



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

NPM No. 73-2014

20 October 2014

MS. MA. TERESA M. MARIANO

Chairperson

Procurement Office, Quezon City

7th floor, Quezon City Hall, Main Building
Elliptical Road, Diliman, Quezon City

Re: Bidders Related by Consanguinity

Dear Ms. Mariano:

This refers to your letter dated 29 September 2014 seeking our opinion on whether the Quezon City - Bids and Awards Committee (QC-BAC) may prohibit bidders who are related by blood to submit bids over the same project.

It is represented that the QC-BAC is very concerned on bidders who are related by blood bidding over the same project. It contends that there is a risk or danger in allowing bidders who are related to each other to bid out for the same project, as possible collusion between them are more likely to arise. It however observed that Section 47 of the Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 only require disclosure relations between bidders and members of the Bids and Awards Committee (BAC), Technical Working Group (TWG), BAC Secretariat, end-user unit and the project consultants. It alleges that there is apparently no prohibition as between relatives who are bidding over the same project. Thus, it manifests its intention to prohibit such bidders who are related by blood from bidding over the same project and it is in this wise that our opinion is being sought.

At the outset, it is worth noting that one of the principles espoused by RA 9184 and its IRR is competition. "Competition" entails providing equal opportunity to private contracting parties who are eligible and qualified to participate in public bidding. This necessarily means, therefore, that, until and unless an interested prospective bidder is found to be ineligible and disqualified, he or she cannot be outrightly prohibited from participating.¹

Proceeding therefrom, bidders who may otherwise be eligible and qualified to participate in public bidding, cannot, and may not be disqualified, on the basis, *per se*, and solely on account of their relationship with one another either by consanguinity or affinity.


¹ Non-Policy Matter (NPM) No. 015-2009 dated 5 March 2009.

However, when such filial or blood relation is determined to present a conflict of interest, the provision under Clause 4 of the Instructions to Bidders (ITB) of the Philippine Bidding Documents (PBD) for the Procurement of Goods² provides for their disqualification to participate in the procurement process, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. Under Clause 4(d), a Bidder may be considered to have a general conflict of interest when it has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder or influence the decisions of the Procuring Entity regarding the bidding process.

The aforecited Clause 4, ITB, PBD for the Procurement of Goods provides for disqualification of bidders in case they are found to have conflicting interests or general conflict of interest. Consequently, it is incumbent upon the BAC to make a definitive and concrete finding of conflict of interest between and among the bidders for them to be disqualified from the bidding process.

We hope 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 you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V

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² 4th Edition dated December 2010.



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PROCUREMENT OFFICE

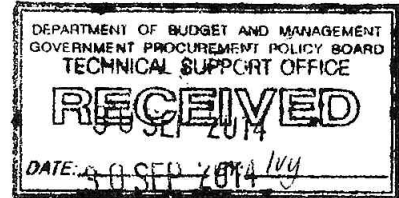
7th floor Quezon City Hall Main Building, Elliptical Road, Diliman, Quezon City
Tel No. 988-42-42 loc 8709/8710



1/13/15

29 September 2014

Dir. Dennis S. Santiago
Executive Director, GPPB
Unit 2506 Raffles Corporate Center
F. Ortigas Jr. Road
Ortigas Center, Pasig City



Dear Dir. Santiago:

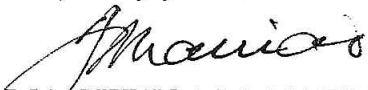
The Quezon City Bids and Awards Committee for Goods (QC-BAC) is very concern on bidders who are related by blood and are bidding over the same project. There is no doubt that there is a risk or danger in allowing bidders who are related to each other to bid out for the same project, as possible collusion between them are more likely to arise.

The QC-BAC observed that Section 47 Rule XV of the Implementing Rules and Regulations of R.A. 9184 requires disclosure relations only between bidders and members of BAC, TWG, BAC Secretariat, enduser unit and the project consultants. Apparently, there is no express prohibition as between relatives who are bidding over the same project.

The foregoing considered, the QC- BAC manifests its intention to prohibit bidders who are related by blood to submit bids over the same project and your opinion or comment on this matter will be highly appreciated and taken into consideration.

Thank you very much.

Very truly yours,


MA. TERESA M. MARIANO
Chairperson

Jan/Dianne,
please prepare OPINION.
TWG
OES

MISSION: to devote and dedicate manpower, competence, resources and strong leadership in the procurement process through knowledge, teamwork and communication in ensuring efficiency and cost savings with transparency, integrity and accountability.

VISION: a pool of norms providing for a streamlined procurement related services for Quezon City and opportunities to its clientele by demonstrating a more transparent, competitive, modern approach in project implementation.