

NPM No. 071-2016

15 November 2016



Re: Single Bidder in the Procurement of Consulting Services

Dear [REDACTED]:

This is in response to your letter inquiring whether the National Nutrition Council violated the process of shortlisting eligible bidders.

It is represented that on 19 May 2016, NCC posted and advertised the public bidding for the consultancy services for the production of “*Year 7 Radyo mo sa Nutrisyon Program*” of NCC. However, only one (1) bidder submitted the Letter of Intent (LOI). On 07 June 2016, the Bids and Awards Committee (BAC) conducted an eligibility check and found the lone bidder compliant with the eligibility requirements and was shortlisted. The BAC Secretariat prepared a BAC Resolution recommending the shortlisting of the lone bidder to the Head of the Procuring Entity (HOPE). However, the Resolution was not approved by the HOPE. Hence, this inquiry.

Requirement for LOI, Not Necessary

At the outset, please be informed that the submission of an LOI is not necessary in the conduct of public bidding for consultancy services. In our previous Non-Policy Matter (NPM) Opinion,¹ we clarified that in line with simplifying the process and preventing collusion, the submission of LOI is no longer required for procurement activities, the Invitation to Bid or Request for Expression of Interest for which were advertised or posted after 10 September 2013, the effectivity date of the Government Procurement Policy Board (GPPB) Resolution No. 27-2012. Said Resolution repealed Sections 23.4.3 and 24.4.3.3 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184.

Single Rated Responsive Bid

Section 36 of RA 9184 and its associated IRR allows the award of contract to a single calculated/rated responsive bid if it falls under the circumstances enumerated therein. As such, even if only one bidder applies for eligibility check in the procurement of consulting services, the bidding process continues. If the bidder is later declared eligible, it shall be subjected to shortlisting. Once shortlisted and its bid is found to be responsive to all the

¹ Non Policy Matter Opinion No. 101-2013 dated 20 December 2013.

bidding requirements after a detailed bid evaluation and post-qualification, its bid will be declared as the Single Rated Responsive Bid and considered for contract award.

The intent of the legislature is to mandate the procuring entities to consider a single rated and responsive bid (or single calculated and responsive bid for goods and civil works procurement) for award of procurement contracts, and ensure that the ABC reflects the most advantageous prevailing price for the Government. Accordingly, upon compliance with the entire requirement of the procurement law and its associated rules, award of contract can be made to the bidder with the Single Rate and Responsive Bid.

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.)

~~DENNIS S. SANTIAGO~~
Executive Director *VMS*

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