



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

897.13 DPWH
04-02-2014

MAR 26 2014


DEPARTMENT ORDER)
NO. **37**)
Series of 2014 *04.02.14*)

SUBJECT : Implementation of the
Government Procurement
Policy Board (GPPB)
Resolution No. 20-2013 on
the Non-Acceptance of Credit
Line Certificate (CLC) as an
Alternative to the
Prospective Bidder's
Computation of Net
Financing Contracting
Capacity (NFCC)

In accordance with GPPB Resolution No. 20-2013 (Attachment 1) amending Sections 23.1(a) (vi), 23.5.1.4 and 23.5.2.6 of the Revised Implementing Rules and Regulations of Republic Act No. 9148, and Clauses 5.5 and 12.1 (a) (vi) of the Instruction to Bidders of the Philippine Bidding Documents for Infrastructures Projects, among others, **the use of CLC as an alternative to the prospective bidder's computation of NFCC shall no longer be allowed.**

Effectively, all bidding documents of contracts to bid shall be updated to conform to the amendments (Annexes A & B) mandated by the GPPB Resolution No.20-2013.

Considering that the Resolution had been effective upon its publication in the Malaya Business Insight on March 12, 2014, this Department Order shall take effect immediately.


ROGELIO L. SINGSON
Secretary

Department of Public Works and Highways
Office of the Secretary



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RESOLUTION NO. 20-2013

APPROVING AMENDMENTS TO SECTIONS 23.1(a)(vi), ~~23.5.1.4~~ AND 23.5.2.6 OF THE REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184 ; CLAUSES 5.5 AND 12.1(a)(v) OF THE INSTRUCTIONS TO BIDDERS OF THE PHILIPPINE BIDDING DOCUMENTS FOR GOODS ; AND CLAUSES 5.5 AND 12.1(a)(vi) OF THE INSTRUCTIONS TO BIDDERS OF THE PHILIPPINE BIDDING DOCUMENTS FOR INFRASTRUCTURE PROJECTS.

WHEREAS, Section 63.1(b) of Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR) authorize the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend, whenever necessary, the IRR;

WHEREAS, as part of the eligibility documents for submission, Section 23.1(a)(vi) of the IRR of RA 9184 and Clauses 12.1(a)(v) and 12.1(a)(vi) of the Instructions to Bidders (ITB) of the Philippine Bidding Documents (PBDs) for Goods and Infrastructure Projects, respectively, require the submission of the prospective bidder's computation of its Net Financial Contracting Capacity (NFCC) or a commitment from a Universal or Commercial Bank to extend a credit line in favor of the prospective bidder if awarded the contract to be bid (CLC);

WHEREAS, Sections 23.5.1.4 and 23.5.2.6 of the IRR of RA 9184 and Clause 5.5 of the ITB of the PBDs for Goods and Infrastructure Projects provide for the NFCC formula, thus:

NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract to be bid.

Where: **K** = **10** for a contract duration of one year or less, **15** for a contract duration of more than one year up to two years, and **20** for a contract duration of more than two years.

WHEREAS, the GPPB adheres to the policy that the government should only be entering into contracts with potential bidders who are actually contributing to the coffers of the government through the payment of correct taxes;

WHEREAS, during the 2nd GPPB Regular Meeting held on 15 March 2013, the Board agreed to adopt, as a matter of policy, that the Income Tax Return, together with the Audited Financial Statement (AFS) submitted, should be used in determining the financial eligibility of bidders. During the meeting, the Board likewise created the NFCC Committee that will study alternative formula in lieu of the NFCC and the CLC;

WHEREAS, the Bureau of Internal Revenue (BIR) presented its proposed NFCC formula during the NFCC Committee meeting held on 5 June 2013, which utilized the prospective bidder's average net income after taxes for three (3) years as the basis for the computation of the NFCC;

WHEREAS, in the meeting held on 9 July 2013, the Inter Agency Technical Working Group (IATWG) discussed the BIR's proposed NFCC formula, reviewed the CLC requirement, and thereafter recommended the amendment of the provisions of the IRR of RA 9184 and the Philippine Bidding Documents in relation to NFCC/CLC;

