

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

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NPM No. 022-2005

March 31, 2005

DIR. DOMINADOR M. GAMBOA
Head, Bids and Awards Committee Secretariat
House of Representatives
National Government Center, Constitution Hills
1126 Quezon City

**Re : Un-audited Financial Statements as Supplemental
Eligibility Requirements**

Dear Dir. Gamboa:

This has reference to your letter-query, dated 17 March 2005, requesting that an opinion be rendered on the issue of whether the House of Representatives Bids and Awards Committee may include "un-audited financial document for the current year" as part of the standard eligibility requirements.

Relevant in the consideration of this issue is the prescription in the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184 (R.A. 9184) in Section 23.6 (i) thereof, as reinforced in Government Procurement Policy Board (GPPB) Circular No. 01-2004.¹ Witness the provision, to wit:

- i) The prospective bidder's audited financial statements, stamped "received" by the BIR or its duly accredited and authorized institutions, for the immediately preceding calendar year, showing, among others, the prospective bidder's total and current assets and liabilities;

The reason for the rule is two-pronged: First, as a financial document, it is aimed at providing factual basis in determining the financial capability of the prospective supplier or contractor to undertake the procurement project; Second, to ensure that all suppliers, contractors, and consultants dealing in government procurement pay the correct amount of taxes due from them in accordance with the

¹ Dated 22 December 2004.

mandate of the law and in consonance with the government's policy of transparency, efficiency, and good governance.²

In light of the above-stated rationale, this Office opines that un-audited financial statements may not be required as eligibility requirements if the same are purported to substitute audited financial statements or if the same are intended to corroborate data in audited financial statements.

The reasons for requiring the submission of audited financial statement, stamped "received" by the BIR, may be skirted by allowing submission of an un-audited financial document, whether as a supplement to the audited financial statements or, worse, as a substitute thereto. The rules seek to provide an objective basis to establish as a matter of fact the capability of prospective bidders to undertake the project of the government. Thus, to replace audited financial statements with documents of unconfirmed declarations would be to veer from this purpose. Also, the un-audited financial statements may not be used to corroborate the facts in the audited financial statements, inasmuch as to allow these documents to strengthen or ratify the data in the audited financial statement would be to give weight to their contents or the representations therein.

The foregoing discourse notwithstanding, the procuring entity is not precluded from requiring additional documents/materials which they may see fit or necessary,³ with the caveat that the same shall not be used to either substitute or corroborate the required audited financial statement or otherwise be required as eligibility document.

In fine, having considered the foregoing premises, the need to solidify the policy behind the requirement under Section 23.6 (i) of the IRR-A obliges us to render opinion disallowing the inclusion among the eligibility requirements the submission of un-audited financial statements.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director III

² See GPPB Circular No.01-2004, supra.

³ Per Section 25.3 (A) (10) of the IRR-A