.1(a)(iii)¹ of the Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184.

As represented, the BSP has experienced difficulties in satisfying the stringent eligibility requirement mandated in Section 23.1(a)(iii) of the IRR. It claims that this provision is one of the common causes of post-disqualification since the bidders fail to include in the list all of their completed contracts due to the volume of information required, despite the shortening of the coverage period. In some cases, post-disqualification occurs when BSP contracts, even those involving minimal amounts, are not included.

As an alternative to Section 23.1 (a) (iii) of the IRR, BSP is proposing the following:

1. Require only the top ten (10) completed contracts, whether similar or not, within the relevant period provided in the bidding documents;
2. Submit similar contracts even if such does not belong to the top ten (10) contracts of the bidder; and
3. Include all ongoing contracts, including those awarded but not yet started, if any.

For your guidance, Section 23.1 of the IRR of RA 9184 enumerating the documents to be submitted for purposes of determining the legal, technical, and financial eligibility of bidders is a mandatory provision. As discussed in a previous opinion,² 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.

¹ Statement of the prospective bidder of all its ongoing and completed government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid, within the relevant period as provided in the Bidding Documents. The statement shall include all information required in the PBDs prescribed by the GPPB.

² NPM 20-2012 dated 6 February 2012

Moreover, existing public procurement policies, rules and regulations stated in RA 9184 and its IRR should be strictly followed until revised or amended by the Government Procurement Policy Board (GPPB) since it cannot waive any of the provisions of RA 9184 and its IRR or allow any exemption from the application laws, rules and regulations in favor of procuring entities, suppliers, manufacturers, consultants or contractors.³

Based on the foregoing, we are of the view that providing the list of top ten completed contracts cannot substitute for the requirement under Section 23.1(a)(iii) of the IRR. The submission by the bidder of a statement of "all ongoing and completed government and private contracts" is a mandatory provision that cannot be dispensed with. Nonetheless, we take note of your concerns and recommendation for future policy consideration.

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,


for
DENNIS S. SANTIAGO
Executive Director III

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³ NPM 06-2012 dated 6 January 2012