

**NPM No. 125-2015**

27 November 2015

**MS. GRACE MARTHA T. AMBERONG**

*Assistant Director*

**INFORMATION AND COMMUNICATIONS TECHNOLOGY DIVISION**

**SECURITIES AND EXCHANGE COMMISSION (SEC)**

Securities and Exchange Commission, EDSA

Mandaluyong City

**Re: Submission of Collection Receipts as Proof of Single Largest Completed Contract (SLCC)**

Dear Assistant Director Amberong:

This is in response to your electronic mail inquiring on the submission of Collection Receipt in lieu of Official Receipt as part of the requirements for the statement identifying the bidder's Single Largest Completed Contract (SLCC).

As represented, a bidder submitted a Collection Receipt as part of the statement identifying the SLCC instead of an Official Receipt, as indicated under Clause 12.1(iii)(iii.6) of the Instruction to Bidders (ITB) of the Philippine Bidding Documents. The bidder was disqualified and subsequently filed a request for reconsideration citing Bureau of Internal Revenue (BIR) Revenue Memorandum Circular (RMC) No. 2-2014 dated 13 January 2014, which states that a Collection Receipt issued to customers evidencing delivery, agreement or transfer of goods and services shall be considered supplementary evidence.

We wish to stress that the GPPB and the GPPB-TSO cannot impose upon or influence the procuring entity relative to issues and concerns pertaining to its procurement activities. However, the GPPB may render contemporaneous construction of the provisions of the law pursuant to its quasi-legislative authority, and issue rules and regulations pursuant to its rule-making power<sup>1</sup>.

Clause 12.1(a)(iii) of the Instructions to Bidders, Philippine Bidding Documents (PBDs) for the Procurement of Goods, as amended by GPPB Resolution No. 16-2014<sup>2</sup>, provides that:

[t]he bidder should submit, among others, a statement identifying the bidder's single largest completed contract (SLCC) similar to the contract to be bid. The statement **shall** include, for each contract, the following information: (1) name of the contract; (2) date of the contract; (3) kinds of Goods; (4) amount of contract and value of outstanding contracts; (5) date of delivery; and (6) end user's acceptance or official receipt(s) issued for the contract, if completed. (*Emphasis supplied.*)

<sup>1</sup> Government Procurement Policy Board (GPPB) No006E-Policy Matter Opinion (NPM) No. 121-2013 dated 26 December 2013.

<sup>2</sup> Dated 20 June 2014

On the other hand, RMC 2-2014 provides that Sales Invoice and Official Receipt shall be issued as principal evidence in the sale of goods and/or property, and sale of services and/or lease of properties, respectively; while Commercial Receipts/Invoices including Collection Receipts shall be supplementary evidence only.

The use of the word "shall" in ITB Clause 12.1(a)(iii) makes the inclusion of the information on the end user's acceptance or official receipt(s) mandatory for purposes of the SLCC. The word "shall" means ought to, must, obligation used to express a command or exhortation used in laws, regulations or directives to express what is mandatory as opposed to what is discretionary.<sup>3</sup>

For guidance, this office had the opportunity to discuss a similar concern in NPM No. 067-2014, dated 12 November 2014, relating to RMC 2-2014. In said opinion, we have discussed that:

[I]t is clear that for completed contracts, information on end-user's acceptance or Official Receipt(s) should be included in the statement identifying the bidder's SLCC, for purposes of determining the eligibility of bidders under RA 9184 and its revised Implementing Rules and Regulations (IRR), including the PBDs for Goods, notwithstanding the clarification made in the Circular emphasizing that the Sales Invoice shall serve in lieu of Official Receipt in the sale of goods or properties for evidentiary purposes in terms of audit.

Considering that the information on end-user's acceptance or Official Receipts shall be included in the statement identifying the bidder's SLCC, the Collection Receipts, which are considered as mere supplementary evidence in the same RMC, shall not suffice.

Based on the foregoing, it is our considered view that in determining the technical eligibility of bidders, information on the end-user's acceptance or Official Receipt is the required document to be included in the statement identifying the bidder's SLCC; and the Collection Receipts, which are mere supplementary evidence, cannot substitute the submission of the Official Receipt.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is being 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*

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<sup>3</sup> Baranda vs. Gustillo, 165 SCRA 757.