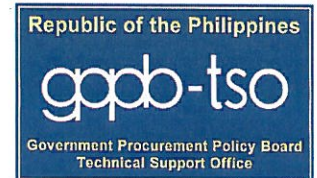


Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 008-2017

23 May 2017

HON. ARDELIZA R. MEDENILLA, MNSA, CESO II
Undersecretary
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH)
DPWH Compound, Bonifacio Drive,
Port Area, Manila

Subject: Cross Debarment of Blacklisted Contractors

Dear Undersecretary Medenilla:

This refers to the letter of the Honorable Undersecretary requesting our opinion on whether cross debarment of blacklisted contractors is allowed and will not violate any provision of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184.

As represented, during the DPWH Management Committee (ManCom) Meeting held on 21 April 2017, it was agreed that blacklisted contractors by International Financing Institutions (IFIs), such as the Asian Development Bank (ADB), Japan International Cooperation Agency (JICA) and World Bank (WB), shall also be blacklisted by the national government agencies and other procuring entities from participating in locally-funded projects on the premise that IFIs have done extensive research prior to the blacklisting of these contractors. Hence, this request for opinion.

We wish to clarify that blacklisting or debarment of contractors is governed by the *Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants*¹ (“Guidelines” for brevity). The Guidelines, however, apply only to blacklisting of contractors involved in government procurement for offenses or violations committed during competitive bidding and contract implementation in accordance with Section 69.4 of the 2016 Revised IRR of RA 9184. The Guidelines do not provide rules on cross debarment wherein, organizations and agencies agree to mutually exclude others based on debarment by affiliates.²

It is important to note, however, that under Section 25.3(b) of the 2016 Revised IRR of RA 9184, one of the mandatory provisions of the Omnibus Sworn Statement is that the bidder “is not “blacklisted” or barred from bidding by the GoP or any of its agencies, offices, corporations, or LGUs, ***including foreign government/foreign or international financing***”

¹ Issued through GPPB Resolution 09-2004, dated 20 August 2004.

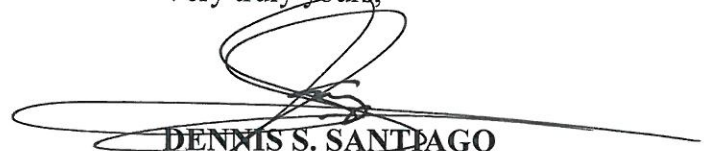
² <https://en.wikipedia.org/wiki/Debarment> accessed on 1 June 2017 1:35pm citing *Cross-Debarment Accord Steps Up Fight Against Corruption*, World Bank, April 9, 2010.

institution whose blacklisting rules have been recognized by the GPPB.” Accordingly, cross debarment may only be possible if the GPPB has recognized the blacklisting rules of a foreign government/foreign or international financing institution. At present, no recognition has been made by the GPPB to any other blacklisting bodies or entities.

In this regard, we would like to inform the Honorable Undersecretary that under the 2016 Revised IRR of RA 9184, cross debarment may only be allowed provided that there has been recognition by the GPPB of the blacklisting rules of the concerned foreign government/foreign or international financing institution. Absent such recognition, cross debarment will not be allowed.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director 