



TECHNICAL SUPPORT OFFICE

Unit 2506 Raffles Corporate Center,
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Pasig City, Philippines 1605

NPM No. 17-2006

8 November 2006

ATTY. RODERICK V. GUERRERO
Legal Officer, Technical Working Group
PHILIPPINE NAVY
2335 Roxas Boulevard, Manila

Re: Cash Deposit Certificate

Dear Atty. Guerrero:

This pertains to your letter dated 26 July 2006 where you seek clarification on whether a cash deposit certificate which contains a conditional commitment to hold out a required amount complies with Section 25.3 of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. (R.A.) 9184.

Based on your representation, the cash deposit certificate submitted by the bidder contains the phrase "unless earlier lifted by them." It, thus, appears that the commitment issued by the licensed bank may unilaterally be withdrawn by the bidder at any time or before the lapse of the period prescribed under the bidding documents.

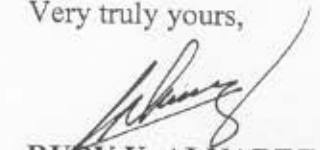
Under Section 25.3 of the IRR-A, a prospective bidder must submit either of the following: (i) a commitment from a licensed bank to extend a credit line to the bidder in an amount equal to at least 10% of the approved budget for the contract (ABC), if awarded the contract, or (ii) a cash deposit certificate in an amount equal to at least 10% of the ABC.

The very purpose of this submission is to establish the bidder's liquidity and its capacity to financially shoulder the additional obligations that may be incurred in the contract to be bid. Either instrument safeguards the interest of the procuring entity by ensuring that the bidder has sufficient resources to successfully implement and complete the project to be bid.

Mindful of the rationale behind this requirement, it is our considered opinion that a commitment to hold out a particular sum which at any time may be withdrawn by the bidder unduly defeats the objective of the rules and, therefore, does not constitute sufficient compliance with Section 25.3 of the IRR-A.

This opinion is being rendered based on the facts and circumstances represented. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



RUBY U. ALVAREZ
Executive Director III