

NPM No. 158-2015

22 December 2015

MR. EMMANUEL SUNGLAO
President/Chief Executive Officer
LEIGHCHEEN CONSTRUCTION CORPORATION
leighcheen@gmail.com

Re: Audited Financial Statements

Dear Mr. Sunglao:

This refers to your electronic mail seeking clarification on the requirement of Audited Financial Statements.

As represented, Leighcheen Construction Corporation participated in the bidding conducted by the Provincial Government of Sarangani. Leighcheen was declared ineligible for its failure to submit Audited Financial Statements (AFS) in accordance with Section 23.1(a)(iv) of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, thus:

The prospective bidder's audited financial statements, showing, among others, the prospective bidder's total and current assets and liabilities, stamped "received" by the 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.

You are seeking guidance on whether the afore-quoted provision is applicable to Leighcheen, considering that it was established and registered only in 2015 and could only secure a "stamped" AFS from the BIR in 2016.

Section 23.1 of the IRR of RA 9184 provides that for the purpose of determining the eligibility of bidders, 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 of RA 9184 is a mandatory requirement that must be complied with by the prospective bidders, such that failure to submit any of the documents or 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 of RA 9184.

Accordingly, considering that the AFS stamped "received" by the BIR is a Financial Eligibility Document under Section 23.1(a)(iv) of the IRR of RA 9184, failure to submit the same shall render the bidder ineligible to participate in a procurement activity.

We hope this opinion issued by 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

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