

REPUBLIC OF THE PHILIPPINES  
**GOVERNMENT PROCUREMENT POLICY BOARD**  
**Technical Support Office**

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**NPM No. 020-2005**

March 17, 2005

**MS. EMMA LINDA B. FARIA**  
SVP, Technical Support Group  
Chairperson, Bids and Awards Committee  
Home Development Mutual Fund  
The Atrium of Makati, Makati Avenue,  
Makati City

**Re : Evaluation of the Eligibility Requirement for Largest Single Contract of Joint Ventures**

Dear Ms. Faria:

This refers to your letter dated 04 February 2005, which we received on 07 February 2005, requesting clarification on the Implementing Rules and Regulations Part A (IRR-A) of Republic Act 9184 (R.A. 9184), specifically on the following:

Whether the largest single contract of all parties to a joint venture may be combined and considered as one contract for purposes of complying with Section 23.11.1.2.

This clarification is in connection with the procurement project of the Home Development Mutual Fund (HDMF) for Supply, Delivery, and Installation of the Pag-IBIG Membership Identification Card System.

**Evaluation of the Largest Single Contract for Joint Ventures**

Joint venture as defined in the case of Kilosbayan, Inc. et. al. vs. Guingona et. al.<sup>1</sup> is "an association of persons or companies jointly undertaking some commercial enterprise; generally all contribute assets and share risks. It requires a community of interest in the performance of the subject matter, a right to direct and govern the policy connected therewith, and duty, which may be altered by agreement to share both in the profit and losses."

It can be inferred from this definition that parties entering into joint venture agreements for purposes of bidding may benefit from each other's capacity.

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<sup>1</sup> 232 SCRA 110, May 5, 1994.

However, while it may be true that joint ventures may be resorted to for purposes of affording bidders a higher possibility of complying with the requirements for a particular procurement project, it cannot be used to circumvent the intention behind each eligibility requirement.

One of the eligibility criterion provided under the IRR-A of R.A. 9184, specifically Section 23.11.1.2 as quoted hereunder, is that prospective bidders should have a largest single contract amounting to at least fifty percent (50%) of the approved budget for the contract to be bid:

The value of the prospective bidder's largest single contract, adjusted to current prices using the wholesale consumer price index, completed within the period specified in the Invitation to Apply for Eligibility and to Bid, and similar to the contract to be bid, must be at least fifty percent (50%) of the approved budget for the contract to be bid.

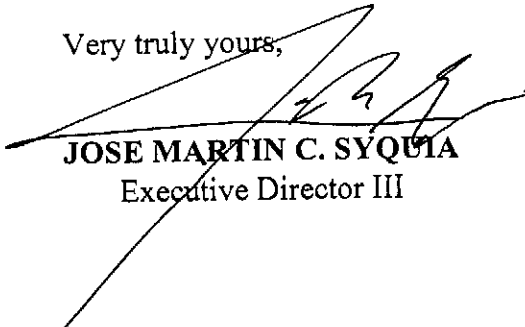
This criterion is so provided in order to ensure that the Government is contracting with an entity that has accomplished at least one project with a value no less than fifty percent (50%) of the contract to be bid. In this regard, the Government is assured that it is not the first time that the prospective bidders will be required to accomplish such an undertaking, and therefore provides the Government a level of security that such bidder, if awarded the contract, will be able to fulfill the contract requirements.

Thus, interpreting the above-quoted eligibility criteria to mean that parties to a joint venture may add each of their largest single contract for purposes of complying with the requirement under Section 23.11.1.2 of the IRR-A will undeniably defeat the purpose for which such provision has been included in the law. It is in this same vein that the years of experience of each party to a joint venture cannot be added to comply with the minimum required experience of a firm set by the procuring entity.

In view of the foregoing, we are of the opinion that although parties to a joint venture share in the profits and losses that may result from the contract, the eligibility criterion for a largest single contract of at least fifty percent (50%) of the approved budget for the contract to be bid should be complied with by at least one of the parties to the joint venture for purposes of determination of its eligibility.

We trust that this clarifies matters.

Very truly yours,

  
**JOSE MARTIN C. SYQUIA**  
Executive Director III

REGISTRY RECEIPT

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