



RESOLUTION NO. 33-2013

DEFERRING THE RESOLUTION ON THE ACCEPTABILITY OF PROVISIONARY TAX CLEARANCE ISSUED BY THE BUREAU OF INTERNAL REVENUE

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and its revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 2 September 2009, respectively;

WHEREAS, Section 63(b) of RA 9184 mandates the Government Procurement Policy Board (GPPB) to formulate and amend, when necessary, the IRR and the corresponding standard forms for Procurement;

WHEREAS, Section 1 of Executive Order (EO) No. 398 mandates a tax payer to submit a tax clearance from the Bureau of Internal Revenue (BIR) to prove full and timely payment of taxes before it is to enter into a contract with the Government;

WHEREAS, Section 34.2(a) of the revised IRR of RA 9184 requires a bidder to submit its tax clearance within three (3) days from receipt of notice that it has the Lowest Calculated Bid or Highest Rated Bid;

WHEREAS, GPPB Resolution No. 21-2013 dated 30 July 2013 amended Section 34.2(a) of the revised IRR of RA 9184 and prescribed the submission of tax clearance as an eligibility requirement;

WHEREAS, BIR Operations Manual (OM) No. 12-07-001 as amended by BIR Revenue Memorandum Circular (RMC) No. 58-2013 allowed the issuance of Provisionary Tax Clearance for Bidding Purposes in two (2) instances: (1) Taxpayer availed a Tax Amnesty Program but is still awaiting issuance of the Authority to Cancel Assessment (ACTA) by the Regional Office, and (2) Taxpayer’s case is still pending final resolution by the Court of Tax Appeals (CTA) or the Supreme Court (SC);

WHEREAS, during the 5th Inter-Agency Technical Working Group (IATWG) Meeting held on 11 October 2013, the IATWG agreed to recommend to GPPB the following:

- a. Consider the submission of a “provisionary tax clearance for bidding purposes” as sufficient compliance with the post-qualification requirement under Section 34.2 of the IRR of RA 9184;
- b. Issue a CIRCULAR informing stakeholders that the “provisionary tax clearance” issued by the BIR is considered sufficient for purposes of compliance with Section 34.2 of the IRR; and
- c. Write a letter to the BIR requesting for changes relative to the provisionary tax clearance.

WHEREAS, during the 7th Regular GPPB Meeting held on 25 October 2013, the Board discussed the foregoing recommendation of IATWG and agreed to defer its resolution pending the report of the Department of Finance (DOF) on the use/acceptability of Provisionary Tax Clearance for purposes of bidding. The Board likewise instructed GPPB-TSO to inform bidders and procuring entities that the Provisionary Tax Clearance is not yet an acceptable form until the Board makes a resolution on whether the same may be considered for purposes of bidding.

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

- a) **DEFER** the resolution on the acceptability of Provisionary Tax Clearance, pending DOF’s Report on the matter;
- b) **DIRECT** the GPPB-TSO to inform bidders and procuring entities, through its helpdesk, that Provisionary Tax Clearance is not yet an acceptable form until the Board makes a resolution on whether the same may be considered for purposes of bidding.

This Resolution shall take effect immediately.

APPROVED this 25th day of October 2013 at Pasig City, Philippines.

(Sgd.)

**DEPARTMENT OF BUDGET AND
 MANAGEMENT**

**NATIONAL ECONOMIC AND
 DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

DEPARTMENT OF HEALTH

(Sgd.)

**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**

(Sgd.)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

(Sgd.)

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

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