



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 56-2015

9 October 2015

TASHMA ASID-MAADIL

Senior Engineer A

PHILIPPINE PORTS AUTHORITY (PPA), PMO-ZAMBOANGA

Port Area, Zamboanga City, 7000

Re : Letter of Intent (LOI); Submission of Tax Clearance Certificate (TCC); Minimum Eligibility Requirements for the Conduct of Shopping and Small Value Procurement

Dear Engr. Asid-Maadil:

This refers to your letter seeking clarification on the following matters:

1. Whether the submission of a Letter of Intent (LOI) is a mandatory requirement to be able to participate in public bidding activities;
2. Whether a Tax Clearance Certificate (TCC) is a mandatory requirement in the conduct of Shopping and Small Value Procurement; and
3. In connection with the above, what are the minimum eligibility requirements for Shopping and Small Value Procurement?

Submission of Letter of Intent (LOI)

Please be informed that the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 has abandoned the requirement for the submission of LOI under Section 21.3 of IRR Part A of RA 9184 prior to the submission of bids. The rationale for this change in policy is to streamline the procurement process, reduce transaction costs, and enhance competition¹.

Furthermore, the Government Procurement Policy Board (GPPB) thru Resolution No. 27-2012 removed the submission of LOI as a requirement to signify a bidder's intent to participate in procurement activities by deleting Section 23.4.3 and Section 24.4.3.3 and thereafter issued Guidelines for the Use of the Government of the Philippines – Official Merchants Registry (GOP-OMR). The provisions requiring submission of LOI for procurement activities where procuring entities use an electronic registry were rendered

¹ NPM No. 055-2013, dated 26 June 2013.

unnecessary by the adoption of the said policy, and were therefore deemed abandoned upon the effectivity of GPPB Resolution No. 27-2012 on 10 September 2012².

In view thereof, the submission of LOI is no longer required. Under the rules, prospective bidders, after purchasing the Bidding Documents, shall submit their eligibility requirements together with its technical and financial tender on or before the deadline for submission and receipt of bids.

Tax Clearance Certificate; Eligibility Documents for Shopping and Small Value Procurement

The IRR of RA 9184 is silent on whether or not eligibility documents mentioned under Section 23.1 must be submitted when resorting to any of the Alternative Methods of procurement, except those where competitive bidding or a semblance thereof is still present. This being the case, the PE has the discretion to require the submission of the legal, technical, and financial eligibility documents or not³, in line with Section 3(j) of GPPB Resolution No. 09-2009 which mandates the PE to validate whether it is entering into a contract with a technically, legally, and financially capable supplier, contractor, or consultant.

In this regard, as we have stated in our previous opinions⁴, PEs are permitted to require the suppliers, contractors or consultants to submit documentary requirements to establish their legal, technical and financial capabilities or to use other means it may deem necessary and proper, within the boundaries allowed by law, to determine the required capabilities of the suppliers, contractors or consultants without requiring the submission of relevant documents.

Accordingly, it is our considered view that the submission of a Tax Clearance Certificate is within the discretion of the Procuring Entity so is the decision as to what eligibility documents it may deem necessary and proper to enable it to determine the technical, legal and financial capabilities of its prospective bidders as mandated by the rules.

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 V

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² NPM No. 101-2013, dated 20 December 2013.

³ NPM No. 142-2012 dated 5 November 2012.

⁴ NPM No. 68-2014 dated 20 October 2014.