

NPM No. 23-2009

21 May 2009

MR. FRANCO G. ISAAC II
AVP – Operations
STEAMATIC TOTAL CLEANING AND RESTORATION

Dear Mr. Isaac:

This has reference to your letter dated 3 February 2009 seeking guidance relative to certain provisions of Republic Act No. 9184 (R.A. 9184), otherwise known as the GOVERNMENT PROCUREMENT REFORM ACT and its IMPLEMENTING RULES AND REGULATION PART-A (IRR-A).

The issues, as posited, may be summed up as follows:

1. Whether a written response of the BAC to a letter query is tantamount to an amendment of the bidding documents binding upon both the procuring entity and other bidders.
2. Whether similar projects executed by the prospective bidder overseas are considered in the computation of the fifty per cent (50%) single largest completed contract criterion in the evaluation of bids.
3. Whether contracts “not specific” to the bid fall within the definition of similar contracts in the computation of the single largest contract criterion.
4. Whether the procuring entity, during bid opening, may proceed with the opening of the second envelope despite the failure of the bidder to comply with the single largest contract requirement.
5. Whether a substantial net loss, negative stockholders equity and a gross annual income equivalent to 21% of the ABC disqualifies a bidder despite the submission of the cash deposit certificate and/or credit line commitment from a licensed bank.

Request for Clarifications/Bid Bulletins

It is clear under Section 8.4.2 of the IRR-A that clarifications and amendments to the Invitation to Apply for Eligibility and to Bid (IAEB) and to the bidding documents, in order to be binding on bidders, must be in the form of Supplemental/Bid Bulletins posted in the Philippine Government Electronic Procurement System (PhilGEPS) Bulletin Board. These, along with notices, must be sent to the e-mail addresses indicated in the bidders’

registration. Hence, any clarifications prior to the submission of bids which may be amendatory, including those raised and addressed during the pre-bid conference, must be in the form of Supplemental/Bid Bulletins disseminated as mentioned, to be binding not only to the requesting bidder but to other bidders as well.

Single Largest Contract Criterion

Section 23.11.1(2) of the IRR-A of R.A. 9184 prescribes, as one of the eligibility criteria in the procurement of goods, that the value of the largest single completed contract of the bidder should at least be 50% of the approved budget of the contract, to wit:

The prospective bidder must have an experience of having completed within the period specified in the IAEB concerned a single contract that is **similar to the contract to be bid**, and whose value, adjusted to current prices using the wholesale consumer price index, must be **at least fifty per cent (50%) of the approved budget for the contract to be bid**.

It must be stressed that compliance with the above-cited eligibility criterion is a condition *sine qua non*, an imperative, for a prospective bidder to be declared eligible to participate in the bidding proper, such that failure to conform thereto leaves the procuring entity no other recourse but to declare the prospective bidder ineligible.

Under Non-Policy Matter (NPM) Opinion No. 30-2005, dated 21 June 2005, a contract shall be considered "similar" to the contract to be bid if it involves **goods or related services of the same nature and complexity** as those which are the subject of the public bidding concerned. It does not qualify whether the contracts shall be limited only to those performed within the country. Hence, inasmuch as the said NPM and the law are silent on the matter, it shall be within the prerogative of the BAC whether or not to include the same in the computation. Further, if the bid documents do not specify whether such contracts should be included, clarification on the matter may be made upon request of a bidder or upon initiative of the procuring entity, at the opportune time.

Failure to comply with Eligibility Requirements

In determining the bidder's compliance with the documents required for the first component of the bid, the BAC shall check the submitted documents of each bidder against a checklist of required documents using non-discretionary "pass/fail" criteria as stated in the IAEB and the ITB.

It is only in cases where one or more of the eligibility documents are **missing, incomplete, or patently insufficient**, that the BAC shall rate the bid as "failed" and immediately return to the bidder concerned its second bid envelope (Section 30.1). In other words, since eligibility check is part of the procurement process, determinations made during such stage is purely within the sound judgment of the members of the BAC subject to the minimum conditions under the IRR-A.

