

Republic of the Philippines
Department of Public Highways
OFFICE OF THE SECRETARY
M a n i l a

March 15, 1978

DEPARTMENT ORDER NO. 128
Series of 1978

SUBJECT: Prescribing the guidelines to govern the advertisement of projects for public bidding and the evaluation of the capability of contractors applying for prequalification to bid for the construction of any road or bridge project of the Department of Public Highways whether financed fully with local funds or partly with loans from foreign countries.

To insure the selection of highly capable contractors who may be allowed to bid for the construction of any road or bridge project of the Department of Public Highways, the evaluation of the contractors capability must be governed by a more rigid set of guideline that must apply to all applications for prequalification to bid, for any highway project regardless of the source of fund.

In view hereof, it is hereby ordered that the following guidelines be adopted:

A. ADVERTISEMENT OF NOTICES

Notices inviting contractors to apply for the prequalification for public bidding of foreign-assisted projects shall be sent to the Embassies in Manila for all eligible source countries. Whenever possible and advisable said notices shall be advertized on three separate days over a period of five days in at least two nationally circulated papers (one in the morning, another in the afternoon).

A period of at least 45 days should be allowed for contractors to prepare their prequalification documents.

However, for projects funded entirely from local funds, or elements of foreign-assisted projects which, by agreement, are to be bid only by local contractors, notices of prequalification or invitation to bid shall be advertized in at least two nationally circulated papers (one in the morning, another in the afternoon) on three separate days over a period of five days.

Contractors applying for prequalification to bid for construction of projects advertized for national bidding shall be given at least ten (10) days after the last publication of the advertisement to prepare their prequalification documents.

B. JOINT VENTURES

Joint Ventures should submit a clear statement of intent to enter into a joint venture which must be appended to the prequalification documents. Each participant in the joint venture shall be required to accomplish and submit an individual questionnaire. Members of the joint venture shall contribute and pledge all their resources for the project and the prequalification committee will use such combined resources of all participating joint venture parties in considering the contracting capacity of the joint venture. The joint venture agreement, however, shall be attached to the bid proposal/tender.

Pursuant to the provisions of Letter of Instruction No. 630, which limits undertaking of civil works funded with local funds exclusively to Filipino contractors, no individual, corporation, partnership, or association shall enter into any contract, agreement, tie-up, or joint venture agreement with any ~~non-~~ Filipino entity that would circumvent the provisions of the Anti-Dummy Laws. Furthermore, unless specifically authorized by the President of the Philippines in exceptional cases, bidding award or negotiations of primary civil works contracts (of locally funded projects) shall be limited to Filipino individuals and to corporations, partnership, or associations seventy-five per cent (75%) of the capital of which is owned by citizens of the Philippines.

C. LEGAL AND ADMINISTRATIVE REQUIREMENT

Foreign contractors should submit either a photo copy of their license (or equivalent) to undertake contract work issued by their government, or a certification by their embassy in Manila that they are bona-fide contractors. They should abide by the Conditions of Contract, Series of 1976, Clause 77 which states that "xxx the Contract shall be a Philippine Contract and shall be subject to the Laws of the Republic of the Philippines in accordance with which Laws the Contract shall be construed xxx".

Any local contractor applying for prequalification to bid shall be currently and properly licensed as a contractor by the Professional Regulation Commission of the Philippine Government pursuant to Republic Act No. 4566.

The following documents must be submitted in compliance with Administrative Order No. 66:

1. Tax Clearance from the Bureau of Internal Revenue
2. Clearance from the Bureau of Customs
3. Clearance from the court of jurisdiction (CFI) that there is no criminal or civil case outstanding against the contractor

Foreign contractors who have done business in the Philippines for more than a year shall, likewise, be required to submit the above-stated clearances.

The prequalification data required should be submitted on the prequalification form issued by the

Department of Public Highways. It is important that all the questions contained in the form should be fully answered. All necessary data and papers relevant to the application should, likewise, be submitted. The evaluation shall be based solely on the answers and other documents submitted.

D. EVALUATION OF CONTRACTORS BID CAPABILITY

1. Contracting Capacity - The equity or networth of the contractor is indicative of his financial viability which should serve as the basis for determining the contractor's contracting capacity to be computed by multiplying the equity/networth by factor 10. The equity/networth shall be that which is indicated in the latest balance sheet (or financial statement) of the contractor and which balance sheet (or financial statement) must bear the stamp of registration with the country's revenue office. Any appreciable increase or decrease in equity/networth of a contractor shall be verified from his balance sheet (or financial statement) and amount of income tax during the previous 3 to 5 years immediately preceding.

Contractors shall show proof that they have paid their latest income tax return.

In the case of newly-formed corporations which have not been in operation for more than a year, their contracting capacity shall be determined by multiplying by factor 10 the total amount of paid-up capital registered with the Securities and Exchange Commission (or equivalent office of the country where the foreign contractor is based).

