

**RESOLUTION AMENDING SECTIONS 23.5.2.4 AND 23.5.2.5 OF THE
IMPLEMENTING RULES AND REGULATIONS OF
REPUBLIC ACT NO. 9184**

WHEREAS, Section 63 of Republic Act No. (RA) 9184 mandates the Government Procurement Policy Board (GPPB) to formulate and amend, whenever necessary, the Implementing Rules and Regulations (IRR) and the corresponding standard forms for procurement;

WHEREAS, as represented by the Department of Public Works and Highways (DPWH) in a letter dated 23 February 2012, that although the strengthening of the integrity of the bidding process in the DPWH has resulted in increased competition, the level of competitiveness still falls short of its ideal of at least ten (10) bidders per procurement activity;

WHEREAS, per its consultation with the contractor-members of the Philippine Constructors Association, Inc. (PCA), it was determined that some technical eligibility requirements are hindering the participation of some contractors who might otherwise be capable of undertaking the projects being procured;

WHEREAS, in the 4th meeting of the Inter Agency Technical Working Group of the GPPB held on 16 March 2012, the DPWH presented the following proposed amendments:

- a) Revise Section 23.5.2.5 of the IRR to remove the ten (10)-year period;
- b) Revise Section 23.5.2.5 of the IRR to reduce the minimum value of the required single largest completed contract (SLCC) from fifty percent (50%) to twenty five percent (25%);
- c) Revise Section 23.5.2.4 of the IRR to make the submission of the Certificate of Acceptance mandatory, and consider the CPES rating as sufficient substitute therefor the Certificate of Acceptance;
- d) Revise Section 32.1 of the IRR to supplement the written communication between the Bids and Awards Committee (BAC) and a bidder before the issuance of Notice of Award with spoken communication through a formal meeting, but prohibit one-on-one spoken communication; and
- e) Revise Section 34.5 of the IRR to include a provision giving a post-disqualified bidder an opportunity to request an audience with the BAC;

WHEREAS, in the 4th regular meeting of the GPPB on 27 April 2012, the GPPB agreed to create a sub-working group composed of representatives from the Departments of Education, Health, Interior and Local Government, Public Works and Highways, and Transportation and Communications, including the Private Sector Representative to the GPPB and a representative from the Department of Agriculture, as resource person, to study the amendments proposed by the DPWH;

WHEREAS, based on the discussions of the sub-working group in its meeting on 10 May 2012, the DPWH presented the following revised proposals in the 7th meeting of the IATWG on 18 May 2012:

- a) Revise Section 23.5.2.5 of the IRR to remove the ten (10)-year period;
- b) Revise Section 23.5.2.5 of the IRR to reduce the minimum value of the required single largest completed contract (SLCC) from fifty percent (50%) to twenty five percent (25%);
- c) Revise Section 23.5.2.4 of the IRR to make the Certificate of Completion and the CPES final rating of satisfactory or higher as sufficient substitute for the Owner's Certificate of Acceptance; and
- d) Revise Section 34.5 of the IRR to require the procuring entity to provide a clear statement of explanation and justification in the notice of post-disqualification;

WHEREAS, after thorough discussions on DPWH's revised proposals, the IATWG agreed to remand the issue on the proposed reduction of the fifty percent (50%) minimum SLCC requirement to the sub-working group for further discussion, and agreed to submit the following proposals to the GPPB for its approval:

- a) Revise Section 23.5.2.5 of the IRR to allow procuring entities to extend the ten (10)-year period in cases of projects identified to have no similar projects procured within the said period;
- b) Revise Section 23.5.2.4 of the IRR to make the Certificate of Completion or the CPES Final Rating as sufficient substitutes for the Certificate of Acceptance; and
- c) Revise Section 34.5 of the IRR to require procuring entities to state justification for the declaration of post-disqualification in the written notice given to the post-disqualified bidder;

WHEREAS, after careful and judicious deliberation on the proposed amendments during its 5th Regular Meeting on 1 June 2012, the GPPB favorably considered the proposals in view of the expected improvement in the level of competition in infrastructure projects brought about by increasing the number of bidders that may be able to participate through wider range of recognizable experience;

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. Amendment of Section 23.5.2.5 of the IRR of RA 9184 to read as follows:

The prospective bidder must have an experience of having completed at least one (1) contract that is similar to the contract

to be bid, and whose value, adjusted to current prices using the NSO consumer price indices, must be at least fifty percent (50%) of the ABC to be bid: *Provided, however*, That contractors under Small A and Small B categories without similar experience on the contract to be bid may be allowed to bid if the cost of such contract is not more than fifty percent (50%) of the Allowable Range of Contract Cost (ARCC) of their registration based on the guidelines as prescribed by the PCAB.

For Foreign-funded Procurement, the GOP and the foreign government/foreign or international financing institution may agree on another track record requirement.

Moreover, a contract shall be considered “similar” to the contract to be bid if it has the same major categories of work.

2. Amendment of Section 23.5.2.4 of the IRR of RA 9184 to read as follows:

The Owner’s Certificate of Final Acceptance; or the Constructors Performance Evaluation Summary (CPES) Final Rating and/or the Certificate of Completion, must be satisfactory.

3. Issuance of a Circular providing guidance to procuring entities on the notification of post-disqualified bidders.

This resolution shall take effect immediately.

APPROVED this 1st day of June 2012 at Pasig City, Philippines

(Sgd.)

DEPARTMENT OF BUDGET AND
MANAGEMENT

NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY

(Sgd.)

DEPARTMENT OF EDUCATION

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

(Sgd.)

DEPARTMENT OF HEALTH



RESOLUTION NO. 11-2012

**DEPARTMENT OF THE INTERIOR AND
LOCAL GOVERNMENT**

(Sgd.)

**DEPARTMENT OF NATIONAL
DEFENSE**

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS**

(Sgd.)

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

(Sgd.)

**DEPARTMENT OF TRADE AND
INDUSTRY**

(Sgd.)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

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