Financial Capacity of Bidders

In the matter of establishing the financial capacity of the bidder, only the financial documents required under Section 23.6.1(j) shall be sufficient for the purpose, viz.:

- j) 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; and
- k) The prospective bidder's computation for its Net Financial Contracting Capacity (NFCC) which shall be in accordance with Section 23.11 of this IRR-A; or a commitment from a licensed bank to extend to it a credit line if awarded the contract to be bid, or a cash deposit certificate, in an amount not lower than that set by the procuring entity in the bidding documents, which shall be at least equal to ten per cent (10%) of the approved budget for the contract to be bid. (Emphasis ours)

Thus, submission of the audited financial statements, and either the NFCC requirement, the credit line commitment from a licensed bank, or cash deposit certificate are adequate under the Rules as proof of financial stability regardless of any substantial net loss, negative stockholders equity or gross annual income of less than fifty per cent (50%) of the ABC, which a bidder incurs, as may be determined by the BAC.

Recourse of Bidder Declared as Ineligible

A bidder determined as "failed" is not completely devoid of options. Under the IRR-A, it has three (3) calendar days upon written notice, or if present at the time of bid opening, upon verbal notification, within which to file a request for reconsideration with the BAC (Section 30.3, IRR-A). In case of denial, a protest may be made by filing a verified position paper with the head of the procuring entity concerned, accompanied by the payment of a non-refundable protest fee.

Finally, the Government Procurement Policy Board ("GPPB") and its Technical Support Office ("TSO") only render policy and non-policy opinions respectively, on issues purely relating to the interpretation and application of our procurement laws, rules and regulations. It cannot dictate to the BAC which bidders should be declared as eligible, which bid should be accepted as the lowest calculated responsive bid, and to whom should the contract be awarded. We adhere to the view that the functions of the BAC cannot be interfered with by any government agency since these solely fall within their authority as sanctioned by law, but with the concomitant responsibility that they perform such functions with judiciousness, adhering to the principles of transparency, accountability, equity, efficiency, and economy in the procurement process that it carries out for the procuring entity.

We hope this clarifies matters.

Very truly yours,


RUBY U. ALVAREZ
Executive Director III

21 May 2009

MR. FRANCO G. ISAAC II
AVP – Operations
STEAMATIC TOTAL CLEANING AND RESTORATION

Dear Mr. Isaac:

This has reference to your letter dated 3 February 2009 seeking guidance relative to certain provisions of Republic Act No. 9184 (R.A. 9184), otherwise known as the GOVERNMENT PROCUREMENT REFORM ACT and its IMPLEMENTING RULES AND REGULATION PART-A (IRR-A).

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amendatory, including those raised and addressed during the pre-bid conference, must be in the form of Supplemental/Bid Bulletins disseminated as mentioned, to be binding not only to the requesting bidder but to other bidders as well. ✓

Single Largest Contract Criterion

Section 23.11.1(2) of the IRR-A of R.A. 9184 prescribes, as one of the eligibility criteria in the procurement of goods, that the value of the largest single completed contract of the bidder should at least be 50% of the approved budget of the contract, to wit:

The prospective bidder must have an experience of having completed within the period specified in the IAEB concerned a single contract that is **similar to the contract to be bid**, and whose value, adjusted to current prices using the wholesale consumer price index, must be **at least fifty per cent (50%) of the approved budget for the contract to be bid**.

It must be stressed that compliance with the above-cited eligibility criterion is a condition *sine qua non*, an imperative, for a prospective bidder to be declared eligible to participate in the bidding proper, such that failure to conform thereto leaves the procuring entity no other recourse but to declare the prospective bidder ineligible.

Under Non-Policy Matter (NPM) Opinion No. 30-2005, dated 21 June 2005, a contract shall be considered "similar" to the contract to be bid if it involves **goods or related services of the same nature and complexity** as those which are the subject of the public bidding concerned. It does not qualify whether the contracts shall be limited only to those performed within the country. Hence, inasmuch as the said NPM and the law are silent on the matter, it shall be within the prerogative of the BAC whether or not to include the same in the computation. Further, if the bid documents do not specify whether such contracts should be included, clarification on the matter may be made upon request of a bidder or upon initiative of the procuring entity (~~for transparency purposes~~), at the opportune time.

Failure to comply with Eligibility Requirements

In determining the bidder's compliance with the documents required for the first component of the bid, the BAC shall check the submitted documents of each bidder against a checklist of required documents using non-discretionary "pass/fail" criteria as stated in the IAEB and the ITB.

It is only in cases where one or more of the eligibility documents are **missing, incomplete, or patently insufficient**, that the BAC shall rate the bid as "failed" and immediately return to the bidder concerned its second bid envelope (Section 30.1). In other words, since eligibility check is part of the procurement process, determinations made during such stage is purely within the sound judgment of the members of the BAC subject to the minimum conditions under the IRR-A.

