

NPM No. 022-2019

3 December 2019

HON. ACHILLES GERARD C. BRAVO
Assistant Secretary for Internal Management
Department of Budget and Management
General Solano Street, San Miguel,
Manila City

**Re: Documentary Requirements for Negotiated Procurement
(Two Failed Biddings)**

Dear Assistant Secretary Bravo:

This refers to your letter,¹ requesting an advisory opinion on the documentary requirements for Negotiated Procurement (Two Failed Biddings) under Section 53.1 of Republic Act (RA) No. 9184 and its 2016 revised Implementing Rules and Regulations (IRR). In particular, you are seeking clarification on whether the procuring entity (PE) has the discretion or reasonable leeway to change the required documents enumerated under the 2016 IRR of RA No. 9184 and which documents it can legally waive or dispense with.

With the effectivity of the 2016 IRR and its Consolidated Guidelines for the Alternative Methods of Procurement (Annex "H"), the requirements for Negotiated Procurement (Two Failed Biddings) have been simplified consistent with the principle of a streamlined procurement process. One of which is the authority given to the PE to determine the documentary requirements that must be submitted in the case of procurement undertaken through Negotiated Procurement (Two Failed Biddings). To properly undertake this task, the Bids and Awards Committee, as assisted by its Secretariat, Technical Working Group and the End-User Unit shall conduct a mandatory review of the terms, conditions, specifications and cost estimates of the procurement project, and on the basis thereof decide on the necessary adjustments in the technical, legal and financial eligibility requirements.

Hence, PEs are given the discretion on which eligibility documents are necessary for their procurement project, provided that a mandatory review has been conducted to determine the adjustments needed to address the previous failure of bidding. PEs should likewise bear in mind its responsibility to ensure that it is entering into a contract with a technically, legally, and financially capable supplier, contractor, or consultant.

Accordingly, the Department of Budget and Management BAC may decide to dispense with the requirement of the Statement of All Ongoing Government and Private Contracts as long as it is convinced that the required documents will enable it to select a capable supplier and address the failure of bidding that preceded.

¹ Dated 21 October 2019.

The above opinion was made on the basis of the particular facts presented and circumstances availing, and may not, therefore, be applicable given a different set of facts and circumstances.

We hope to have sufficiently clarified the matter at hand.

Sincerely yours,
(sgd.)

ROWENA CANDICE M. RUIZ
Executive Director V

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