

**APPROVING THE AMENDMENT TO SECTION 22.4 OF THE 2016 REVISED
IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184
AND
ISSUANCE OF CIRCULAR ON THE CONDUCT OF PRE-BID CONFERENCE**

WHEREAS, Section 63.1(b) of Republic Act (R.A.) No. 9184 and its 2016 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, Section 22 of RA 9184 provides that at least one pre-bid conference shall be conducted for each procurement, unless otherwise provided in the IRR, which shall be held within a reasonable period before the deadline for receipt of bids to allow prospective bidders to adequately prepare their bids;

WHEREAS, Section 22.1 of the 2016 IRR of RA 9184 states, among others, that for contracts to be bid with an ABC of One Million Pesos (₱1,000,000.00) or more, the BAC shall convene at least one (1) pre-bid conference to clarify and/or explain any of the requirements, terms, conditions, and specifications stipulated in the Bidding Documents; while for contracts to be bid with an ABC of less than One Million Pesos (₱1,000,000), pre-bid conferences may be conducted at the discretion of the BAC;

WHEREAS, Section 22.3 of the 2016 IRR mandates that the pre-bid conference shall discuss, clarify and explain, among other things, the eligibility requirements and the technical and financial components of the contract to be bid including questions and clarifications raised by the prospective bidders before and during the Pre-Bid Conference and it shall be open to prospective bidders, and in case of procurement of consulting services, the shortlisted bidder, but attendance shall not be mandatory;

WHEREAS, Section 22.4 of the 2016 IRR states that the minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference, and shall be made available to prospective bidders not later than five (5) days upon written request.

WHEREAS, during the course of the IRR Revision in 2015 to 2016, one of the identified issues/concerns, which causes failures of bidding, is the failure of the bidders to comply with the requirements of the Procuring Entities, as stated in the Bidding Documents, that led to the incorporation of the following various measures in the 2016 IRR of RA 9184, thus:

1. Mandatory use of the PhilGEPS Certificate of Registration and Membership under Platinum Category to minimize the documents to be submitted by the bidders;
2. Provision of alternative documents to the Eligibility Requirements, *e.g.*, substitute to Mayor's Permit, substitute to computation of Net Financial Contracting Capacity, additional proof of SLCC;

3. Relaxing the eligibility requirements for foreign consultants;
4. Separate eligibility requirements for individual consultants; and
5. Less stringent rules in sealing and marking of bids;

WHEREAS, despite the new measures introduced in the 2016 IRR of RA 9184 aimed at addressing the frequent disqualification of bidders, still there are declarations of failure of bidding due to non-compliance of bidders with the bidding requirements that may have been avoided had the bidders carefully examined each and every page of the Bidding Documents, as required, and/or clarified during the Pre-bid Conference;

WHEREAS, during the 7th IATWG Meeting on 14 December 2017, the GPPB-TSO presented a proposal to maximize the Pre-bid Conference to further minimize the occasions of bidders' disqualification due to non-compliance with the bidding requirements, through the issuance of a Circular, which the IATWG agreed to recommend to the GPPB for approval;

WHEREAS, when the proposal was presented during the 6th GPPB and 8th IATWG Joint Meeting on 21 December 2017, the GPPB deferred decision on the matter and directed the GPPB-TSO to present in the next meeting the proposed Circular for approval;

WHEREAS, during the 1st IATWG Meeting on 27 February 2018, the GPPB-TSO presented the draft Circular for review of the IATWG and subsequently, the IATWG agreed to recommend to the GPPB the approval of the draft Circular subject to the clarification on Section 3.3 thereof;

WHEREAS, the draft Circular was presented to the GPPB during its 1st Regular Meeting on 9 March 2018 and after due deliberation and careful review, the GPPB approved the issuance of the proposed Circular on the Conduct of Pre-bid Conference to minimize the occasions of bidders' disqualification due to non-compliance with the bidding requirements;

WHEREAS, the GPPB further approved the amendment of Section 22.4 of the 2016 IRR of RA 9184 to mandate the posting of the Minutes of the Pre-bid Conference in the procuring entity's website for increased transparency in procurement.

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 22.4 of the 2016 IRR of RA 9184 to read as:

“22.4. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference, and shall be made available to prospective bidders not later than five (5) days upon written request. *The minutes of the pre-bid conference shall likewise be posted in the website of procuring entities.*

Decisions of the BAC amending any provision of the Bidding Documents shall be issued in writing through a Supplemental/Bid

Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.”

2. Issuance of a Circular on the Conduct of Pre-bid Conference, copy of which is hereto attached as **Annex “A”**.

This resolution shall take effect immediately.

APPROVED this 9th day of March 2018 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

DEPARTMENT OF HEALTH

SGD

DEPARTMENT OF INFORMATION AND
COMMUNICATIONS TECHNOLOGY

DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT

SGD

DEPARTMENT OF NATIONAL
DEFENSE

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DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS

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DEPARTMENT OF SCIENCE AND
TECHNOLOGY

DEPARTMENT OF TRADE AND
INDUSTRY

SGD

DEPARTMENT OF TRANSPORTATION

PRIVATE SECTOR REPRESENTATIVE



CIRCULAR 02-2018

9 March 2018

TO : Heads of Departments, Bureaus, Offices and Agencies of the National Government, including State Universities and Colleges, Government Owned and/or Controlled Corporations, Government Financial Institutions, and Local Government Units

SUBJECT : Conduct of Pre-bid Conference

1.0 Purpose

This Circular is being issued to maximize the conduct of Pre-bid Conference to minimize the occasions of bidders' disqualification due to non-compliance with the bidding requirements.

2.0 Coverage

All Departments, Bureaus, Offices and Agencies of the National Government, including State Universities and Colleges, Government-Owned and/or Controlled Corporations, Government Financial Institutions, and Local Government Units.