Financial Capacity of Bidders

In the matter of establishing the financial capacity of the bidder, only the financial documents required under Section 23.6.1(j) shall be sufficient for the purpose, viz.:

- j) 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; and
- k) The **prospective bidder's computation for its Net Financial Contracting Capacity (NFCC)** which shall be in accordance with Section 23.11 of this IRR-A; or a **commitment from a licensed bank to extend to it a credit line** if awarded the contract to be bid, or a **cash deposit certificate**, in an amount not lower than that set by the procuring entity in the bidding documents, which shall be at least equal to ten per cent (10%) of the approved budget for the contract to be bid. (Emphasis ours)

Thus, submission of the audited financial statements, and either the NFCC requirement, the credit line commitment from a licensed bank, or cash deposit certificate are adequate under the Rules as proof of financial stability regardless of any substantial net loss, negative stockholders equity or gross annual income of less than fifty per cent (50%) of the ABC, which a bidder incurs, *as may be determined by the BAC.*

Recourse of Bidder Declared as Ineligible

A bidder determined as "failed" is not completely devoid of options. Under the IRR-A, it has three (3) calendar days upon written notice, or if present at the time of bid opening, upon verbal notification, within which to file a request for reconsideration with the BAC (Section 30.3, IRR-A). In case of denial, a protest may be made by filing a verified position paper with the head of the procuring entity concerned, accompanied by the payment of a non-refundable protest fee.

Finally, the Government Procurement Policy Board ("GPPB") and its Technical Support Office ("TSO") only render policy and non-policy opinions respectively, on issues purely relating to the ~~correct~~ interpretation and application of our procurement laws, rules and regulations. It cannot dictate to the BAC which bidders should be declared as eligible, which bid should be accepted as the lowest calculated responsive bid, and to whom should the contract be awarded. We adhere to the view that the functions of the BAC cannot be interfered with by any government agency since these solely fall within their authority as sanctioned by law, but with the concomitant responsibility that they perform such functions with judiciousness, adhering to the principles of transparency, accountability, equity, efficiency, and economy in the procurement process that it carries out for the procuring entity.

We hope this clarifies matters.

Very truly yours,

EMILUISA C. PEÑANO } *BAC*
Executive Director II

Atty. Alyce,
Pls. finalize, as requested.

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MR. FRANCO G. ISAAC II
AVP – Operations
STEAMATIC TOTAL CLEANING AND RESTORATION

Dear Sir:

This has reference to your letter dated 3 February 2009 seeking clarification relative to the form and validity of amendments to bidding documents vis-à-vis the provisions of REPUBLIC ACT NO. 9184 (R.A. 9184), otherwise known as the GOVERNMENT PROCUREMENT REFORM ACT and its IMPLEMENTING RULES AND REGULATION PART-A (IRR-A).

The issues, as posited, may be summed up as follows:

1. Whether a written response of the BAC to a letter query is tantamount to an amendment of the bidding documents binding upon the procuring entity and to other bidders.
2. Whether similar projects executed by the prospective bidder overseas are considered in the computation of the fifty per cent (50%) single largest completed contract criterion.
3. Whether contracts “not specific” to the bid fall within the definition of similar contracts and are considered in the computation of the single largest contract criterion.
4. Whether the procuring entity, during bid opening, may proceed with the opening of the second envelope despite the failure of the bidder to comply with the single largest contract requirement.
5. Whether a substantial net loss, negative stockholders equity and a gross annual income equivalent to 21% of the ABC disqualifies a bidder despite the submission of the cash deposit certificate and/or credit line commitment from a licensed bank.

Request for Clarifications/Bid Bulletins

It is clear under Section 8.4.3 that the law requires Supplemental/Bid Bulletins as well as other notices made by the BAC to be posted in the PhilGEPS bulletin board

and sent to the e-mail address indicated in the bidders' registration. In order to be binding on bidders, however, Section 8.4.2 of the IRR-A mandates that clarifications and amendments to the Invitation to Apply for Eligibility and to Bid (IAEB) and to the bidding documents must be in the form of Supplemental/Bid Bulletins posted in the PhilGEPS bulletin board.

