



TECHNICAL SUPPORT OFFICE

Unit 2506 Raffles Corporate Center
F. Ortigas Jr. Road, Ortigas Center
Pasig City, Philippines 1605

NPM No. 62-2009

27 November 2009

DOMINGO O. REYES, JR.

*Assistant Secretary for Finance and Comptrollership
Chairman, DOTC-MRT III BAC for Goods and Services*

**DEPARTMENT OF TRANSPORTATION & COMMUNICATIONS METROSTAR EXPRESS
MRT III Depot, North Avenue Corner EDSA, Q.C.**

Re: Eligibility Requirements for Joint Ventures

Dear Asec. Reyes, Jr:

We respond to your letter dated 22 October 2009 which we received on 27 October 2009 seeking our opinion on the eligibility requirements of a joint venture vis-à-vis the bidding for janitorial services of the Department of Transportation & Communications-Metro Rail Transit III (DOTC-MRT3) or EDSA Line.

Based on your representations, one of the participating bidders in the EDSA Line bidding sought the disqualification of the joint venture bidder on the following grounds, viz: (1) one of the members of the JV failed to meet the requirement under the Terms of Reference that a bidder should have been in three (3) year continuous operations in providing janitorial services; and (2) the other member of the joint venture has not complied with the Electronic Filing and Payment System as required under E.O. No. 398.

At the outset, we would like to inform you that the Government Procurement Policy Board (GPPB) is primarily an administrative body imbued with quasi-legislative or rule-making power¹ to determine policy directions in the area of public procurement. It has no jurisdiction to rule on specific issues raised by government agencies with regard to their procurement processes and activities considering that it has no *quasi-judicial*² functions under Republic Act 9184 (RA 9184) and its Implementing Rules and Regulations (IRR). As such, it is not in a position to fully understand and be held accountable for an agency's procurement decisions.

¹ Rule-making power of administrative agencies refers to the power to issue rules and regulations which result from delegated legislation in the administrative level. (See Agpalo, *Philippine Administrative Law*, 1999 Ed., p.137).

² Quasi-judicial is defined as a term applied to the actions or discretions of public administrative officers or bodies required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature. (See Agpalo, *Philippine Administrative Law*, 1999 Ed., p. 216 citing *Lupangco v. CA*, 160 SCRA 848 [1988]).

Corrollarily, therefore, the GPPB 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.

Nonetheless, for guidance purposes, we would like to point out that the GPPB has already ruled, on several occasions, on the issue of whether or not all the members of the joint venture should submit all the eligibility requirements, as follows:

“The requirement for submission of legal documents should mean the individual submission of all the entities comprising the joint venture. On the other hand, because usually joint ventures have become a remedy to augment on the capability of smaller enterprises to participate in competition and to eventually perform the contract, the submissions of financial and technical documentary requirements by any of the entities constitute compliance.”³

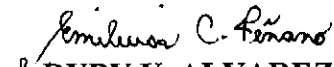
Thus, it is clear that each member of the joint venture shall submit the legal documents under the eligibility requirements. This is to ensure that all the parties thereto have the requisite legal personality to conduct business.

However, inasmuch as the Government recognizes the need to encourage small and medium businesses, which are unable, either technically or financially, to carry out a business undertaking on its own, to solicit the assistance of capable or bigger businesses through a joint venture. Hence, it is sufficient that the technical documents under the eligibility requirements should be complied with by at least one of the members of the joint venture for purposes of determining the joint venture’s eligibility.

Stated differently, therefore, the required eligibility requirements that must be submitted by each member of the joint venture under Section 23.6 (2) of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184, refer to the legal documents specified under Section 23.6 (1).⁴ With respect to the technical and financial eligibility documents, submission of these documents by any member of the joint venture constitutes substantial compliance.