3.0 Nature of Pre-bid Conference

- 3.1 Pre-bid Conference is a forum where the Bids and Awards Committee (BAC) and prospective bidders meet to discuss all the aspects of the procurement at hand.
- 3.2 Under Section 22.1 of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, for contracts to be bid with an ABC of One Million Pesos (₱1,000,000.00) or more, the BAC shall convene at least one (1) pre-bid conference to clarify and/or explain any of the requirements, terms, conditions, and specifications stipulated in the Bidding Documents. For contracts to be bid with an ABC of less than One Million Pesos (₱1,000,000), pre-bid conferences may be conducted at the discretion of the BAC. Subject to the approval of the BAC, a pre-bid conference may also be conducted upon written request of any prospective bidder.

- 3.3 Section 22.3 of the 2016 IRR of RA 9184 mandates that the pre-bid conference shall discuss, clarify and explain, among other things, the eligibility requirements and the technical and financial components of the contract to be bid, including questions and clarifications raised by the prospective bidders before and during the Pre-Bid Conference. It likewise provides that the Pre-Bid Conference is open to prospective bidders, and in case of procurement of consulting services, the shortlisted bidder, but attendance shall not be mandatory.
- 3.4 For the procurement of consulting services, apart from the pre-bid conference, procuring entities may conduct a clarificatory meeting before the conduct of eligibility checking and shortlisting to discuss the eligibility requirements and the technical and financial components of the contract to be bid.

While a clarificatory meeting is not considered part of the standardized bidding procedures for the procurement of consulting services, a procuring entity, who wishes to conduct such clarificatory meeting before eligibility checking, shall ensure that all interested bidders are properly notified and given equal opportunity to participate; the mandatory processes and procedures, including the timelines under RA 9184 and its IRR are not disregarded; and, what has been discussed during the clarificatory meeting shall be binding to both the procuring entity and the bidders, and must be fully recorded through the minutes of the meeting, and made available to the bidders. To address transparency, the procuring entity shall also issue a bid bulletin, containing the details as to the date, time and place of the clarificatory meeting, which must be posted in the PhilGEPS and in the website of the procuring entity.¹

4.0 Maximizing the Conduct of Pre-bid Conference

- 4.1 Despite the new measures introduced in the 2016 IRR of RA 9184 that aimed at addressing the frequent disqualification of bidders, still there are declarations of failures of bidding due to non-compliance of bidders with the bidding requirements. Such non-compliance of bidders with the bidding requirements may have been avoided had the bidders carefully examined each and every page of the Bidding Documents and/or made clarifications before or during the Pre-Bid Conference.
- 4.2 BAC to Have a Proactive Role during the Conduct of Pre-bid Conference
- 4.2.1 The Bids and Awards Committee (BAC) shall proactively discuss the requirements for a particular procurement project, as stated in the Bidding Documents. The BAC shall not merely rely on the questions propounded by the prospective bidders, but must initiate the discussions on the requirements of the project.

¹ NPM No. 031-2015, dated 8 October 2015.

- 4.2.2 The BAC shall likewise discuss the common reasons of bidders' disqualifications based on its experiences in previous procurement projects. Accordingly, the BAC shall present and explain the ways to prevent similar occasions of disqualification.
 - 4.2.3 The BAC shall entertain questions of bidders, regardless of whether they have purchased the bidding documents for the procurement project or not.
 - 4.2.4 The BAC shall issue Supplemental/Bid Bulletin at its own initiative or in response to requests for clarifications made by the prospective bidders before, during and after the conduct of Pre-bid Conference. The issuance of Supplemental/Bid Bulletin shall be in accordance to Section 22.5 of the 2016 IRR of RA 9184.
 - 4.2.5 The BAC shall post the Minutes of the Pre-bid Conference in the procuring entity's website.
- 4.3 Prospective Bidders to Actively Participate during Pre-bid Conference
- 4.3.1 The prospective bidder shall ensure that it complies with the responsibilities of a bidder, as stated in the Philippine Bidding Documents (PBDs)², which include careful examination of the entire Bidding Documents, including the instructions, forms, terms and specifications, before attending the Pre-bid Conference.
 - 4.3.2 During the Pre-bid Conference, prospective bidders shall raise all relevant and appropriate questions and requests for clarifications relative to the instructions, data sheets, conditions and requirements embodied in the Bidding Documents that would affect their participation in the procurement at hand and the actual implementation of the project so that they can prepare and submit responsive bids.
 - 4.3.3 To minimize errors in the preparation of bids, bidders are strongly enjoined to send the person or representative actually preparing their bids to attend the Pre-bid Conference. The bidders' representatives shall carefully consider all the discussions during the pre-bid conference and be guided by them in the preparation of bids.
 - 4.3.4 Pursuant to Section 22.5 of the 2016 IRR of RA 9184, after the conduct of Pre-bid Conference, the prospective bidders shall inquire and secure from the BAC, or through the PhilGEPS, or website of the procuring entity, any Supplemental/Bid Bulletin issued to explain, clarify or modify the Bidding Documents, or any matter relative to the conduct of the procurement activity.

² Clause 6 of PBDs for Goods and Infrastructure Projects and Clause 4 of PBDs for Consulting Services.

The contents of the Supplemental/Bid Bulletin shall be carefully examined by the prospective bidders in preparing or modifying their responsive bids.

5.0 For the step-by-step methodology on the conduct of Pre-bid Conference and issuance of Supplemental/Bid Bulletin, procuring entities and prospective bidders may refer to the Generic Procurement Manuals for more detailed discussion.

6.0 This Circular shall take effect immediately.

7.0 For guidance and compliance.

SGD
BENJAMIN E. DIOKNO
Chairperson