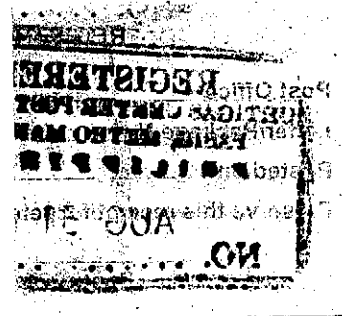




NPM No. 108-2012

31 August 2012

ATTY. MARK JOSEPH N. OCAMPO
BAC Chairman
PHILIPPINE POSTAL SAVINGS BANK, INC. (POSTALBANK)
POSTAL BANK CENTER, LIWASANG BONIFACIO
1000 Manila Philippines



Re: Submission of Certificate of Hold Out Deposit

Dear Atty. Ocampo:

We respond to your letter dated 25 July 2012 seeking our opinion on whether a Certificate of Hold Out Deposit may be submitted as part of the financial eligibility requirements of a prospective bidder in lieu of Net Financial Contracting Capacity (NFCC) computation or a Credit Line Commitment (CLC).

As represented, PostalBank recently concluded a public bidding for the procurement of Health Care Provider with an Approved Budget for the Contract (ABC) in the amount of Seven Million Five Hundred Fifty Five Thousand Pesos (Php7,555,000.00). However, the Technical Working Group (TWG) found out that instead of submitting an NFCC or CLC, the Single Lowest Calculated Bidder, Fortune Medicare, Inc. submitted a Certificate of Hold Out Deposit equivalent to the ABC, issued by Banco de Oro, and available for a period of Three Hundred Sixty Five (365) days.

Please be advised that Section 23.1 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 enumerates the eligibility documents which shall be submitted for purposes of determining the legal, technical, and financial eligibility of bidders. In terms of financial eligibility, said section expressly requires the bidder to submit either a computation of its NFCC or a CLC.

This amendment marked a policy shift on this issue. It will be noted that under the IRR Part A, a Cash Deposit Certificate (CDC) in an amount of at least equal to ten percent (10%) of the ABC may be submitted as an alternative to NFCC computation and CLC. However, with the amendment of the IRR of RA 9184, CDC is no longer recognized as one of the acceptable documents to prove financial eligibility.

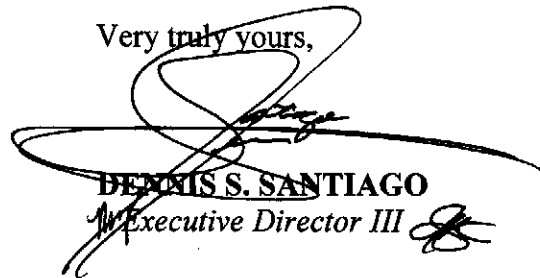
In a previous opinion¹ issued by this office, we have stressed that under the present IRR, the only options available to bidders, insofar as compliance with the financial eligibility

¹ NPM No. 56-2012 dated 7 May 2012.

requirement is concerned, are NFCC computation and CLC. CDC is no longer a recognized document for purposes of eligibility requirement and, thus, cannot substitute for either the NFCC computation or CLC.

We hope our advice provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular circumstances presented, and may not be applicable to 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 III


7/16/02