We trust that this sufficiently addresses your concern. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


for **RUBY U. ALVAREZ**
Executive Director III

³ NPM Opinion Nos. 18-2005; 26-2007; 44-2007; 83-2007

⁴ The Revised IRR of R.A. 9184 took effect last 03 September 2009



Republic of the Philippines
DEPARTMENT OF TRANSPORTATION & COMMUNICATIONS
METROSTAR EXPRESS

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luzie,

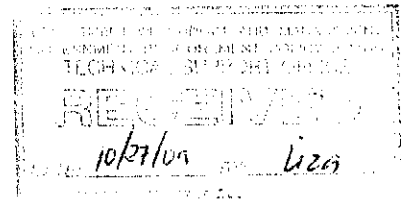
*pls. handle. sign for
my behalf.*

10/27/09

16 October 2009

ATTY. RUBY U. ALVAREZ

Executive Director
GPPB-Technical Support Office
Unit 2506 Raffles Corporate Center,
F. Ortigas, Jr. Road,
Ortigas Center, Pasig City



Dear Executive Director Alvarez:

We would like to request clarification on the provisions of Republic Act No. 9184 (RA 9184) and its Implementing Rules and Regulations (IRR), specifically, as regards the requirement for the submission of eligibility documents by bidders forming into a Joint Venture (JV). This concern is being raised in connection with the bidding for janitorial services of the Department of Transportation and Communications (DOTC)-MRT III (DOTC-MRT III).

As a background, the Invitation to Apply for Eligibility and to Bid (IAEB) for the Procurement of Janitorial Services for the DOTC-MRT III with an Approved Budget for the Contract (ABC) of ₱ 51,114,610.80 was published in the Manila Standard and posted at the Philippine Government Electronic Procurement System (PhilGEPS) on 26 May 2009 (**Annex "A"**).

Six (6) bidders responded to the IAEB, to wit:

1. Care Best International, Inc. (CBII)
2. DBP Service Corporation
3. Federal Management and Maintenance, Inc. (FMMI)
4. The Joint Venture of Front Runners Property Maintenance and General Services Corporation, STM Security Agency and Services, Inc. and Top Choice Allied Services, Inc. (JV of Front Runners, STM and Top Choice)
5. LBP Service Corporation
6. Philcare Manpower Services

On 18 September 2009, the DOTC-MRT III Bids and Awards Committee (BAC) opened the sealed bids for the Procurement of Janitorial Services for the DOTC-MRT III at the Chopper Room, MRT 3 Depot, North Avenue corner EDSA, North Triangle Area, Quezon City (**Annex "B"**). The JV of Front Runners, STM and Top Choice submitted the lowest calculated bid in the amount of ₱ 50,682,394.80 while the second and third lowest bidders are CBII and FMMI, respectively.

DBP Service Corporation, LBP Service Corporation and Philcare Manpower Services failed to submit eligibility documents.

In a letter dated 22 September 2009 (**Annex "C"**), FMMI sought the disqualification of the JV of Front Runners, STM and Top Choice as eligible bidder for the Procurement of Janitorial Services for the DOTC-MRT3 based on the following grounds:

1. The JV of Front Runners, STM and Top Choice has not complied with Section 23.6 of the IRR of RA 9184 which requires that "(E)ach member of the joint venture shall submit the required eligibility documents". According to FMMI, Front Runners, being a new company, failed to meet the requirement under the Terms of Reference (TOR) that a bidder should have been in three (3)-year continuous operations in providing janitorial services, and
2. Top Choice has not complied with the Electronic Filing and Payment System (EFPS) as required under Executive Order No. 398;

Per evaluation conducted by the DOTC-MRT III BAC-Technical Working Group (TWG), Front Runner, as an individual entity, has indeed failed to comply with the three (3)-year continuous operation requirement. However, there is no issue with respect to the other members of the Joint Venture as they have passed the requirement.

On the issue of EFPS, Top Choice presented a document that it has enrolled at the EFPS although only recently. FMMI alleges that since the law requiring the filing and payment of income tax through EFPS was issued in 2005, Top Choice should have enrolled long time ago.

