

NPM No. 057-2017

21 December 2017

MR. DON ARLIE S. ROMERO, MD
Chairperson, Bids and Awards Committee
BATAAN GENERAL HOSPITAL
Balanga City, Bataan

Re: Exception to the Single Largest Completed Contract -

Dear Mr. Romero:

This refers to your letter inquiring whether GPPB Resolution No. 07-2006, regarding the exceptions to the eligibility requirement on "Largest Single Contract", is still applicable with the promulgation of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the Government Procurement Reform Act.

Please be guided that the aforementioned Resolution, which amends Section 23.11.1 of IRR-A of RA 9184, has long been repealed by the 2009 Revised IRR, and as such, is no longer applicable even in the current 2016 IRR.

We wish to inform you, nonetheless, that the 2009 and the 2016 IRRs still provide for the same exception to the Single Largest Completed Contract (SLCC) for the procurement of goods, but with slight modification. It is now found in Sec. 23.4.1.3 of the 2016 Revised IRR, which provides:

23.4.1.3. The prospective bidder must have completed, within the period specified in the Invitation to Bid, an SLCC that is similar to the contract to be bid, and whose value, adjusted to current prices using the Philippine Statistics Authority (PSA) consumer price indices, must be at least fifty percent (50%) of the ABC. However, in the case of Expendable Supplies, said SLCC must be at least twenty five percent (25%) of the ABC.

If, at the outset and after conducting market research, the Procuring Entity (PE) can already determine that imposing the same will likely result to: (a) failure of bidding, or (b) monopoly that will defeat the purpose of competitive bidding, the Procuring Entity, in lieu of the above, may require the following:

- a) The prospective bidder should have completed at least two (2) similar contracts and the aggregate contract amounts should be equivalent to at least the percentage of the ABC as required above; and
- b) The largest of these similar contracts must be equivalent to at least half of the percentage of the ABC as required above.

The purpose of the above-quoted provision is to strike a good balance between protecting the government from inexperienced suppliers, and ensuring effective and efficient public procurement. Thus, in the procurement of goods, if it is determined by the procuring entity (PE) that imposing the SLCC requirement will likely result in failure of bidding, or monopoly that will defeat the purpose of public bidding, the exception under the second paragraph of Section 23.4.1.3 of the 2016 IRR of RA 9184 may be utilized, provided that it is clearly indicated in the Invitation to Bid and the Bidding Documents of the PE.

As regards the exception, the rule provides that the procuring entity may allow the submission of **at least 2 similar contracts** (unlike in GPPB Resolution No. 07-2006 where the prospective bidder should have completed at least 3 similar contracts) with aggregate contract amounts equivalent to at least the percentage of the ABC required, but the largest of the similar contracts must be at least 25% of the ABC. It must be noted, however, that it is up to the procuring entity, after conducting market research, whether to use the exception, upon determination of a possible failure of bidding or monopoly that could occur.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

(sgd.)

Executive Director *V. [Signature]*

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