



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

NPM No. 80-2014

22 October 2014

MR. FRANCIS N. CELONES
President
**FNC FOOD & BEVERAGES MACHINERY
TECHNOLOGY AND SERVICES**
56 K Macabagdal St., Howmart Road,
Baesa, Quezon City

Re: Accreditation of Bidders

Dear Mr. Celones:

This is in response to your letter seeking clarification on the authority of the National Meat Inspection Service (NMIS) to accredit bidders and thereby limiting the suppliers to only those accredited by NMIS and the propriety of including the “Triple A Accreditation” in the technical specifications effectively limiting the number of qualified bidders to only one.

It is represented that on 14 February 2014, you applied to NMIS for a “Triple A Accreditation” in view of your intended participation in the bidding for the slaughterhouse in Tanauan, Batangas. It is also represented that on 18 March 2014, NMIS only granted you a “Double A Accreditation” which prompted you to file a motion for reconsideration. The response of NMIS to your motion states that you lack significantly in the number of sustaining technical employees and provision of after sales services. It is in this light that you send the above-mentioned queries to our office.

On Accreditation of Bidders

The enactment of Republic Act (RA) No. 9184 reinforced the use of competitive or public bidding in all government procurement as a matter of policy. Consequently, the creation of an accreditation system is not in accordance with the mandate of the present procurement law as it contravenes the very basic principles of competitive bidding. As it was previously discussed in Non-Policy Matter Opinion No. 28-2005¹, the establishment of an accreditation system within the agency would limit the participation of bidders only to the accredited suppliers, to the exclusion and prejudice of the bidders in the market.

Likewise, accreditation of bidders by the Procuring Entity (PE) is tantamount to the pre-qualification of prospective bidders, a process which is proscribed under RA 9184 and its revised Implementing Rules and Regulations (IRR) where the prospective bidders' eligibility to participate in bidding is determined through a preliminary examination of bids against a

¹ Dated 31 May 2005.

checklist of documentary requirements using a non-discretionary "pass/fail" criterion during the opening of bids.²

On Authority of NMIS to Accredite Bidders

The general authority of NMIS to accredit meat establishment fabricators stems from the law that created the office – RA 9296 or the Meat Inspection Code of the Philippines. Under this law, NMIS is authorized to formulate and issue policies, guidelines, rules and regulations accrediting establishment, facilities, conveyance and service providers³. Specifically, RA 10536 which amended RA 9296, lodged the accreditation of meat establishment fabricators to the Accreditation and Registration Division of NMIS⁴. However, this accreditation is not for the purpose of bidding activities, but to regulate the meat establishments and thereby achieve the declared policies of RA 9296.

On the other hand, specific authority of NMIS to accredit bidders is found in Department of Agriculture Memorandum Circular No. 01 Series of 2007⁵ which provides that only accredited contractors and fabricators shall be allowed to participate in the bidding projects with funding from the Meat Establishment Improvement Program (MEIP) under the General Appropriations Act. It is exercised though NMIS Memorandum Order No. 02-2008-18, series of 2008⁶, which applies to all meat establishment contractors and fabricators to gain eligibility in the bidding projects under the MEIP and other related meat establishment programs and projects.

From the foregoing, it is beyond the authority of the GPPB-TSO to rule on the legality of these executive issuances. Nonetheless, we would like to reiterate that accreditation for purposes of bidding activities is not sanctioned by RA 9184. Every PE should not and cannot deviate from the rules established by RA 9184 and its IRR unless there is a law allowing them to do so. It must be stressed, however, that administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution.⁷

On the Inclusion of "Triple A Accreditation" in the Technical Specifications

The Technical Specifications (TS) is one of the documents required for the procurement of goods and should be submitted, together with the other required documents, before the scheduled date and time of opening of bids. It must present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured⁸ and may include production/delivery schedule, manpower requirements, and/or after sales service/parts, if applicable.⁹

"Triple A Accreditation", on one hand, refers to the compliance of a certain meat establishment to the minimum standards prescribed by NMIS. It is used in classifying meat establishments for purposes of regulation. It therefore refers to the establishment itself, a

² NPM No. 054-2013 dated 26 June 2013.