While Section 23.6 (2.a), Rule VIII of the IRR of RA 9184 is explicit that each member of the joint venture shall submit **eligibility documents**, it is not clear, however, if the rule applies to the submission of other documents aside from those falling under the "eligibility documents" required by the IRR.

The three (3)-year continuous operations in janitorial services is not a requirement falling under the "eligibility documents" prescribed by Section 23.6 of the IRR of RA 9184. Eligibility Documents consist of Class "A" and Class "B" documents. Class "A" documents are composed of Legal, Technical and Financial Documents while Class "B" Documents consist of the Joint Venture Agreement and Authority to Verify Documents.

Under Class "A" Legal Documents, the bidders are required to submit (1) DTI/SEC Registration, (2) Mayor's Permit, (3) TIN, (4) Statement that the Bidder is not Blacklisted, (5) other appropriate licenses, and (5) Certificate of G-EPS Registration, while for Class "A" Technical Documents, the bidders must submit a Statement of ongoing and completed or awarded projects and for Class "A" Financial Documents are the Audited Financial Statement and NFCC.

In the instant case, Front Runner lacks the required three (3)-year operation. This is the reason it has entered into a joint venture with Top Choice and STM who both possess the required number of years.

There is no question that a joint venture is eligible to participate in the bidding for the aforementioned project. This is explicit under Item 5, Section II of the Instructions to Bidders (**Annex "D"**) which was lifted from Section 23.11.1(d) of the IRR of RA 9184 which reads-

"1. Unless otherwise indicated in the BDS, the following persons shall be eligible to participate in this Bidding:

- a) x x x
- b) x x x
- c) x x x
- d) Manufacturers, suppliers and/or distributors forming themselves into a joint venture, i.e. a group of two (2) or more manufacturers, suppliers and/or distributors that intend to be jointly and severally responsible or liable for a particular contract..."

A joint venture is defined as 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 in connection therewith, and duty, which may be altered by agreement to share both in profit and losses (Kilosbayan v. Guingona, 232 SCRA 110, May 05 1994).

It is our considered view that the collective nature of the undertaking of the members of the JV of Front Runners, STM and Top Choice, their contribution of assets and sharing of risks, and the community of their interest in the performance of the proposed contract for janitorial services endear a reasonable conclusion that their collective qualifications should be the basis for evaluating their eligibility. This is so because the sheer enormity of the janitors to be deployed for the whole EDSA MRT Line may not render any single entity to be able to comply with all the eligibility requirements and undertake the project by itself. This is the reason why the Instructions to Bidders issued to prospective bidders allowed bids from suppliers forming

themselves into a joint venture cognizant of the virtual impossibility that a single entity may be able to respond to the Invitation to Bid.

It is the intention of the DOTC-MRT III BAC that a joint venture proponent shall be evaluated based on the collective experience of the member-firms of the joint venture. Had the DOTC-MRT III BAC intended otherwise, it should not have indicated in the Instructions to Bidders that joint ventures are free to participate. The DOTC-MRT III BAC believes that requiring each and every member of the joint venture to fully meet the eligibility requirements for the project betrays the very concept, nature and purpose of the joint venture. A strict and inflexible adherence to the bidding requirements by each and every component of the joint venture would negate the salutary purpose of RA 9184 and frustrate the principle of streamlined procurement process.

It bears stress that the GPBB, realizing the deficiencies and/or inadequacies of Section 23.6, Rule VIII of the old IRR of RA 9184, amended the said Section (now Section 23.1(b)) to read as follows:

"b) Class "B" Documents:

...Each partner of the joint venture shall submit the legal eligibility documents. The submission of technical and financial eligibility documents *by any of the joint venture partners constitutes compliance.*" (Italics supplied).