If the supplemental bid is being issued in response to a request for clarification submitted by a prospective bidder, the following procedure as stated in Page 41 of the Generic Procurement Manual – Manual of Procedures for the Procurement of Goods and Services (June 2006) shall be followed:

1. The prospective bidder submits to the BAC, through the BAC Secretariat, a written request for clarification, within the period prescribed above.
2. The BAC directs the BAC Secretariat and/or TWG to study the request for clarification.
3. The BAC Secretariat and/or TWG drafts the supplemental/bid bulletin for approval of the BAC.
4. The BAC approves the supplemental/bid bulletin and the BAC Chairperson signs it.
5. The BAC Secretariat sends copies of the supplemental/bid bulletin to all prospective bidders who have properly secured or purchased the bidding documents, within the period prescribed above.
6. The BAC Secretariat posts the supplemental/bid bulletin in the PhilGEPS, the website of the Procuring Entity and that of the latter's electronic procurement system provider, if any, within the same period under number 5 above.

What about clarifications raised during the pre-bid conference and addressed by the BAC therein?

(these should be reflected thru bid bulletins also as well)

Single Largest Contract Criterion

Section 23.11.1(2) of the IRR-A of R.A. 9184 prescribes as one of the eligibility criteria in the procurement of goods, that the value of ^{the} largest single completed contract of the bidder should be at least 50% of the approved budget of the contract to be bid, to wit:

The prospective bidder must have an experience of having completed within the period specified in the IAEB concerned a single contract that is **similar to the contract to be bid**, and whose value, adjusted to current prices using the wholesale consumer price index, must be **at least fifty per cent (50%) of the approved budget for the contract to be bid**.

It must be stressed that compliance with the above-cited eligibility criterion is a condition *sine qua non*, an imperative, for a prospective bidder to be declared eligible to participate in the bidding proper, such that failure to conform

thereto leaves the procuring entity with no other recourse but to declare the prospective bidder ineligible.

While under Non-Policy Matter (NPM) Opinion No. 30-2005, dated 21 June 2005, a contract shall be considered "similar" to the contract to be bid if it involves **goods or related services of the same nature and complexity** as those which are the subject of the public bidding concerned, it must be noted that the law does not qualify whether the contracts shall be limited only to those performed within the country. Hence, inasmuch as the law is silent on the matter, it shall be within the prerogative of the BAC whether or not to include the same in the computation. It must also be noted that the determination of eligibility of prospective bidders is strictly an exclusive function of the BAC as explicitly stated in Section 12 of R.A. 9184 and its IRR-A, to wit:

If the bid documents are silent on the matter, the clarification may be raised by the bidders on the matter (or upon the procuring entity's initiative, for transparency purposes)

SEC. 12. **Functions of the BAC.** - The BAC shall have the following functions: advertise and/or post the invitation to bid, conduct pre-procurement and pre-bid conferences, **determine the eligibility of prospective bidders**, receive bids, conduct the evaluation of bids, undertake post-qualification proceedings, recommend award of contracts to the Head of the Procuring Entity or his duly authorized representative xxxx (Emphasis supplied)

Failure to comply with Eligibility Requirements

Please be advised that for the purpose of determining the bidder's compliance with the documents required for the first component of the bid, the BAC shall check the submitted documents of each bidder against a checklist of required documents using non-discretionary "pass/fail" criteria, as stated in the IAEB and the ITB. In this regard, failure to submit a requirement, or an incomplete or patently insufficient submission, shall be considered as "failed".

Therefore, it is only in cases where one or more of the eligibility documents are **missing, incomplete, or patently insufficient**, that the BAC shall ^{not} shall the bid as "failed" and immediately return to the bidder concerned its second bid envelope. (Section 30.1)

In other words, since eligibility check is part of the procurement process, the determinations that should be made during such stage is purely within the sound judgment of the members of the BAC.

Financial Capacity of Bidders

In the matter of establishing the financial capacity of the bidder, only the financial documents required under Section 23.6.1(j) shall be sufficient for the purpose regardless of other statements the prospective bidder may possess, viz.:

- j) The prospective bidder's **audited financial statements**, stamped "received" by the BAC or its duly accredited and authorized institutions,

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for the immediately preceding calendar year, showing, among others, the prospective bidder's total and current assets and liabilities; and

- k) **The prospective bidder's computation for its Net Financial Contracting Capacity (NFCC)** which shall be in accordance with Section 23.11 of this IRR-A; or a **commitment from a licensed bank to extend to it a credit line** if awarded the contract to be bid, or a **cash deposit certificate**, in an amount not lower than that set by the procuring entity in the bidding documents, which shall be at least equal to ten per cent (10%) of the approved budget for the contract to be bid.

Recourse of Bidder Declared as Ineligible

~~Finally, may we advise you that~~ A bidder determined as "failed" is not completely devoid of options. Under the IRR-A, it has three (3) calendar days upon written notice, or if present at the time of bid opening, upon verbal notification, within which to file a request for reconsideration with the BAC (Section 30.3, IRR-A). In case of denial, a protest may be made by filing a verified position paper with the head of the procuring entity concerned, accompanied by the payment of a non-refundable protest fee.