³ Section 8 of RA 9296.

⁴ Section 1 of RA 10536.

⁵ Accreditation of Meat Establishment Contractors and Equipment Fabricators in Support of the Meat Establishment Improvement Program and other Related Projects and Programs.

⁶ Implementing Guidelines in the Accreditation of Meat Establishment Contractors and Fabricators.

⁷ Section 7 of the New Civil Code of the Philippines.

⁸ Philippine Bidding Documents.

⁹ Sec. 25.2(a)(iii) of the IRR of RA9184.


prospective bidder, and not to the goods or services of that establishment. Pointedly, TS does not set qualifications of prospective bidders, but it sets the specifications of the goods and services to be procured. It is not intended to limit the participation of prospective bidders but to ensure the quality of goods and services that are subject of the procurement by setting clear parameters/specifications.

Thus, a qualification of a prospective bidder, like "Triple A Accreditation" should not be included in the TS nor can it be included in the eligibility requirements because only the eligibility requirements stated in Section 23 of the IRR of RA 9184 can be imposed upon the prospective bidders, in line with the principle of streamlined process in government procurement which requires uniform and simple process to be observed by PEs.

In sum, accreditation of bidders, which is equivalent to a pre-qualification, is not allowed under the provisions of RA 9184 and its associated IRR as it contravenes the very principles of competitive bidding. Similarly, the TS for the procurement of goods should not include qualifications of the prospective bidders but instead, the specifications of the goods and services to be procured.

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,



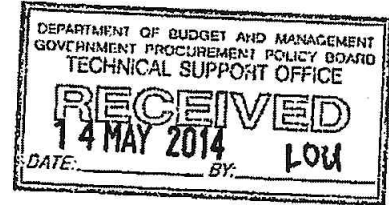
DENNIS S. SANTIAGO
Executive Director V

1/1/23



14 May 2014

ATTY. RIZALINA QUILIT
Head, Legal and Research
GPPB-TSO
Emerald Ave., Ortigas



Dear Atty. Quilit,

This letter seeks clarification on the criteria set by the National Meat Inspection Services (NMIS) on Accreditation of Meat Establishment Fabricators.

Last February 14, 2014, FNC Food & Beverages Machinery Technology and Services (FNC), Double "A" accredited by the NMIS, applied for Triple "A" Accreditation in view of its intended participation in the bidding for the slaughterhouse in Tanauan Batangas. On March 18, 2014, however, NMIS still granted a Double "A" Accreditation for FNC. Upon clarification and motion for reconsideration, the NMIS replied in this manner –

"FNC lacks significantly in the number of sustaining technical employees (STEs) and (b) provision of after sales services..."

Further, the NMIS further stated that it grants corresponding points for workforce with supporting documents such as copy of valid professional license and/or copy of certification issued by TESDA for skilled workers. Copies of the communication letters as well as the criteria for Triple "A" Accreditation are herein attached.

Now, my queries are the following:

- a) Is NMIS authorized to accredit bidders for the procurement of meat establishment equipment fabricators? If yes, may NMIS limit the eligible suppliers only to those accredited by NMIS?
- b) May NMIS include in its technical specifications the "Triple A Accreditation," effectively limiting the number of qualified bidders to only one?

Respectfully yours,


MR. FRANCIS N. CELONES
President, FNC



08 May 2014

DRA. MINDA MANANTAN

Executive Director
National Meat Inspection Service
BAI Compound, Visayas Avenue,
Diliman, Quezon City

**RE: MOTION FOR RECONSIDERATION
ON THE DOUBLE "A" ACCREDITATION**

Dear Dra. Manantan,

This is in reply to your letter dated April 04, 2014, which was sent via fax last April 14, 2014. In said letter, you stated that FNC lacks the number of sustaining technical employees (STE) and provision of after sales services. You further explained that you grant corresponding points for technical employees with supporting professional license and/or TESDA Certificates; and for the competent technicians who can conduct on-site dry-run operations and trainings.

