



Republic of the Philippines
Department of Transportation
LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD
East Avenue, Diliman, Quezon City

RESOLUTION NO. 185 Series of 2020

(Re: OMNIBUS MOTION For Leave of the Honorable Board To Consider Second Motion for Reconsideration [re: Resolutions Nos. 2019-205 S. 2019 & 004 S. 2020] And/or OPPOSITION to the Application for CPC of Victory Liner, Inc.)

WHEREAS, on 17 January 2020, the Qualification Committee issued its Resolution No. 004 S. 2020 wherein the Committee resolved thus:

“NOW THEREFORE, premises considered, this Committee resolves to:

1. **DENY** the Urgent Motion for Reconsideration filed by G.V. Florida Transport, Inc.;
2. **AFFIRM** the selection of Victory Liner, Inc. to operate on the route TUGUEGARAO CITY, CAGAYAN - MARIVELES, BATAAN pursuant to Resolution No. 205 S. 2019.”

WHEREAS, on 3 March 2020, oppositor/movant G.V. Florida Transport Inc. filed an OMNIBUS MOTION For Leave of the Honorable Board To Consider Second Motion for Reconsideration [re: Resolutions Nos. 2019-205 Series of 2019 & 004 Series of 2020] And/or OPPOSITION to the Application for CPC of Victory Liner, Inc.;

WHEREAS, Item No. 4.3, 4.3.1, 4.3.2 and 4.3.3 of the Omnibus Motion stated as follows:

“4.3 That as noted by the Committee only eleven (11) out of the proposed fourteen (14) units were considered. Three (3) improperly certified OR/CR were excluded:

- 4.3.1. This should have immediately merited a “FAIL” rating for Victory Liner;

4.3.2. With the exclusion of three (3) units, Victory Liner was left with only twelve (12) units to be considered - eleven (11) ready and one to be delivered at the time of opening of the Qualification Documents. Therefore, with only twelve bus units, Victory Liner should have been given the “FAIL” rating and/or DISQUALIFIED outright;

4.3.3. Further, by awarding the route to Victory Liner what is the basis then for the Board for the enforcement of Section VII. PENALTY CLAUSE, of Memorandum Circular No. 2019-013? When is the delivery of the three (3) other units to complete the required fifteen (15) falling due? Can these not make the “FAIL” rating indubitable?”

WHEREAS, the Board has deliberated on the OMNIBUS MOTION and revisited the implementing guidelines provided under Memorandum Circular No. 2019-013 particularly the pertinent items thereat;

WHEREAS, Item V of Memorandum Circular No. 2019-013 further enumerates the five (5) stages in the evaluation of Qualification Documents for the selection of a qualified applicant.

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|---------------------|---|--|
| First Stage | : | Complete submission of Qualification Documents |
| Second Stage | : | If two (2) or more applicants PASS the First Stage, Ranking is based on the availability of the number of units. |
| Third Stage | : | If two (2) or more applicants are equally ranked in the Second Stage, Ranking is based on the delivery of schedule of units on first-in-time basis. |
| Fourth Stage | : | If tie still results, preference shall be given to area-based operator-applicants. |
| Fifth Stage | : | If no existing area-based operator passes, a public lottery shall be conducted to determine the qualified applicants that will proceed with the CPC application. |

WHEREAS, in the First Stage, the evaluation focuses on a PASS or FAIL rating on each of the qualification documents submitted. In the same stage, complete submission of qualification documents by the applicants was found by the Committee as per its issued Resolution No. 205 S. 2019 dated 29 July 2019;

WHEREAS, in the Second Stage, following the guidelines on Item No. V-B-3 of Memorandum Circular No. 2019-013, it is important to note the following statement:

“3. The Applicant-Operators who PASSED the legal, technical and financial qualifications shall be ranked based on the availability of the required number of compliant units. **Higher rank is accorded to an applicant with the highest number of ready and available units**, then on the schedule of delivery of the units (as certified by the supplier/manufacturer) on a first-in-time basis;”

WHEREAS, as per Resolution Nos. 205 Series of 2019 and 004 Series of 2020, the Committee emphasized that Victory Liner Inc. is the most qualified because of its eleven (11) provincial bus units that are **READY AND AVAILABLE** as shown in the submitted certified true copies of LTO Certificates of Registration and Official Receipts including the undertaking of the one (1) remaining unit as opposed to the undertaking that 25% of the number of required units within three (3) months, 50% within six (6) months, 100% within nine (9) months will be delivered by the vehicle manufacturer/supplier submitted by G.V. Florida Transport, Inc. and First North Luzon Transit, Inc. pursuant to Section III-B-2 of Memorandum Circular No. 2019-013;