WHEREAS, during the 5th Regular GPPB Meeting held on 30 July 2013, the Board discussed the recommendations of the IATWG, and, after thorough discussion and careful deliberation, resolved to retain the current NFCC formula, subject to the following modifications:

1. CLC shall no longer be accepted as an alternative to the prospective bidder's computation of NFCC;
2. The values of the bidder's current assets and current liabilities shall be based on the data submitted to the BIR, through its Electronic Filing and Payment System (EFPS);
3. The Factor K multipliers 10, 15 and 20 shall be retained, subject to future review by the Board of its efficiency and accuracy in relation to NFCC.

NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to confirm, adopt and approve, as **WE** hereby confirm, adopt and approve the following:

1. **AMEND** Sections 23.1(a)(vi), 23.5.1.4 and 23.5.2.6 of the IRR of RA 9184, as shown in **Annex "A"** hereof;
2. **AMEND** Clauses 5.5 and 12.1(a)(v) of the Instructions to Bidders of the Philippine Bidding Documents for Goods, and Clauses 5.5 and 12.1(a)(vi) of the Instructions to Bidders of the Philippine Bidding Documents for Infrastructure Projects, as shown in **Annex "B"** hereof; and,
3. **REVIEW** the efficiency and accuracy of Factor K multipliers 10, 15 and 20 in relation to NFCC at some future time.

This resolution shall take effect immediately.



APPROVED this 30th day of July 2013 at Pasig City, Philippines

**DEPARTMENT OF BUDGET AND
MANAGEMENT** *BP*

[Signature]
DEPARTMENT OF EDUCATION

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

[Signature]
DEPARTMENT OF ENERGY


DEPARTMENT OF FINANCE

DEPARTMENT OF HEALTH


DEPARTMENT OF THE INTERIOR AND
LOCAL GOVERNMENT


DEPARTMENT OF NATIONAL
DEFENSE


DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS

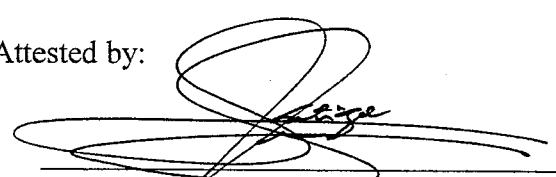
DEPARTMENT OF SCIENCE AND
TECHNOLOGY

DEPARTMENT OF TRADE AND
INDUSTRY


DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS


PRIVATE SECTOR REPRESENTATIVE

Attested by:


DENNIS S. SANTIAGO
Board Secretary, GPPB
Executive Director, GPPB-TSO

**REVISED IMPLEMENTING RULES AND REGULATIONS (IRR)
OF REPUBLIC ACT (RA) NO. 9184**

ORIGINAL	AMENDED
<p>Section 23.1.(a)(vi)</p> <p>Section 23.1 For purposes of determining the eligibility of bidders using the criteria stated in Section 23.5 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:</p> <p>a) <u>Class "A" Documents</u></p> <p>...</p> <p>Financial Documents</p> <p>...</p> <p>(vi) The prospective bidder's computation for its Net Financial Contracting Capacity (NFCC) or a commitment from a Universal or Commercial Bank to extend a credit line in favor of the prospective bidder if awarded the contract to be bid (CLC).</p>	<p>Section 23.1.(a)(vi)</p> <p>Section 23.1 For purposes of determining the eligibility of bidders using the criteria stated in Section 23.5 of this IRR, only the following documents shall be required by the BAC, using the forms prescribed in the Bidding Documents:</p> <p>a) <u>Class "A" Documents</u></p> <p>...</p> <p>Financial Documents</p> <p>...</p> <p><u>(vi) The prospective bidder's computation for its Net Financial Contracting Capacity (NFCC).</u></p>
<p>Section 23.5.1.4</p> <p>Section 23.5.1.4. If the prospective bidder submits a computation of its NFCC, the NFCC must be at least equal to the ABC to be bid, calculated as follows:</p> <p>NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract to be bid.</p> <p>Where: K = 10 for a contract duration of one</p>	<p>Section 23.5.1.4</p> <p>Section 23.5.1.4. <u>The computation of a prospective bidder's NFCC must be at least equal to the ABC to be bid, calculated as follows:</u></p> <p>NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract to be bid.</p> <p>Where: K = 10 for a contract duration of one</p>