It is worthy to mention that if the documents submitted by the JV of Front Runners, STM and Top Choice are to be evaluated based on the collective experience of the members of the joint venture, it will be considered complying with all the requirements for eligibility.

In view thereof, may we be clarified if the DOTC-MRT III BAC may conduct the evaluation of the eligibility, technical and financial documents based on the collective experience of the JV of Front Runners, STM and Top Choice.

Your preferential action on this request will be highly appreciated.

Very truly yours



DOMINGO A. REYES, JR.

Assistant Secretary for Finance & Comptrollership
& Chairman, DOTC-MRT III BAC for Goods and Services



**Invitation to Apply for Eligibility and to Bid
for the**

**PROCUREMENT OF JANITORIAL SERVICES
FOR THE DOTC - MRT III**

The Department of Transportation and Communications (DOTC) - MRT III, through the DOTC-MRT3 Bids and Awards Committee (BAC) invites janitorial agencies to apply for eligibility and if found eligible, to bid for the following contract:

**PROVISION OF JANITORIAL SERVICES TO ENSURE THE CLEANLINESS
OF THE THIRTEEN (13) STATIONS AND DEPOT OFFICES OF THE DOTC-
MRT3 METROSTAR EXPRESS**

The BAC will conduct this public bidding in accordance with Republic Act #9184 and its Implementing Rule and Regulations Part-A (IRR-A). The Approved Budget for the Contract (ABC) is Fifty One Million One Hundred Fourteen Thousand Six Hundred Ten Pesos and 80/100 (P51,114,610.80).

To be eligible to bid for this Contract, prospective bidders must submit a Letter of Intent and must meet the following major criteria in addition to those specified under R.A. 9184 and IRR-A: (a) with janitorial experience for five (5) years; (b) in continuous janitorial operations for the past three (3) years and have an experience on same or similar project in mass transport system with certificate of satisfactory performance; (c) have no adverse decision on case/s filed with the National Labor Relations Commission (NLRC); (d) have an experience of having completed within three past years a single contract that is similar to the contract to be bid which is no less than 50% of the ABC; (e) have an actual experience on the maintenance of Anti-Slip treated surface/flooring; and (f) with ISO 14001 certificate or copies of legal requirements and environmental management that are being complied with by the company and documentation of existing policies, strategies and programs related to environmental management. The DOTC-MRT3 BAC will use non-discretionary pass/fail criteria in the eligibility check, preliminary examination of bids, evaluation of bids, post-qualification, and award. Bids in excess of the ABC shall be automatically rejected at Bid opening.

A complete set of Bidding documents may be purchased by interested Bidders from the DOTC-MRT3 BAC Secretariat located MRT3 Depot, North Avenue, cor. EDSA, North Triangle Area, Quezon City upon payment of a non-refundable amount of Twenty Thousand pesos (P20,000.00).

The Bidding activities will be held at the DOTC-MRT3 Conference Room at the MRT3 Depot. The schedule of BAC activities is as follows:

Activity	Date
Issuance of Bid Documents	May 25-Jun.1, 2009
Pre-Bid Conference	02 June 2009
Submission of Bids	At exactly 2:00 p.m. on 16 June 2009
Opening of Bids	@ 2:00 p.m. onwards on 16 June 2009
Post Qualification	30 June 2009

The DOTC-MRT3 reserves the right to reject any or all bids, to declare a failure of bidding, or not to award the Contract. Likewise, the DOTC-MRT3 assumes no responsibility whatsoever to compensate or indemnify bidders for any expenses incurred in the preparation of the bids.