I appreciate your immediate response on the matter. However, I would like to seek further clarification on the standards of your office for Triple "A" Accreditation especially so that FNC intends to participate in the bidding for the Triple "A" Slaughterhouse project in Tanauan Batangas. Said project only qualifies Triple A Accredited Fabricators to Bid.

First, modesty aside, I have been in the fabrication business for more than 25 years now. Since I began up to the present, I have installed more or less 18 mechanized slaughterhouse, among others. On the part of FNC, it has completed and installed about 6 mechanized slaughterhouse. And over the years, I have equipped and trained my personnel to always be efficient and at their best. The projects that FNC have completed shows our knowledge and expertise which to our mind qualifies FNC to be accredited as Triple "A" Accreditation.

While you require the TESDA Certificates of my employees, no such requirement appeared in the criteria for Triple "A" Accreditation. It is my humble opinion that even if my employees do not possess any TESDA Certificates at the moment, they are more experienced than those who underwent training at TESDA. Thus, it is a bit unfair if this will be taken against us. Experience surely speaks more than a certificate of TESDA for about 300-500 training hours.

Second, it has always been FNC's primordial interest in every project that its client achieves complete satisfaction. As long as the after-sales issues are within FNC's control, these are immediately addressed. True enough, FNC's previous clients have certified that they are satisfied with the after-sales service of FNC. Copies of these certificates are hereto attached as Annexes A, B and C.

Lastly, I just want to ensure that fair and just assessment and evaluation is done. And I will appreciate if you take a second look at the only company who was granted Triple "A" Accreditation. Was the company able to satisfy all the requirements for Triple "A" accreditation?

Respectfully yours,



FRANCIS N. CELONES

Copy furnished:

1. *Government Procurement Policy Board*
2. *Secretary Proceso J. Alcala
Department of Agriculture*
3. *Undersecretary Antonio A. Fleta
Department of Agriculture*
4. *Director Leandro H. Gazmin
Department of Agriculture*
5. *Undersecretary Jose Riaño
Department of Agriculture*



ILOILO FARMLAND FOOD PRODUCTS

Zone 5 Brgy. Cabilauan, Barotac Nuevo, Iloilo
Tel No. (033) 336 5070 / Cell No. +63 919 328 9795

ANNEX - A

CERTIFICATION

This is to certify that FNC Food & Beverages Machinery Technology and Services has satisfactorily completed the delivery, installation, and test-run of a Complete Meat Processing Equipments including Ice Maker, Walk-In Freezer (Cold Storage), Training of Personnel in Operation and Technology Transfer (Product Formulation) for ILOILO FARMLAND FOOD PRODUCTS located at Zone 5 Brgy. Cabilauan, Barotac Nuevo, Iloilo.

Done this 31st day of March, 2013.

Truly yours,


Hubert Rey Navarro
Owner
Iloilo Farmland Food Products

ANNEX-13



Republic of the Philippines
Province of Negros Occidental
CITY OF KABANKALAN

OFFICE OF THE CITY ENGINEER

CERTIFICATION

This is to certify that **FNC FOOD & BEVERAGES MACHINERY TECHNOLOGY AND SERVICES** who supplied and installed our equipment has satisfactorily performed in our **New (AA) Mechanized Slaughterhouse with Chilling Facility**.

The City is satisfied with the after sales service and availability of spare parts.

Issued this 19th day of February, 2014.

