

NPM No. 39-2008

13 October 2008

MR. SENANDO D. LUMBOY

Executive Vice President

OMNIWORX, INC.

LMB building, San Antonio Avenue,
Valley I, Parañaque City

Re : Cash Deposit Certificate

Dear Mr. Lumboy:

We respond to your letter requesting for clarification on the posting in the News and Updates of the GPPB Web Site of the GPPB on the removal of the “hold-out” provision for the cash deposit certificate as an eligibility document.

Please be advised that the said matter was raised to the Government Procurement Policy Board (GPPB) during its 6th Regular Meeting held last 27 June 2008. The GPPB notes that Republic Act No. 9184 (R.A. 9184) and its Implementing Rules and Regulations Part A (IRR-A) are silent as to whether the cash deposit certificate should contain a hold-out provision. Section 25.3 of the IRR-A and other relevant provisions [*please see Sec. 23.6 (k) and 23.11.1*] simply state:

“The prospective bidder must present a commitment from a licensed bank to extend to it a credit line if awarded the contract to 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 percent (10%) of the approved budget for the contract to be bid; xx*” (emphasis supplied)

The GPPB further notes that the Generic Procurement Manuals (GPM), which were approved and adopted last 14 June 2006 through GPPB Resolution No. 13-2006, qualified the cash deposit certificate by requiring it to be on a “hold out” basis. The pertinent provisions of the GPM state viz:

“A certificate of hold out on cash deposit, in an amount not lower than that set by the Procuring Entity in the Bidding Documents, which shall be at least equal to ten percent (10%) of the ABC...”

The GPM also explains that the purpose of a hold out commitment is to establish the bidder’s liquidity, its capacity to absorb additional obligations and to finance its implementation and completion.

However, during the GPPB deliberations, it was propounded, among others, that requiring a hold-out provision on the cash deposit certificate would not serve the purpose of ensuring the contractor's liquidity, and could, seemingly be inconsistent with certain banking and commercial rules and practices.

In consideration of the foregoing, the GPPB resolved to revisit the requirement to submit a cash deposit certificate as one of the eligibility documents for bidding. In the interim, the GPPB has agreed to revise the sample form of cash deposit certificate, and come up with a standard format whereby all references to a hold-out provision are removed, in order to be consistent with the provisions of R.A. 9184 and its IRR-A, among others. Necessarily, all references to a hold-out provision on cash deposit in the GPM are also deleted.


Nevertheless, the GPPB noted that the revised sample cash deposit certificate format, as an eligibility requirement, must still contain the following elements:

1. Issued by a licensed bank;
2. Cash deposited with the bank must not be lower than that set by the Procuring Entity, which amount should be at least ten percent (10%) of the ABC; and
3. Depositor commits not to withdraw said amount within the period of the prospective bidder's bid validity which is one hundred twenty (120) calendar days or until the contract has been awarded, whichever comes first.

For reference purposes, a copy of the aforesaid standard form may be downloaded from our website at www.gppb.gov.ph.

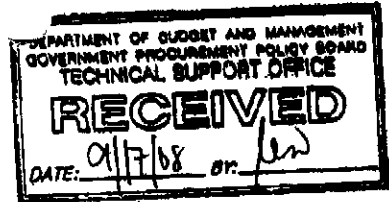
We hope to have clarified the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


RUBY U. ALVAREZ
Executive Director III



OMNIWORX, INC.



September 15, 2008

FN: Omniworx Cash
Deposit Certificate
in my Shared Docs.

Bry,

Kindly Finalize the reply I
prepared. I cannot say whether
the GPPB Res. on this gives only
prospective application since we haven't
issued it yet.
Ermine.

GOVERNMENT PROCUREMENT AND POLICY BOARD
Unit 2506, Raffles Corporate Center, F. Ortigas Jr. Road.
Ortigas Center, Pasig City 1106

Pls. handle. Sign in
my behalf. TX. pp

Attention: **GPPB Technical Support Office**

Subject: **Revised Cash Deposit Certificate**

9/16/08

Gentlemen,

We refer to the News and Updates posted on GPPB Web Site stating that during its 6th Regular Meeting above subject was one of their focal point of discussion, to wit:

"The GPPB, during its 6th Regular Meeting, agreed to remove the "on hold" requirement for cash deposit certificate submitted as part of eligibility and technical documents thereby necessitating the amendment of sample forms therefor."

We would appreciate it if you could provide explanation or clarification on the above in relation with our present contract with some government project wherein a ten percent (10%) cash deposit was put "on hold" throughout the duration of the project.

Thank you very much.

Very truly yours,

OMNIWORX, INC.

Signed By:


SENANDO D. LUMBOY
Executive Vice President



" Your choice for high value services... "

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