~~Finally,~~ The Government Procurement Policy Board ("GPPB") and its Technical Support Office ("TSO") render policy and non-policy opinions respectively, on issues purely relating to the correct interpretation and application of our procurement laws, rules and regulations and it cannot make recommendations or dictate to the BAC who of the bidders should be declared as eligible to bid, what bid should be accepted as the lowest calculated responsive bid and to whom should the contract be awarded. We adhere to the view that the functions of the BAC cannot be interfered with by any government agency since these solely fall within their authority as sanctioned by law, but with the concomitant responsibility that they perform such functions with judiciousness, adhering to the principles of transparency, accountability, equity, efficiency, and economy in the procurement process that it carries out for the procuring entity.

We hope this clarifies matters.

Very truly yours,

RUBY U. ALVAREZ

Atty. Alvarez

Pls. draft reply. Some of the issues raised are valid. But as presented.

Andy

Kindly check if the same document has



the same issues have been brought to the attention of the HOPE, for validation.

PH: 2/13/09

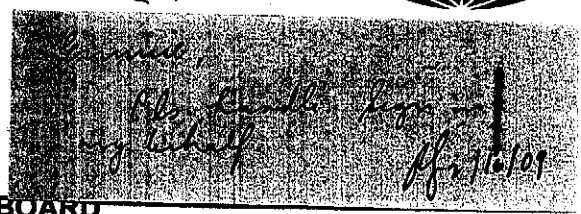
ADVANCED CLEANING & RESTORATION TECHNOLOGIES, INC.

February 3, 2009

PH: 2/10/09

2235 Chino Roces Avenue, Makati City 1231 Philippines

ATTY. RUBY U. ALVAREZ Executive Director GOVERNMENT POLICY PROCUREMENT BOARD Unit 2506 Raffles Corporate Center, F. Ortigas Jr. Road Ortigas Center, Pasig City



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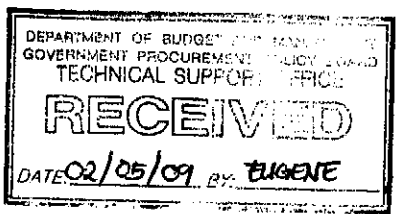
Re: Inquiry Regarding Recent Bid

Dear Atty. Alvarez:

We recently participated in a bid for a government project and would like to seek your kind assistance in determining if proper procedures were followed per IRR under RA No. 9184 and for possible recourse/s for us if there were any irregularities or violation of the IRR under RA No. 9184.

Scenario:

- 1. One of the eligibility requirements for this project was: 'The following Suppliers are eligible to participate in the bidding: xxx Suppliers with Largest Single Contract (LSC), similar in nature and complexity to the items for bid, completed within 2005 up to present, at least equal to 50% of the approved budget.'
2. Although we did not raise this specific question during the pre-bid conference, we wrote the BAC Secretariat (9 days prior to bid date) for clarification on the earlier mentioned specific eligibility requirements, by asking: 'Finally, may we ask for your clarification xxx... Does this refer to contracts completed within the Philippines or are contracts completed overseas also acceptable?'
3. We then received a written response from the Head of the BAC Secretariat, (6 days after our letter, and 3 days prior to the bid date) which said: 'On Largest Single Contract xxx... Contracts that may satisfy the Largest Single Contract requirement shall refer to contracts completed within the Philippines: contracts completed overseas are not acceptable.'
4. On the very same date as the BAC Secretariat response letter, we also received Bid Bulletin No. 1 that addressed other issues raised held during the pre-bid conference. It however did not include our above cited eligibility request for clarification. Nor, was any other Bid Bulletin further provided.
5. Bid Bulletin No. 1 also included the following requirements: 'Certification from bidders that their company is engaged (in the specific) business with work experience in building and industrial facilities of more than five (5) years.'



Len, Please fax advance copy to 8182910. Thanks !!

