

**NPM No. 105-2016**

6 December 2016



**Re: Format of Statement of All Ongoing Government and Private Contracts**

Dear [REDACTED]:

This refers to your letter inquiring if the non-conformance to the standard or prescribed form of *Statement of all ongoing government and private contracts* is a ground to post disqualify a bidder with the lowest calculated bid (LCB).

In your letter, you mentioned that your Technical Working Group (TWG) recommended the post disqualification of the bidder with the LCB for the improvement of the public market building and site development project due to the bidder's purported failure to comply with the format of the *Statement of all ongoing government and private contracts*.

At the outset, please be advised that the Government Procurement Policy Board (GPPB) and its Technical Support Office (TSO) has no jurisdiction to rule over actual controversies with regard to the conduct of the bidding since it has no quasi-judicial functions under the law. Hence, this office has consistently refrained from passing upon decisions of the BAC or the procuring entities on its procurement activities or in this case, the post-disqualification of a bidder.

In an earlier opinion<sup>1</sup>, we emphasized that when the Bidding Documents directs bidders to submit a "*statement of all its ongoing and completed government and private contracts*", the submitted document must contain a complete list of all the bidder's ongoing and completed contracts both with government and private entities, together with all other information required in the Bidding Documents.

Instructions to Bidders (ITB) Clause No. 12.1(iii) is instructive that unless otherwise indicated in the BDS, the bidder's first envelope shall contain a *Statement of all its ongoing and completed government and private contracts* as part of its eligibility and technical documents, which shall contain:

1. name of the contract;
2. date of the contract;

<sup>1</sup> NPM 094-2013 dated December 19, 2013

3. contract duration;
4. owner's name and address;
5. nature of work;
6. contractor's role (whether sole contractor, subcontractor, or partner in a JV) and percentage of participation;
7. total contract value at award;
8. date of completion or estimated completion time;
9. total contract value at completion, if applicable;
10. percentages of planned and actual accomplishments, if applicable;
11. value of outstanding works, if applicable;
12. the statement shall be supported by the notices of award and/or notices to proceed issued by the owners; and
13. the statement shall be supported by the Constructors Performance Evaluation System (CPES) rating sheets, and/or certificates of completion and owner's acceptance, if applicable;

Section 34.1 of the revised Implementing Rules and Regulations of RA 9184 provides that the bidder with the LCB shall undergo post-qualification in order to determine whether the bidder complies with and is responsive to all the requirements and conditions as specified in the Bidding Documents.

The *Statement of ongoing and completed contracts* prescribed in the Philippine Bidding Documents is part and parcel of the bidder's bid, and being a standard form under existing rules, it should then conform to the template provided by the GPPB. This is in accord with the requirement under Section 6.2 of the IRR of RA 9184 that the use of standard forms, once issued by the GPPB, shall be mandatory upon all procuring entities.<sup>2</sup>

Failure of the bidder to comply with the prescribed template despite this being included in the Philippine Bidding Documents is a cause for the bidder's ineligibility or disqualification. In this case, the bidder's non-compliance with form of *Statement of ongoing and completed contracts* as prescribed in the Bidding Documents is a ground for its post disqualification.

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 V

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<sup>2</sup> NPM No. 121-2014 dated November 10, 2014.