Issued by:


ENGR. ROGELIO M. DIAZ
City Engineer
Kabankalan City, Negros Occidental



Republic of the Philippines
Province of Iloilo
CITY OF PASSI

Economic Enterprise & Management Office

CERTIFICATION

This is to certify that **FNC FOOD & BEVERAGES MACHINERY TECHNOLOGY AND SERVICES** has satisfactorily completed the following projects undertaken under the office of the City Economic Enterprise & Management:

1. Supply and Installation of "AA" Fully Mechanized Abattoir Equipment - 2001
2. Supply and Installation of Walk-in Chiller, Meat Cutting Room, Blast Freezer, and Walk-in Freezer - 2010
3. Supply and Installation of Meat Processing Equipment and Technology Transfer - 2010

This is to certify further that **FNC FOOD & BEVERAGES MACHINERY TECHNOLOGY AND SERVICES** has the capacity to provide after sales and technical services and supply of spare parts and other maintenance requirements of the abovementioned facilities.

This certification has been issued to the above named entity for whatever legal purpose it may serve.

Issued this 19th day of February, 2014 at Passi City, Iloilo, Philippines.


JOHN ARTHUR P. PALMA, CPA
City Gov't Dep't Head I

Noted:


JESRY T. PALMARES
City Mayor



Republic of the Philippines
DEPARTMENT OF AGRICULTURE
NATIONAL MEAT INSPECTION SERVICE

April 4, 2014

ATTY. KAREN JOY H. VALENCIA-BALA
Attorney-at-Law
2627 Lamayan St,
Sta. Ana, Manila

RE: MOTION FOR RECONSIDERATION ON "AA" ACCREDITATION

Dear Atty. Bala,

This has reference for the request for reconsideration of FNC Food and Beverages Machinery and Technology Services, Inc. for the "AA" accreditation as fabricator to "AAA" accreditation level.

Based on the NMIS evaluation, FNC has garnered 63 points with maximum scores in its (a) office space & amenities, (b) years in the fabrication business, and (c) fabrication area & amenities. However, FNC lacks significantly in the (a) number of sustaining technical employes (STEs) and (b) provision of after sales services which are very critical in project implementation.

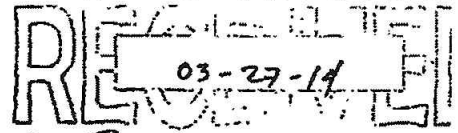
For STE, we grant corresponding points for workforce with appropriate supporting documents such as copy of valid professional license issued by the Professional Regulations Commission and current Professional Tax Receipt; and/or copy of certification issued by TESDA for skilled workers. And for after sales servicing, we ensure that the company has competent technicians and operators who could conduct on-site dryrun operations and trainings involving meat plant equipment that are delivered to the project.

We are hoping that this explanation will merit your inquiry as we trust FNC being our accredited fabricator and supplier.

Respectfully yours,

DR. MINDA S. MANANTAN
Executive Director





KAREN JOY H. VALENCIA-BALAJAY

Attorney-at-Law

2627 Lamayan Street Sta. Ana, Manila 1009

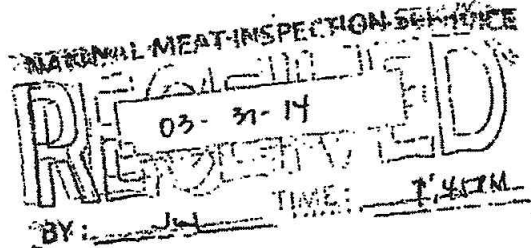
TIME: 02:05

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24 March 2014

DRA. MINDA MANANTAN

Executive Director
National Meat Inspection Service
BAI Compound, Visayas Avenue,
Diliman, Quezon City



**RE: MOTION FOR RECONSIDERATION
ON THE DOUBLE "A" ACCREDITATION**

Dear Dra. Manantan,

I write for and in behalf of my client, FNC Food and Beverages Machinery and Technology Services, Inc., represented by its proprietor, Mr. Francis N. Celones.

Having expertise as a meat establishment equipment fabricator over the years, my client intended and in fact applied for Triple "A" Accreditation. In your Certificate of Accreditation dated March 18, 2014, however, my client was granted still with Double "A" accreditation. Hence, this Motion for Reconsideration.