Liabilities arising from unfinished portions of existing on-going contracts of the contractor shall be deducted to get the Contractor's Net Contracting Capacity. The resulting net contracting capacity shall be compared with the estimated cost of the project to arrive at the rating for Net Contracting Capacity. Any contractor whose net contracting capacity is less than 90% of the estimated cost of the project shall be disqualified. A net contracting capacity which is equal to or more than the estimated cost should be rated 100%.

2. Financial Resources - The Cash Line and the Credit Line shall constitute the Financial Resources of the contractor for the project he is applying for prequalification.

Any contractor who fails to submit the Cash and Credit Lines in the required amount specified in advertisement for the bidding for the project on or before the deadline set forth in the "Invitation to Bid" or "Notice of Prequalification" should not be qualified to bid for the project and his application for prequalification shall be rejected.

3. Equipment Resources - In case of projects offered for international bidding, the contractor's equipment resources shall be reckoned from his answers to the equipment questionnaires.

In the case of projects offered for local bidding, the contractor shall be required to submit his equipment documents to prove ownership of the equipment required for the project as a requisite for prequalification. Only equipment supported by documents acceptable to DPH Committee on Prequalification shall be credited to the contractor for purposes of satisfying the minimum equipment requirement for the project.

The ratio between the number of a type of equipment credited to the contractor and the number of the same type of equipment required for the project shall be the rating for the particular type of equipment required for the project multiplied by the assigned weight shall be the contractor's rating for Equipment Resources.

Whenever necessary, a verification and inspection of the equipment proposed by a contractor may be undertaken by the DPH Committee on Prequalification or its representative to determine the existence, availability, and serviceability of the equipment.

Any contractor who rates 0 in any type of heavy construction equipment required for a project, such as dump truck, water tank truck, bulldozer, grader, road roller, crane, Del-mag Pile hammer, transit mixer, batch plant - shall be disqualified.

4. Experience of Proposed Staff - The rating for the experience of each of the proposed staff shall be the ratio between the estimated cost of the single largest-size relevant project completed and the estimated cost of the project to be bid. The average rating between the ratings of the experience of the Resident Engineer and the Foreman multiplied by the assigned weight shall be the rating for the Proposed Staff.

Any contractor who rates 0 in either one of the required staffing shall be disqualified.

5. Experience of the Contractor - The ratio between the cost of the single largest-size relevant project the contractor has completed and the estimated cost of the project multiplied by the assigned weight shall be the rating for Contractors Experience.

However, a new contractor applying for prequalification to bid for projects estimated at less than ₱10M who rates 0 in this category may still qualify provided he meets all other requirements.

6. Rating - Based on the foregoing, contractors shall be rated as follows:

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|---------------------------------|--------------|
| 1. Net Contracting Capacity | - 20% weight |
| 2. Financial Resources | - 20% weight |
| 3. Equipment Resources | - 25% weight |
| 4. Experience of Proposed Staff | - 25% weight |
| 5. Experience of Contractor | - 10% weight |

E. GENERAL PROVISIONS

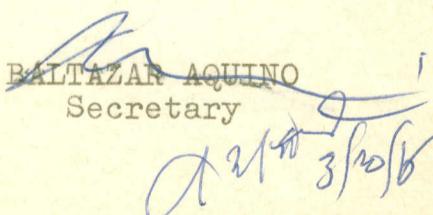
1. The evaluation of prequalification applications shall be based solely on prequalification documents sub-

mitted on or before the deadline set forth in the Invitation to Bid.

2. All administrative and legal requirements shall first be satisfied before a contractor's bid capacity is evaluated.
3. A contractor who has been awarded his first contract for the construction of a DPH project shall be allowed to participate in the bidding for another DPH project only after he has completed 60% or more of his first contract with no delay of more than 15% as defined in BPH Memo dated Sept. 27, 1972.
4. Any contractor who incurs a delay of more than 15% on any of his projects for the Department of Public Highways shall be allowed to participate in the bidding for another project only after such delay has been completely eliminated or reduced to less than 15%.
5. Corporations or Associations managed, or the stocks of which are controlled, by the same person or persons related by affinity or consanguinity within the third civil degree shall be treated as one contractor for purposes of prequalification.
6. Single-proprietorship contractors controlled and/or managed by the same person or persons related by affinity or consanguinity within the third civil degree shall be treated as one contractor for purposes of prequalification.
7. In no case shall a rating exceed 100%.
8. Any contractor who rates less than 50% in Equipment Resources and Experience (Proposed Staff or Contractor) shall be disqualified.
9. Any contractor who cannot make an 80% total rating shall be disqualified.
10. Whenever required by pertinent loan agreement, advertisement for international bidding of any foreign-assisted project shall be caused to be published in at least three known papers of international circulation.

This order shall take effect immendiately.

Any or all provisions of any previous order, circular, memoranda to the contrary are hereby superseded.


BALTAZAR AQUINO
Secretary