DOTC-MRT III
Bids and Awards Committee Office
MRT3 Depot Office, North Avenue, cor.,
EDSA, North Triangle, Quezon City

(Sgd.) **DOMINGO A. REYES, JR.**
Assistant Secretary for Finance &
Comptrollership & BAC Chairman,
DOTC-MRT III BAC

"A"



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Invitation to Apply for Eligibility and to Bid

Reference Number 887116

Procuring Entity METROSTAR EXPRESS

Title Invitation to Apply for Eligibility and to Bid for the Procurement of Janitorial Services for the DOTC MRT III

Area of Delivery Metro Manila

[Printable Version](#)

Solicitation Number: dotc mrt 3 09-461	Status	Pending
Trade Agreement: Implementing Rules and Regulations	Associated Components	<u>1</u>
Procurement Mode: Public Bidding	Bid Supplements	0
Classification: Goods	Document Request List	0
Category: Janitorial Services	Date Published	26/05/2009
Approved Budget for the Contract: PHP 51,114,610.80	Last Updated / Time	25/05/2009 5:11 PM
Delivery Period:	Closing Date / Time	02/06/2009 5:00 PM
Client Agency:		
Contact Person: Charity Anne S Ocampo REcords Officer MRT 3 Depot, North Avenue, cor. EDSA North Triangle Area Quezon City Metro Manila Philippines 1105 63-2-9295347 Ext.2400 63-2-9295347 charityanneocampo@yahoo.com		

Description

Invitation to Apply for Eligibility and to Bid for the

PROCUREMENT OF JANITORIAL SERVICES FOR THE DOTC - MRT III

The Department of Transportation and Communications (DOTC) - MRT III, through the DOTC-MRT3 Bids and Awards Committee (BAC) Invites Janitorial Agencies to apply for eligibility and if found eligible, to bid for the following contract:

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certificate of satisfactory performance; (c) have no adverse decision on case/s filed with the National Labor Relations Commission (NLRC); (d) have an experience of having completed within three past years a single contract that is similar to the contract to be bid which is no less than 50% of the ABC; (e) have an actual experience on the maintenance of Anti-Slip treated surface/flooring; and (f) with ISO 14001 certificate or copies of legal requirements on environmental management that are being complied with by the company and documentation of existing policies, strategies and programs related to environmental management. The DOTC-MRT3 BAC will use non-discretionary pass/fail criteria in the eligibility check, preliminary examination of bids, evaluation of bids, post-qualification, and award. Bids in excess of the ABC shall be automatically rejected at Bid opening.

A complete set of Bidding documents may be purchased by interested Bidders from the DOTC-MRT3 BAC Secretariat located MRT3 Depot, North Avenue, cor. EDSA, North Triangle Area, Quezon City upon payment of a non-refundable amount of Twenty Thousand pesos (P20,000.00).

The Bidding activities will be held at the DOTC-MRT3 Conference Room at the MRT3 Depot. The schedule of BAC activities is as follows:

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- Submission of Bids At exactly 2:00 p.m. on 16 June 2009
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- Post-Qualification 30 June 2009

The DOTC-MRT3 reserves the right to reject any or all bids, to declare a failure of bidding, or not to award the Contract. Likewise, the DOTC-MRT3 assumes no responsibility whatsoever to compensate or indemnify bidders for any expenses incurred in the preparation of the bids.

DOTC-MRT III
Bids and Awards Committee Office
MRT3 Depot Office, North Avenue, cor.,
EDSA, North Triangle, Quezon City

DOMINGO A. REYES, JR.
Assistant Secretary for Finance &
Comptrollership & BAC Chairman,
DOTC- MRT III BAC

PS. 25 May 2009
Manila Standard Today

Created by Charity Anne S Ocampo
Date Created 25/05/2009

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DOTC-MRT 3 BIDS AND AWARDS COMMITTEE

ABSTRACT OF BIDS

Name of Project: Procurement of Janitorial Services for MRT3

Location: MRT3 Training Room


Date/Time: 18 September 2009/10:00a.m.

