



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

NPM No. 103-2013

20 December 2013

MS. GENELYN G. PONGCOL

Proprietor

WINDFALL CONSTRUCTION

Surigao City

Re : Audited Financial Statement

Dear Ms. Pongcol:

This is in response to your email dated 8 October 2013, seeking our opinion on whether a newly established construction firm may be allowed to participate in the public bidding for an infrastructure project in the absence of an Audited Financial Statement (AFS) dated not earlier than two (2) years from the date of bid submission.

As represented, Windfall Construction is a newly established construction firm which was issued its Philippine Contractors Accreditation Board (PCAB) License on 6 May 2013 and renewed on 1 July 2013. It has a tax clearance issued on 2 September 2013 and an AFS that is dated this year – 2013. It purchased bidding documents from the Department of Education Surigao City Division, and was told of the requirement for an AFS that should not be earlier than two (2) years from the date of bid submission. It is in this context that you are seeking guidance on whether Windfall Construction can participate in government procurement activities if it does not have an AFS that is earlier than two (2) years from the date of bid submission.


Section 23.1 of the revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184 provides that for the purpose of determining the eligibility of bidders using the criteria stated in Section 23.5 of the IRR, documents consisting of legal, technical, and financial information shall be required following the forms prescribed in the Bidding Documents. One of these documents is the prospective bidder's AFS showing, among others, its total and current assets and liabilities, stamped "received" by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission.

The submission of the eligibility documents enumerated in Section 23.1 of the IRR is a mandatory requirement that must be complied with by prospective bidders, such that failure to submit any of the documents or the submission of an otherwise incomplete or patently insufficient document, will disqualify the bidder based on the non-discretionary "pass/fail" criterion under Section 30.1 of the IRR.

Hence, we wish to clarify that the failure to submit an AFS that complies with the requirements under Section 23.1(a)(v) of the IRR of RA 9184, namely, (i) showing the prospective bidder's current assets and liabilities, (ii) stamped "received" by the BIR or its duly accredited and authorized institutions, and (iii) for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission. We also wish to point out that the term "earlier" means that if the bid submission date is on 2013, an AFS for the year 2011 can be considered compliant, provided that such AFS is the most recent document that can be produced by the bidder without fault or delay on its part in filing the same with the BIR.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular 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 LORNE S. NACARIO
Officer-in-Charge