<p>year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.</p> <p>If the prospective bidder submits a CLC, the CLC must be at least equal to ten percent (10%) of the ABC to be bid. If the CLC is issued by a foreign Universal or Commercial Bank, it shall be confirmed or authenticated by a Universal or Commercial Bank. For biddings conducted by LGUs, the prospective bidder may also submit CLC from other banks certified by the BSP as authorized to issue such financial instrument.</p>	<p>year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.</p> <p><u>The values of the bidder's current assets and current liabilities shall be based on the data submitted to the BIR, through its Electronic Filing and Payment System (EFPS).</u></p>
<p><u>Section 23.5.2.6</u></p> <p>Section 23.5.2.6. If the prospective bidder submits a computation of its NFCC, the NFCC must be at least equal to the ABC to be bid, calculated as follows:</p> <p>NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract to be bid.</p> <p>Where: K = 10 for a contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.</p> <p>If the prospective bidder submits a CLC, the CLC must be at least equal to ten percent (10%) of the ABC to be bid. If the CLC is issued by a foreign Universal or Commercial Bank, it shall be confirmed or authenticated by a Universal or Commercial Bank. For biddings conducted by LGUs, the prospective bidder may also submit CLC from other banks certified by the BSP as authorized to issue such financial instrument.</p>	<p><u>Section 23.5.2.6</u></p> <p>Section 23.5.2.6. <u>The computation of a prospective bidder's NFCC must be at least equal to the ABC to be bid, calculated as follows:</u></p> <p>NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract to be bid.</p> <p>Where: K = 10 for a contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.</p> <p><u>The values of the bidder's current assets and current liabilities shall be based on the data submitted to the BIR, through its Electronic Filing and Payment System (EFPS).</u></p>

PHILIPPINE BIDDING DOCUMENTS
FOR GOODS AND INFRASTRUCTURE PROJECTS

INSTRUCTIONS TO BIDDERS

ORIGINAL	AMENDED
<p><u>Clause 5.5</u></p> <p>5.5 The Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC) or a commitment from a Universal or Commercial Bank to extend a credit line in its favor if awarded the contract for this Project (CLC).</p> <p>The NFCC, computed using the following formula, must be at least equal to the ABC to be bid:</p> <p>NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract for this Project.</p> <p>Where: K = 10 for a contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.</p> <p>The CLC must be at least equal to ten percent (10%) of the ABC for this Project. If issued by a foreign bank, it shall be confirmed or authenticated by a Universal or Commercial Bank. In the case of local government units (LGUs), the Bidder may also submit CLC from other banks certified by the <i>Bangko Sentral ng Pilipinas</i> (BSP) as authorized to issue such financial instrument.</p>	<p><u>Clause 5.5</u></p> <p><u>5.5 The Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC), which must be at least equal to the ABC to be bid, calculated as follows:</u></p> <p>NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract to be bid.</p> <p>Where: K = 10 for a contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.</p> <p><u>The values of the bidder's current assets and current liabilities shall be based on the data submitted to the BIR, through its Electronic Filing and Payment System (EFPS).</u></p>

PHILIPPINE BIDDING DOCUMENTS FOR GOODS

INSTRUCTIONS TO BIDDERS

<p><u>Clause 12.1(a)(v)</u></p> <p>12. Documents Comprising the Bid: Eligibility and Technical Components</p> <p>12.1. Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:</p> <p>(a) Eligibility Documents –</p> <p style="padding-left: 40px;"><u>Class “A” Documents:</u></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">(v) NFCC computation or CLC in accordance with ITB Clause 5.5;</p>	<p><u>Clause 12.1(a)(v)</u></p> <p>12. Documents Comprising the Bid: Eligibility and Technical Components</p> <p>12.1. Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:</p> <p>(a) Eligibility Documents –</p> <p style="padding-left: 40px;"><u>Class “A” Documents:</u></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">(v) <u>NFCC computation in accordance with ITB Clause 5.5;</u></p>
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PHILIPPINE BIDDING DOCUMENTS FOR INFRASTRUCTURE PROJECTS

