



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 38-2011

28 December 2011

MR. REY C. REYES
General Manager
METROPOLITAN NAGA WATER DISTRICT (MNWD)
40 J. Miranda Avenue, Naga City

Re: Section 36 on Single Calculated/Rated and Responsive Bid

Dear Mr. Reyes:

We respond to your letter dated 12 December 2011 seeking our opinion on whether the MNWD can formulate a policy through a Board Resolution to set a minimum number of three (3) bidders per project and consequently, declare a failure of bidding if during bid opening, the required number of bidders is not met. Furthermore, MNWD seeks our guidance if it is allowed to include said requirements as part of the bid documents as provided under Republic Act (RA) 9184 and its Implementing Rules and Regulations (IRR).

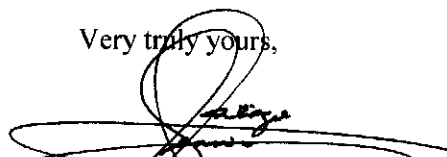
We regret to inform you that your proposal of requiring at least three (3) bidders to participate in a public bidding is contrary to the mandate of Section 36 on Single Calculated/Rated and Responsive Bid (SCRB). The provision instructs a Procuring Entity to consider for award a bid submitted by the lone bidder if it successfully complied with and responsive to the bidding requirements. Hence, there is no need to have a minimum number of bidders, three (3) as intended by MNWD, participating in a project for as long as the conditions under Section 36 are met.

As we have stated in a previous opinion¹, the rationale behind Section 36 is to prevent situations when the Procuring Entity arbitrarily decides not to award a contract to a lone bidder, although the bid is determined to be eligible and responsive. The rule on SCRB is a preventive measure meant to check favoritism and subjectivity.

Based on the foregoing, we are of the opinion that MNWD cannot push through with its proposed policy of requiring a minimum number of bidders as this will be in direct violation of RA 9184 and its IRR.

We hope our advice provided sufficient guidance on the matter. Should you have further questions, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director III

¹ NPM No. 042-2008 dated 27 October 2008