Based on your criteria, I believe that my client is more qualified to be accredited as Triple A. First, Mr. Celones has been in the fabrication business for more than 25 years now. Since it began its operation in 2006, FNC has maintained its office, warehouse for spare parts, fabrication and production with a total floor area of 2,950 square meters. Likewise, FNC is equipped with technical people, sufficient fabrication equipments and has completed a number of projects nationwide. While it does not maintain other operating branches, it can provide after sales service immediately considering the available modes of transportation now. With its net capitalization, it has more than enough resources in providing its clients efficient and quality service. Thus, we move that you reconsider the Accreditation you have issued to my client.

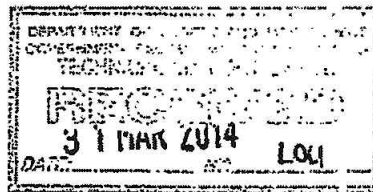
In the event that your assessment would still be the same, we would appreciate if you could furnish us the results of your assessment or provide an explanation how my client

did not qualify for the Triple A Accreditation. Rest assured that we trust your accreditation process and we believe that fair and sound evaluation and assessment are being observed in all applicants for accreditation. This is just to determine which aspects my client had to improve so as to be accredited as Triple "A."

Thank you very much.

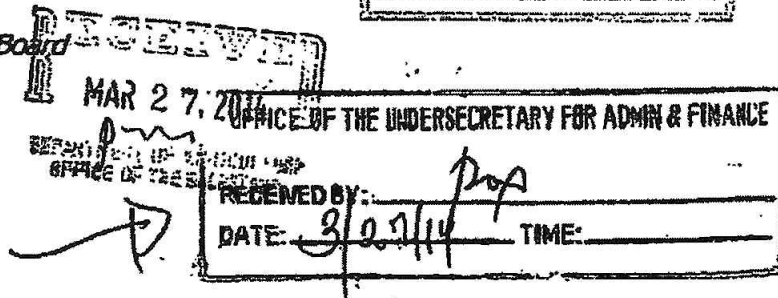
Respectfully yours,

ATTY. KAREN JOY H. VALENCIA-BALA



Copy furnished:

1. Government Procurement Policy Board
2. Secretary Proceso J. Alcala
Department of Agriculture
3. Undersecretary Antonio A. Fleta
Department of Agriculture
4. Director Leandro H. Gazmin - Christine
Department of Agriculture



Note:

With the following attachments:

1. Company Profile
2. Letter of Request for Triple "A" Upgrading with Attachment
 - 2.1. 2013 "AA" NMIS Certificate of Accreditation as Equipment Fabricator
 - 2.2. Pictures of Completed Projects with Certifications
 - 2.3. Spare Parts Inventory Pictures
 - 2.4. Equipments and Machinery Pictures