BIDDER'S NAME	BID AMOUNT	BID SECURITY	ISSUING ENTI
1 Front Runners Property Maintenance and Gen. Services Corp.	50,682,394.80	512,000.00	Banco de Oro - I Avenue Branch (Manager's Che
2 Care Best International, Inc.	51,056,454.00	511,200.00	Securitybank - Del Marcati Branch (Manager's Che
3 Federal Management and Maintenance, Inc.	51,089,239.20	512,000.00	Chinabank - Ph Branch (Manag Check)
4 Philcare Manpower Services			
5 LBP Service Corporation			
6 DBP Service Corporation			

Prepared by:

REMEDIOS MATIONG
BAC Secretariat, DOTC-MRT3


GERONIMO V. QUINTOS
Member


MSAEL R. NARCA
Member


LYDIA SIMALVAR
Member

EDNA L. DE LEON
COA - Observer

PICPA

DOTC-MRT 3 BIDS AND AWARDS COMMITTEE

ABSTRACT OF BIDS

Name of Project: Procurement of Janitorial Services for MRT3

Location: MRT3 Training Room

Date/Time: 18 September 2009/10:00a.m.

ABC: P51,114,610.80

Venue: MRT3 Depot Main Chopper Room,
North Avenue, cor., EDSA
North Triangle Area, Quezon City

BIDDER'S NAME	BID AMOUNT	BID SECURITY	ISSUING ENTITY	VARIANCE FROM ABC %	REMARKS
1 Front Runners Property Maintenance and Gen. Services Corp.	50,682,394.80	512,000.00	Banco de Oro - Metro Avenue Branch - (Manager's Check)	(0.84%)	complying
2 Care Best International, Inc.	51,056,454.00	511,200.00	Securitybank - Dela Rosa Makati Branch (Manager's Check)	(0.11%)	complying
3 Federal Management and Maintenance, Inc.	51,089,239.20	512,000.00	Chinabank - Philam Branch (Manager's Check)	(0.05%)	complying
4 Philicare Manpower Services					non-submission
5 LBP Service Corporation					non-submission
6 DBP Service Corporation					non-submission

Prepared by:

REMEDIOS M. MATONG
BAC Secretariat, DOTC-MRT3

GERONIMO V. QUINTOS
Member

MISAEL R. NARCA
Member

LINDA SIMALVAR
Member

JOSE RIC M. INOTORIO
Member

ROEL V. ALSISTO
Member

REYNALDO I. BERROXA
Vice-Chairman

DOMINGO A. REYES, JR.
Chairman

EDNA L. DE LEON
COA - Observer

PIGPA



**FMMI
FEDERAL MANAGEMENT & MAINTENANCE, INC.**

22 September 2009

**DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS -
MRT III
BIDS AND AWARDS COMMITTEE
MRT III Depot, North Avenue cor EDSA
North Triangle Area, Quezon City**

Attention: **ASSEC. DOMINGO A. REYES, JR.**
Chairman, DOTC-MRT3 BAC

Dear Sir,

We are writing this letter to formally bring to your attention our observation regarding what transpired during the opening of DOTC-MRT3 Janitorial Bid on 18 September 2009 wherein DOTC-MRT3 BAC members, Bidders, and a representative from Commission on Audit were present.

Mr. Jose Ric M. Inotorio and Engr. Fernando Quiambao, both members of the DOTC-MRT3 BAC, wrongfully declared the joint venture of Front Runners Property Maintenance and Gen. Services Corporation (FRP) AND Top Choice to be eligible bidder based on their submitted Eligibility Documents. This declaration of a joint venture is invalid based on two (2) legal grounds:

1) Based on Section 23.6 of RA 9184 Implementing Rules and Regulations of 2007 stated that "Each member of the joint venture shall submit the required eligibility documents." (See Annex A) The current DOTC-MRT3 Janitorial Services bidding is still until this old RA 9184 IRR-A because the IAEB was released May 2009, and the revised version was just effective on 02 September 2009. Item 13.2.a3 of the Instructions to Bidders (amended by Bid Bulletin No.1, Item 1, See Annex B) clearly requires "Affidavit that the agency has been in continuous janitorial operations for the past three (3) years and have experience on same or similar project in any mass transport system; with a minimum daily ridership of a hundred thousand passengers; with certificate of satisfactory performance; and with janitorial experience of five (5) years." FRP just existed for just more than a year. It is legally impossible for it to make this affidavit.