INSTRUCTIONS TO BIDDERS

<p><u>Clause 12.1(a)(vi)</u></p> <p>12. Documents Comprising the Bid: Eligibility and Technical Components</p> <p>12.1. Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:</p> <p>(a) Eligibility Documents –</p> <p style="padding-left: 40px;"><u>Class “A” Documents:</u></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">(vi) NFCC computation or CLC in accordance with ITB Clause 5.5;</p>	<p><u>Clause 12.1(a)(vi)</u></p> <p>12. Documents Comprising the Bid: Eligibility and Technical Components</p> <p>12.1. Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:</p> <p>(a) Eligibility Documents –</p> <p style="padding-left: 40px;"><u>Class “A” Documents:</u></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">(vi) <u>NFCC computation in accordance with ITB Clause 5.5;</u></p>
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Failure of the Bidder declared as Lowest Calculated Bid to duly submit the requirements under this Clause or a finding against the veracity of such shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.

against the veracity of such shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.

PHILIPPINE BIDDING DOCUMENTS FOR CONSULTING SERVICES

ELIGIBILITY DOCUMENTS

ORIGINAL	AMENDED
<p>Clause 2.1(a)</p> <p>“The following eligibility requirements shall be submitted on or before the date of the eligibility check specified in the Request for Expression of Interest and Clause 5 for purposes of determining eligibility of prospective bidders:</p> <p style="padding-left: 40px;">a) Class “A” Documents:</p> <p style="padding-left: 80px;"><u>Legal Documents</u></p> <p style="padding-left: 80px;">...</p> <p style="padding-left: 40px;">(ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located;</p>	<p>Clause 2.1(a)</p> <p>“The following eligibility requirements shall be submitted on or before the date of the eligibility check specified in the Request for Expression of Interest and Clause 5 for purposes of determining eligibility of prospective bidders:</p> <p style="padding-left: 40px;">a) Class “A” Documents:</p> <p style="padding-left: 80px;"><u>Legal Documents</u></p> <p style="padding-left: 80px;">...</p> <p style="padding-left: 40px;">(ii) Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located; and,</p> <p style="padding-left: 80px;"><u>(iii) Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.</u></p>

INSTRUCTIONS TO BIDDERS

<p>Clause 27.2</p> <p>Within a non-extendible period of three (3) calendar days from receipt by the Consultant of the notice from the BAC that it is the HRB, the Consultant shall submit the following documentary requirements:</p> <p style="padding-left: 40px;">(a) Tax clearance per Executive Order</p>	<p>Clause 27.2</p> <p>Within a non-extendible period of three (3) calendar days from receipt by the Consultant of the notice from the BAC that it is the HRB, the Consultant shall submit the following documentary requirements:</p> <p style="padding-left: 40px;">(a) <u>Latest income and business tax</u></p>
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398, Series of 2005, as finally reviewed and approved by the BIR;

(b) Latest income and business tax returns in the form specified in the **BDS**;

(c) Certificate of PhilGEPS Registration; and

(d) Other appropriate licenses and permits required by law and stated in the **BDS**.

Failure of the Consultant declared as HRB to duly submit the requirements under this Clause or a finding against the veracity of such, shall be ground for forfeiture of the bid security and disqualification of the Consultant for award.

returns in the form specified in the BDS;

(b) Certificate of PhilGEPS Registration; and

(c) Other appropriate licenses and permits required by law and stated in the BDS.

Failure of the Consultant declared as HRB to duly submit the requirements under this Clause or a finding against the veracity of such, shall be ground for forfeiture of the bid security and disqualification of the Consultant for award.