



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

**NPM No. 123-2014**

12 November 2014

**MR. FELIX J. MABILOG, JR.**

*Executive Director*

**COLUMBIAN AUTOCAR CORPORATION (CAC)**

6<sup>th</sup> Floor Pacific Bldg., Sen. Gil Puyat Ave.,

Cor. Makati Ave., Makati City.

Philippines, 1209

**Re: Additional Post-Qualification Requirements**

Dear Mr. Mabilog:

This has reference to your letter, as endorsed by the Department of Budget and Management (DBM) Office of the Secretary, proposing that a qualification should be added to Clause 29.2(c) of the Instruction to Bidders (ITB) and Bid Data Sheet (BDS) of the Philippine Bidding Documents (PBDs) for Goods to allow new but internationally well-known brands, locally represented by capable and Board of Investment (BOI) registered companies with at least ten (10) years local marketing experience to participate in the bidding.

It is represented that the Bidding Documents for the Philippine National Police's (PNP's) Supply of Patrol Jeeps (Single Cab) which CAC is interested to participate in, have as additional requirement on Post-Qualification Documents under Clause 29.2(c) of the BDS, a "**certification accompanied with proof that the brand being offered has been in the Philippine market for at least ten (10) years**". It is asserted that such additional requirement will technically disqualify CAC from participating in the bidding process.

At the outset, we would like to clarify that PEs are proscribed from requiring additional eligibility requirements. The list of minimum eligibility requirements under the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 has been streamlined/simplified, such that only those requirements enumerated in Sections 23.1, 24.1, and 25.1 of the revised IRR are necessary for purposes of determining bidder's eligibility. The rationale for this is to allow greater participation, enhance competition among prospective bidders, and reduce transaction costs.<sup>1</sup>

On the other hand, the authority of PEs in imposing additional documentary requirements during competitive bidding stage is recognize. But this is limited to only those sanctioned by the IRR of RA 9184, *i.e.* duly notarized Secretary's Certificate pursuant to Section 25.2 of the revised IRR of RA 9184, other documents related to the financial component

<sup>1</sup> NPM No. 65-2009 dated 17 December 2009.

as stated in the BDS<sup>2</sup>, and other appropriate licenses and permits required by law and stated in the Bidding Document pursuant to Section 34.2 of the revised IRR of RA 9184.

Nonetheless, the certification that the good or brand being offered has been in the Philippine market for at least ten (10) years may be ~~required or~~ included as part of the ~~Technical Specifications~~ of the bidding documents to be submitted by the prospective bidders. The Bidding Documents contain all the specific requirements, limitations and parameters of the procurement at hand, as determined by the Procuring Entity, which bids will be compared and evaluated for determination of compliance or responsiveness. Accordingly, non-compliance by the bidder with the Technical Specifications would then be a ground for disqualification.

From the foregoing, the proposal of CAC to allow new but internationally well-known brands, locally represented by capable and Board of Investment (BOI) registered companies with at least ten (10) years local marketing experience to participate in the bidding need not be included in the Bidding Documents through a formal resolution by the GPPB as it may already be included in the minimum technical specifications required by procuring entities, ~~such as PNP,~~ if based on their ~~expert~~ determination, such specific requirement, limitation, or parameter is ~~needed~~ for the procurement at hand.

*necessary careful*  
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*



<sup>2</sup> Clause 13.1 of the Philippine Bidding Documents for the Procurement of Goods and Infrastructure Projects in relation to Section 25.3 of the IRR of RA 9184.

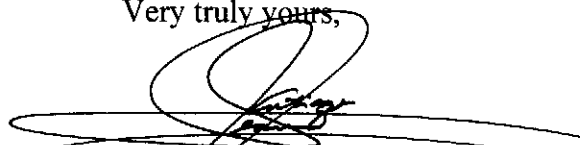
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Nonetheless, the certification that the good or brand being offered has been in the Philippine market for at least ten (10) years may be included as part of the Technical Specifications of the bidding documents to be submitted by the prospective bidders. The Bidding Documents contain all the specific requirements, limitations and parameters of the procurement at hand, as determined by the Procuring Entity, which bids will be compared and evaluated for determination of compliance or responsiveness. Accordingly, non-compliance by the bidder with the Technical Specifications would then be a ground for disqualification.

From the foregoing, the proposal of CAC to allow new but internationally well-known brands, locally represented by capable and Board of Investment (BOI) registered companies with at least ten (10) years local marketing experience to participate in the bidding need not be included in the Bidding Documents through a formal resolution by the GPPB as it may already be included in the minimum technical specifications required by procuring entities, if based on their careful determination, such specific requirement, limitation, or parameter is necessary for the procurement at hand.

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*

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