2) During the Pre-bid Conference based on the Minutes of the Meeting page 8 Line 11 to 20 "Ms Analyn Lopera (of Top Choice) raised their concern about their company being newly enrolled to the Electronic Filing and Payment System (EFPS), which should be conformed for the last three years. However, she said that they have certification attesting that their company had enrolled to EFPS. Engr. Narca replied that

5 South Lawin Ave., Philam Homes, Quezon City
Tel. No.: 414-0171 Telefax: (632) 410-8085


the EFPS under Executive Order No. 398 as required in joining the public bidding, was issued in 2005. He asked the proponent what hindered them not to comply with this requirement. Ms Lopera replied that their client had only recently required them the EFPS which made them be aware of it." (See Annex C) It is clear that Top Choice, which started business in 2003, did not comply with this Presidential Order since 2005. Moreover, DOTC-MRT3 issued Bid Bulletin 1, Item 5 which states "Compliance to Regulations No. 3-2005 issued on 16 February 2005, subject; Rules and Regulations Implementing Order No. 398 which reads as follows:

Effective 01 April 2005, all prospective participants to any government procurement of goods and services are mandated to file their income and business tax returns and other required information electronically using the ELECTRONIC FILING AND PAYMENT SYSTEM (EFPS). **Effective 01 May 2005, only tax returns filed thru EFPS will be accepted as the required submission under Section 1 of EO 398**". (See Annex B)

Knowing that **FRP and Top Choice** violated these Philippine laws, we therefore request re-evaluation and possible disqualification of this joint venture from the DOTC-MRT3 Janitorial Services bidding.

Thank you for your consideration and immediate action.

Very truly yours,
For Federal Management & Maintenance Inc.


NORBEN O. MINERVA
Authorized Representative

Cc:

SEC. LEANDRO R. MENDOZA
DOTC Secretary

USEC. GUILING A. MAMONDIONG
Undersecretary for Railways

ASSEC. REYNALDO I. BERROYA
General Manager, DOTC-MRT3

MS. EDNA DE LEON
COA Representative

5. Eligible Bidders

- 5.1. Unless otherwise indicated in the **BDS**, the following persons shall be eligible to participate in this Bidding:
- (a) Duly licensed Filipino citizens/sole proprietorships;
 - (b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
 - (c) Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
 - (d) Manufacturers, suppliers and/or distributors forming themselves into a JV, i.e., a group of two (2) or more manufacturers, Suppliers and/or distributors that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, that Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%); or
 - (e) Cooperatives duly registered with the Cooperatives Development Authority (CDA).
- 5.2. Unless otherwise indicated in the **BDS**, when the GOODS sought to be procured are not available from local sources as provided in this Clause, at the prescribed minimum specifications of the PROCURING ENTITY and/or the Approved Budget for the Contract (ABC) of the PROCURING ENTITY as certified by its Head, or when there is a need to prevent situations that defeat competition or restrain trade, the said PROCURING ENTITY may invite foreign Bidders not deemed eligible pursuant to ITB Clause 5.1.
- 5.3. Unless otherwise indicated in the **BDS**, citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to citizens of the Philippines are eligible pursuant to R.A. 5183 and subject to C.A. 138.
- 5.4. A JV of two or more firms as partners shall comply with the following requirements:
- (a) the Joint Venture Agreement (JVA) shall be signed so as to be legally binding on all partners, unless otherwise indicated in the **BDS**;
 - (b) one of the partners shall be authorized to be in charge; and this authorization shall be evidenced by submitting a special power of attorney signed by legally authorized signatories of all the partners;