Bye

- "Certification from bidders that their Project Supervisors and Lead Men have minimum of five (5) years-experience in (specific business) and are full-time regular employees.
6. On the actual bid date, the BAC asked a representative from each bidder (3 of 4 bidders had representatives) to enter the conference room where the bids would be opened. Four BAC staff simultaneously started to open the Eligibility Envelopes to check for each Eligibility requirement.
- Our representative inadvertently overheard [that as an attempt at fulfilling the eligibility requirement] one bidder submitted contracts that were completed overseas. Noting this, our representative requested the BAC staff (not) to accept overseas contracts as a fulfillment of the eligibility requirement, and he produced the BAC response letter cited above.
 - The BAC staff asked that the representative of this bidder leave the room first so that they could inquire about this with the BAC panel (who were also present inside the same room). This staff went to the BAC panel to inquire and when he returned proceeded with the opening of the second envelope of the bidder in question, in front of bidder's representative.
 - After opening all the envelopes, bidder representatives were asked to leave the room. After some time, they were asked to return – at which time, a BAC representative said that all bidders are eligible and qualified and posted the prices for all 4 bidders on the white board.
 - At that point, our representative brought to the attention of the BAC panel our request for clarification on the acceptability of overseas projects and even showed the BAC panel the response letter saying such projects are not acceptable and contrary to what had been earlier clarified.
 - The BAC then asked all bidder representatives to again leave the room. After sometime, all representatives were asked to return and were told that the BAC is now allowing overseas projects. Although we again objected, the BAC representative could only apologize and say "sorry".
 - This bidder who submitted foreign based projects to meet this eligibility requirement also came out to be the lowest bidder. It is also noteworthy that this bidder has only been in business in the Philippines for over 2 ½ years.

Questions for GPPB:

1. Based on the above scenario, could the procuring entity allow the opening of the second envelope despite the concerns raised during the bidding? (Because this was then allowed, the procuring entity revealed the lowest bid which was equivalent to approximately only 47% of the approved budget of the contract).
 2. Were both our letters (query and procuring entity's response) invalid since they were disregarded during the bidding? Or, should the BAC's reply have been posted in the G-EPS bid bulletin or maybe sent via fax, regular mail or electronically to the e-mail address indicated in the bidders' registration, as stated in IRR of RA No. 9184? § 8.4.2
8.4.3
 3. / If the basic eligibility requirement of a prospective bidder be a duly licensed organization under the laws of the Philippines, then why should the Procuring Entity even consider overseas work references when other suppliers already meet and even exceed this local eligibility requirement? § 17.3
17.4
§ 4
- 4 & 5

4. If the procuring entity does allow the "overseas work completed experience with a LSC equivalent to 50% of the approved budget" to fulfill this requirement, isn't this contrary to the other requirements which states that
 - a. "bidders should be a duly licensed organization under the laws of the Philippines" and;
 - b. "that its "Project Supervisors and Leadmen must also have a minimum of 5 years experience performing this specific service"? Can the procuring entity allow "overseas work experience" when this requirement can be fully met by other local bidders who exceed this requirement? (Please note that in fairness, overseas work experience conditions can be totally different from local conditions.)

5. What benefit is it to the Procuring Entity to qualify foreign projects when this bidder used a completely different set and overseas-based technicians to complete these overseas projects and will not be the same technicians who will be deployed locally?

6. Although the lowest bidder had submitted either a cash deposit certificate and/or commitment from a licensed Bank to extend a credit line if awarded, we noted that in their latest Audited Financial Statements, it suffered a substantial net loss and a negative stockholder's equity. Its Gross Annual Income also reflects an amount that is only 21% of the approved budget amount. Based on these financial figures, would they still qualify for a multimillion peso project even if they submitted a cash deposit certificate and/or commitment from a Bank? § 247.k
25.4
34.2.C

7. In the same bid, to comply with the "largest single contract equivalent to 50% of the approved budget amount", another bidder we know had submitted work reference that is not specific to this bid. What they submitted as their Largest Single Contract was really a combination of fabrication, supply, repair and installation of equipment – which is NOT "similar in nature and complexity to the items for bid". If the Procuring Entity followed the IRR, this other bidder should not even qualify. And yet, their bid envelope was allowed to be opened. What recommended action steps could we take should the procuring entity still qualify them despite this fact? § 23.11.1.2
3rd par


Please note that we have written the Head of the Procuring entity regarding the above concerns to which they promptly replied by saying they "are validating the information and issues raised and would address all issues and concerns prior to awarding this contract". Although the bid was held on the first week of December, to- date, no award or notices have yet been received. We also are aware that the Procuring Entity may be performing its "Post-Qualification" procedures as why it may be taking this long.

await for resolution

MR. Protot cartoon

Thank you and we hope for your kind attention and response to this matter. We would also appreciate any additional advice or suggestions, in our common effort at fairness and transparency.

Sincerely,



Franco G. Isaac II
AVR - Operations