REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office
Mezzanine 125, Mabini Hall, Malacañang, Manila
Telefax Nos. (02) 735-4962; (02) 736-5758

NPM No. 095-2004

July 8, 2004

ENGR. WILFREDO T. JOGUILON JR.
Chairman, Bids and Awards Committee
Bacolod City Water District
Cor. Galo-San Juan Streets
Bacolod City

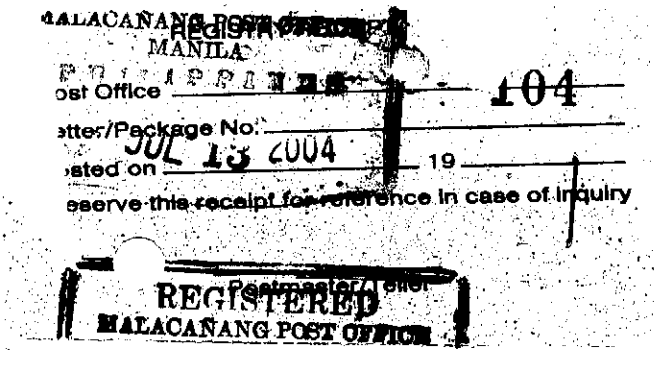
Re : Requirement for an Authority of the Signatory

Dear Engr. Joguilon:

This refers to your letter dated June 21, 2004, addressed to Atty. Noel O. Palomado of the Legal and Adjudication Office of the Commission on Audit - Regional Office VI, which was indorsed to our office on June 28, 2004, requesting for our opinion relative to the request of Mr. Romeo L. Zarris Jr., General Manager of Northwest Industrial Sales ("NIS"), for reconsideration of its disqualification in the bidding for the supply of flowmeters of the Bacolod City Water District ("BCWD").

In his letter to BCWD dated June 17, 2004, Mr. Zarris argues that it is not necessary for NIS to include an "Authority of the Signatory" in its technical proposal since he is its sole proprietor and manager. It is due to the failure of NIS to comply with this requirement that prompted the Bids and Awards Committee ("BAC") of the BCWD to declare NIS disqualified to bid for the said procurement project. The sole issue, therefore, that needs resolution is as follows:

> Whether or not the requirement for the submission of an "Authority of the Signatory" under Section 25.3(A)(2) of the Implementing Rules and Regulations Part A ("IRR-A") of Republic Act 9184 ("R.A. 9184") applies even to all types of bidders.



Authority of the Signatory Mandatory Requirement

The submission of the technical information/documents enumerated under Section 25.3(A) of the IRR-A are minimum requirements of the law that compels mandatory compliance. As such, procuring entities can only require the submission of additional technical information/documents in its bidding documents but cannot waive any of the requirements provided in the afore-mentioned section. Section 25.3(A) specifically provides as follows:

> For the procurement of goods:
>
> 1. The Bid Security as to form, amount and validity period;
> 2. **Authority of the signatory**;
> 3. Production/delivery schedule;
> 4. Manpower requirements;
> 5. After-sales service/parts, if applicable;
> 6. Technical specifications;
> 7. Commitment from a licensed bank to extend to the bidder a credit line if awarded the contract to be bid, or a cash 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 percent (10%) of the approved budget for the contract to be bid: Provided, however, That if the bidder previously submitted this document as an eligibility requirement, the said previously submitted document shall suffice;
> 8. Certificate from the bidder under oath of its compliance with existing labor laws and standards, in the case of procurement of services;
> 9. A sworn affidavit of compliance with the Disclosure Provision under Section 47 of the Act in relation to other provisions of R.A. 3019; and
> 10. Other documents/materials as stated in the Instructions to Bidders. (Emphasis supplied)

As can be gleaned from the above-quoted provision, the information on the "authority of the signatory" is among the minimum requirements of the IRR-A which necessitates mandatory compliance. In this regard, such requirement cannot be dispensed with by any procuring entity, more so by any bidder, notwithstanding any claim with regard to its inappropriateness. A document containing information on the "authority of the signatory" to the bid of a particular bidder is required in order to confirm the personality and authority of the person submitting the bid for a company or for himself. It is not for a bidder to question the logic of such requirement and refuse to comply therewith in the event he deems it inappropriate in his case.

In the case of a sole proprietorship where the general manager or the sole proprietor himself submits the bid for the company, an affidavit stating that the fact of his representation in the company, and that he possesses the authority to represent and bind the same may be considered sufficient compliance to the subject requirement. On the other hand, if a person other than the general manager or sole proprietor submits a bid for or represents the company, a Special Power of Attorney delegating such authority to the person is sufficient. Failure to submit a document to this effect will merit a rating of "failed" for the subject requirement, and disqualifies the bidder.

In view of all the foregoing, we are of the opinion that the BAC of BCWD was correct in declaring NIS disqualified and refusing to accept its bid for evaluation on the ground of its failure to comply with the requirements on the technical proposal, specifically the submission of an "authority of the signatory."

This opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not necessarily be applicable upon a different set of facts or circumstances.

We trust that this clarifies matters.

Very truly yours,

JOSE MARTIN C. SYQUIA
Executive Director

Copy furnished:

MS. VIOLA P. VILLANUEVA
State Auditor V
Regional Cluster Director
Commission on Audit
Regional Office VI
Ungka, Pavia, Iloilo

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July 1, 2004

MS. VIOLA P. VILLANUEVA
State Auditor V
Regional Cluster Director
Commission on Audit
Regional Office No. VI
Ungka, Pavia, Iloilo

Dear Director Villanueva:

This refers to your indorsement dated June 28, 2004, which we received through facsimile on July 1, 2004, addressed to Executive Director Jose Martin C. Syquia, referring the letter-query of Engr. Wilfredo T. Joquilon Jr. of the Bacolod City Water District regarding the request for reconsideration of Mr. Romeo L. Zarris Jr. of Norwest Industrial Sales, dated June 17, 2004.

We wish to inform you that we shall respond to your concerns either through phone or in writing at the earliest possible opportunity, or raise the same to the Government Procurement Policy Board for appropriate resolution should referral thereto becomes necessary.

Very truly yours,

ATTY. REYNALDO H. BICOL JR.
Procurement Management Officer V