WHEREAS, it is worth to emphasize that Victory Liner Inc.'s three (3) copies of the LTO Certificate of Registration and Official Receipt with Plate Nos. CAY-4573, CAY-4562 and CAY-3377 were not Certified True Copies out of the fourteen (14) units. Without the directive from the Committee, Victory Liner Inc. submitted a letter on 8 July 2019 relative to the certified true copies of the aforementioned units duly signed/notarized by Eva P. Pillen - Records Officer in LTO Olongapo City. The said submission is not acknowledged as part of the qualification documents as per Resolution No. 004 S. 2020.

WHEREAS, there is no need to proceed to the Third Stage in one (1) instance, when there is an applicant ranked higher based on the availability of the number of units per Item No. V-B-III of Memorandum Circular No. 2019-013;

WHEREAS, Item No. 8 of the Omnibus Motion stated thus:

"8. xxx, VLI launched the operation of apparently only five (5) bus units sometime December 2019. In fact, Trip Schedules sent thru the social media provides, to wit:

Tuguegarao - Mariveles via Ilagan/TPLEX

06:15 AM - De Luxe (41 - seater with CR)

07:30 PM - First Class (29-seater with CR)

Mariveles - Tuguegarao via San Fernando, TPLEX

05:00 AM -De Luxe (41 - seater with CR)

03:45 PM - First Class (29-seater with CR)

9. The launching of merely five (5) bus units as indicated in the tarpaulin/presentation done by the LTFRB-RFRO-2 last December 19, 2019 highlights more clearly the issue raised by the herein/movant oppositor in its August 16, 2019 Motion for Reconsideration."

WHEREAS, Item No. 10 of the Omnibus Motion stated thus:

"10. That will all due respects and with the indulgence of the Honorable Board, movant/oppositor respectfully reiterates, thus:

VICTORY LINER, Inc., SHOULD HAVE BEEN DISQUALIFIED DURING THE OPENING OF THE QUALIFICATION DOCUMENTS IN VIEW OF INADEQUATE UNITS. Thus, it could not have been afforded the ranking based on available units."

WHEREAS, with regard to Item No. 8, the Board finds the same irrelevant in connection with the qualification documents submitted by Victory Liner. Contrary to Item No. 10 of the Omnibus Motion, the Board hereby reiterates during the selection proceedings that Victory Liner, Inc. has submitted eleven (11) certified true copies of LTO Certificates of Registration and Official Receipts ready and available. Records show that on 13 August 2019, Victory Liner, Inc. received its Notice of Selection dated 13 August 2019 and thereafter filed on 28 August 2019 its application for issuance of Certificate of Public Convenience under the assigned Case Number 2019-24341.


NOW THEREFORE, premises considered, finding that the selection proceedings is in order, this Board resolves to as it is hereby resolved to:

1. **DENY** the OMNIBUS MOTION For Leave of the Honorable Board To Consider Second Motion for Reconsideration [re: Resolutions Nos. 2019-205 S. 2019 & 004 S. 2020] And/or OPPOSITION to the Application for CPC of Victory Liner, Inc. filed by G.V. Florida Transport, Inc. on 3 March 2020; and
2. **AFFIRM** the issued Resolution Nos. 205 S. 2019 dated 29 July 2019 and 004 S. 2020 dated 17 January 2020;

APPROVED AND SIGNED by the undersigned Chairperson and Members of the 2nd Qualification Committee pursuant to LTFRB Office Order No. 2019-114, this 29th day of ~~SEPTEMBER~~ SEPTEMBER 2020 at Quezon City, Philippines.


ATTY. JENNIFER LEAH P. ROJAS
Chairperson


JOANNE D. ELMEDOLAN
Member


MARIZA S. LLAVORE
Member


MARISSA PAULA E. MAMAUAG
Member


ALEX L. CAPUNDAN
Member

Affirmed by the Board:


ATTY. MARTIN B. DELGRA, III
Chairman


ENGR. RONALDO F. CORPUS
Board Member


P/COL. JOEL C. PERNITO (Ret.)
Board Member

Attested by:


COL. RENWICK K. RUTAQUIO (Ret.)
Regional Director-RFROIV/OIC-Executive Director