LIST OF ACCREDITED FABRICATORS

No.	NAME OF CONTRACTOR	ACCREDITATION NUMBER	EXPIRATION	CONTACT PERSON	ADDRESS	TEL. No.	Remarks
1	Kroye Builders & Devt Corporation (NEM)	F-002-2013 "A"	3/1/2014	Mr. Esglo A. Malitan	Pob. Borabong, Or. Mindoro	(043)283-5152	Expired
2	Total Machinery & Trading (OLD)	F-003-2013 "AA"	3/1/2014	Ms. Annlyn B. Carrose	Nail Highway, Brgy Tambobong, Bosesan, Bulacan	(02)374-9299	Expired
3	PMC Food & Bev Machinery Tech (OLD)	F-004-2013 "AA"	3/1/2015	Mr. Francis N. Caloras	58K Houtman cor Macabagdal Rd., Bosesan, Q.C.	(02)4133-0009	
4	SI. Calle Agri Equipment Specialist (NEM)	F-005-2013 "AA"	3/1/2014	Mr. Ernesto DG Lomahan Jr.	Calatrava, Sta. Clara, Sta. Maria, Bulacan	(044)941-3539	Expired
5	C & M Metal Craft and Machine Shop (NEM)	F-006-2013 "A"	8/25/2015	Mr. Carlo F. Conde	Makigal, Lala, Cagayan		
6	Alvarado Engineering Works (NEM)	F-007-2013 "AA"	5/1/2014	Mr. Jimmy L. Teng	Espina Indt Sta, Nail Highway, Labangal Gansan City	(083)531-1883	
7	Tribe Z Merchandising & Eled Service (NEM)	F-008-2013 "A"	5/27/2014	Engr. Emeliano L. Lacar	Espina Indt Sta, Nail Highway, Labangal Gansan City	9487128337	
8	Mastkap Industrial Sales (NEM)	F-009-2013 "AA"	5/30/2014	Ms. Jenice E. Nobletanica	OK Photo Supply Bldg., Paracalan St., Dasmagueta City	(059)422-8686	
9	System Processor & Cons Corp (OLD)	F-010-2013 "AA"	7/1/2014	Mr. Bayani L. Prologo	91162754, Mr. Cabulis Cr., Nova Hills Villa Bagonhong C.C.	9819216	
10	AVM Bernardo (OLD)	F-011-2013 "AA"	7/1/2014	Engr. Antonio M. Valencia	804 T. Santiago St. Lingunan, Valenzuela City	(632) 444-8071/444-8070	
11	Asensista Engr and Cons Supply (NEM)	F-012-2013 "AA"	8/8/2014	Mr. Alfredo S. Asensista	147 Lumbat St., Dona Paz Subd., Davao City	(083)273-9828	
12	C.P.L. Metal Ind & Precision Tooling Co (NEM)	F-013-2013 "AAA"	8/11/2014	Mr. Chuchiano L. Protuyo	Paralela Bldg., Olympia Ave., San Pedro.	908-1850	
13	LLM Concrete Products (OLD)	F-014-2013 "AA"	12/18/2014	Mr. Lawrence I. Mangubat Jr	Purch 5, Thunck, Kapabong, Davao del Norte	(094)2173345	
14	ABLE Machine Industries (OLD)	F-015-2013 "AA"	12/18/2014	Mr. Oscar B. Rojas Jr	618, Ylao Avenue, Villamorita, General City	(034)707-0330	
15	Parilla Builders Inc (OLD)	F-016-2013 "AA"	12/23/2014	Engr. Lyndon P. Labangal	Rm 201, 2nd Fl, AAL Bldg, Gen lina St, Iloilo City	(033)338-4449	
16	JEG Cons Firm Corp (NEM)	F-017-2014 "A"	1/30/2015	Mr. Erno Gomez	Bt L 15, Laredo Ave., Laredo Village, Iloilo City		

Parameter	Percentage
1. Office (Space & Amenities)	0-5
2. Sustaining Technical Employee/s (STEs)	0-15
3. Operating Coverage (No. of Branch Offices)	0-15
4. Equipment Owned	0-15
5. No. of Years in Construction Business	0-5
6. Capitalization	0-10
7. Plant Area and Amenities	0-10
8. PCAB Category	0-10
9. Ownership Classification	0-5
10. Support Shop Equipment	0-10
TOTAL	100

Parameter	Percentage
1. Office (Space & Amenities)	0-5
2. Sustaining Technical Employee/s (STEs)	0-15
3. Operating Coverage (No. of Branch Offices)	0-15
4. Fabrication Equipment Owned	0-15
5. No. of Years in Fabrication Business	0-5
6. Capitalization	0-10
7. Fabrication Area and Amenities	0-10
8. Fabrication Methodology	0-10
9. Ownership Classification	0-5
10. After Sales Service	0-10
TOTAL	100

The rating scale for the classification of the company's accreditation are as follows;

- 81 - 100% for AAA (eligible for all types of projects nationwide)
- 61 - 80% for AA (eligible for AA and A projects nationwide)
- 41 - 60% for A (eligible for AA and A projects within the region)
- Below 40% - Failed (No Accreditation Certificate to be issued)

Section VI Applicable fees and Charges

1. The applicable fees and charges for the accreditation of meat establishment facilities contractor and equipment fabricator are the following;

Application Fee P 500.00
Processing Fee 2,500.00

40