



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

**NPM No. 111-2013**

23 December 2013

**MS. FRITZIE MARIE F. VENTENILLA**

*VP for Sales and Marketing*

**ADVANCE SOLUTIONS INC.**

3F PPL Bldg., United Nations Ave.,  
cor. San Marcelino St., Paco, Manila


**Re : Statement of On-going and Completed Contracts**

Dear Ms. Ventenilla:

This refers to your letter dated 3 October 2013, seeking clarification on the following issues:

1. Whether projects may be considered as “ongoing” if it has been awarded to the bidder through the issuance of the Notice of Award (NOA) by the Head of the Procuring Entity (HOPE), but no contract has been signed yet; and
2. Whether non-inclusion of said projects in the statement of all ongoing and completed government and private contracts required under Section 23.1(a)(iii) of the revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184 is a ground for disqualification and blacklisting.

Section 23.1(a)(iii) of the IRR of RA 9184 requires bidders to submit, as part of their technical documents, a statement of all their ongoing and completed government and private contracts, ***including contracts awarded but not yet started***, if any, whether similar or not similar in nature and complexity to the contract to be bid, within the relevant period as provided in the Bidding Documents (hereinafter referred to as “Statement”). The Statement shall include all information required in the Bidding Documents.

As discussed in our previous opinion<sup>1</sup>, the receipt by the winning bidder of the NOA is the initial step that leads to the execution of the contract and the issuance of the Notice to Proceed. The effect of an unqualified acceptance of the offer or proposal of the bidder is to perfect a contract, upon notice of the award to the bidder. Accordingly, a duly communicated and received NOA brings about the perfection of contracts through the meeting of the minds of the offeror - the bidder, and the offeree - the Procuring Entity. 

<sup>1</sup> Non Policy Matter No. 10-2012 dated 16 January 2012.

In this regard, projects where a NOA has been issued, but for which no contract has been signed yet, should be included in the statement required under Section 23.1(a)(iii) of the IRR of RA 9184 because these are already considered awarded contracts.

Anent your second query, please note that in another previous opinion<sup>2</sup>, we explained that 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.


Moreover, Section 23.7 of the IRR states that if the procuring entity uncovers any misrepresentation made in the eligibility requirements, statements or documents, it shall consider the prospective bidder as ineligible and shall disqualify it from obtaining an award of contract. In connection with this, Section 4.1.1 of the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors, and Consultants provides that the submission of eligibility documents containing false information or false documents during the competitive bidding stage shall render the suspension/blacklisting of such bidder from participating in government procurement activities.

Based on this, failure to include all ongoing and completed contracts in the Statement may be a ground for disqualification for being incomplete, and may also result in blacklisting if proven that such failure amounts to submission of false information or false documents.

In sum, we wish to clarify that the statement of all ongoing and completed government and private contracts required under Section 23.1(a)(iii) of the IRR of RA 9184 to be submitted by bidders should include projects where a NOA has been issued to and received by the bidder, even though it has not yet signed a contract with the procuring entity yet. Failure to include such contracts in the said statements shall disqualify and/or blacklist said bidder from participating in government procurement.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular situation presented, and may not be applicable given a different set of facts and circumstances. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,

  
**DENNIS LORNE S. NACARIO**  
*Officer-in-Charge*

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<sup>2</sup> Non Policy Matter No. 103-2013 dated 20 December 2013.