



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

**NPM No. 77-2012**

27 June 2012

**ATTY. GOLDWYN V. NIFRAS**  
*Chairman, Bids and Awards Committee (BAC)*  
**BACOLOD CITY**  
CITY HALL BUILDING, BACOLOD CITY,  
NEGROS OCCIDENTAL 6100

**Re: Nature of Business of the Bidder as Stated in the Mayor's Permit**

Dear Atty. Nifras:

This is in response to your letter dated 17 May 2012 seeking our opinion on whether a Mayor's Permit that does not include the nature of business for which the bidder is currently bidding could "pass" the eligibility requirements for the procurement of goods and be eventually post-qualified.

It is represented that Bacolod City is in the process of conducting the post-qualification of a construction company with the Lowest Calculated Bid (LCB) in the privatization of its "Garbage Collection and Hauling" project. It is likewise represented that "hauling" of garbage is not expressly stated in the nature of business of the construction company in its submitted Mayor's Permit, although it claims the "hauling" of construction materials, aggregates, and other goods are inherent components of its construction business. It is in this context that you are seeking our opinion on whether the submitted Mayor's Permit of the construction company could pass the eligibility requirements for the procurement of goods and satisfy the legal requirements for post-qualification.

Rule VIII, Section 23 of the Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 provides that for purposes of determining the eligibility of bidders using the criteria stated in Section 23.5 thereof, the BAC shall require the submission of Class "A" Documents consisting of legal, technical, and financial documents. One of the legal documents required to be submitted is a valid Mayor's permit issued by the city or municipality where the principal place of business of the prospective bidder is located.

A Mayor's Permit is in the nature of a business permit which authorizes the person, natural or otherwise, to engage in business or some commercial activity<sup>1</sup>. Consequently, a prospective bidder's business as stated in the Mayor's Permit should at the very least be similar to the project to be bid.

Hauling and transfer of solid waste from source or collection points to processing sites or final disposal sites are major components of the solid waste management program mandated by RA 9003, otherwise known as the "*Ecological Solid Waste Management Act of*

<sup>1</sup> Acebedo Optical Company, Inc. Vs. The Honorable Court of Appeals, et. al., G.R. No. 100152, 31 March 2000.

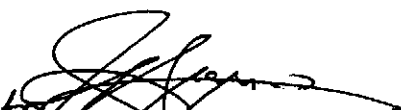
pulling, dragging, and transport of garbage, but also the proper collection, transfer, storage, processing, and recycling of Bacolod City's solid waste. Although a construction company collects and hauls materials, aggregates, equipment, tools, and implements in the course of its construction work, such collection and hauling work may not be considered or treated to be within the purview of garbage collection and hauling.

In addition, appropriate environmental licenses and permits must be secured by a prospective bidder from relevant government agencies, such as but not limited to, the Department of Environment and Natural Resources (DENR), to be able to engage in garbage collection and hauling, which may also factor in safety, sanitary, health, and labor standards, which a construction company engaged in hauling of construction materials, aggregates, and others, may not possess. Nevertheless, compliance with the legal requirements may be ascertained, validated, and verified during post-qualification.

On the other hand, it should be stressed that an amendment to the Mayor's Permit to include "garbage collection and hauling" or "hauling" *per se* as part of the business of the construction company and made after bid opening would not cure its insufficiency. For a document to be considered "complete" and "sufficient", it must be complete on its face, that is, it must contain all the information required, and must comply with the requirements set out in the bidding documents<sup>2</sup> at the time of the deadline for the submission of bids and bid opening.

We hope that our advice provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular circumstances as presented. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,

  
**DENNIS S. SANTIAGO**  
*Executive Director III*

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<sup>2</sup> Section 4, Part 1, Step 4, Generic Procurement Manual, Manual for the Procurement of Goods and Services (Volume 2).