

**NPM No. 104-2016**

6 December 2016

**ATTY. ALLEN M. GASULAS**

*Head, BAC Secretariat*

**DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT**

Region XIII (CARAGA Region)

MATIMCO Bldg., Km. 4, Libertad

Butuan City

**Re: Submission of Expired Philippine Contractors  
Accreditation Board (PCAB) License**

Dear Atty. Gasulas,

This refers to your electronic mail (e-mail) inquiring whether the Bids and Awards Committee (BAC) of DILG Region XIII aptly declared the ineligibility of two (2) prospective bidders for their submission of an expired Philippine Contractors Accreditation Board (PCAB) license.

In your letter, you mentioned that there are two (2) bidders who submitted their bids for the construction of the DILG regional Office and the LGRRC Building. During the opening of bids on July 11, 2016, the two bidders submitted, among others, an expired PCAB license. It was also disclosed that the two bidders have submitted supporting documents to prove that they have applications for the renewal of the PCAB license - expired license with Certification from the Department of Trade and Industry of the bidder's application for renewal and expected date of release of license, and expired license with certification of Temporary Renewal of License, respectively. Following our Non-Policy Matter (NPM) Opinion Nos. 71-2013 and 103-2015, the BAC declared both bidders ineligible for their failure to comply with the submission of the PCAB license. As such, the two bidders signified that they will file a Motion for Reconsideration on the resolution of the BAC. Hence this inquiry.

At the outset, the Government Procurement Policy Board (GPPB) and its Technical Support Office (GPPB-TSO) do not have the authority to decide on the eligibility of a bidder and cannot dictate upon nor interfere with the functions of the BAC<sup>1</sup>, which has the authority, and discretion under the procurement law and its associated rules.<sup>2</sup> We likewise do not have the authority to reverse or overrule decisions and acts committed by the BAC. In this regard, we shall limit our discussion on the interpretation of relevant procurement laws, rules and regulations pertinent to the issue presented.

<sup>1</sup> Section 12.1 of the IRR of RA 9184.

<sup>2</sup> NPM No. 08-2014 dated 28 March 2014.

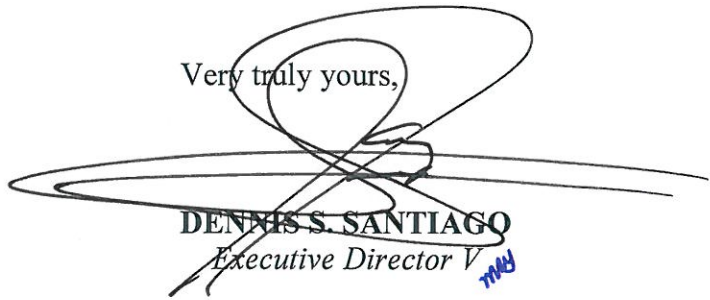
**Bids must be Complete**

As correctly applied by the BAC, the rules require that all eligibility requirements be "complete" and "sufficient". It must contain all the information required, and must comply with the requirements set out in the bidding documents at the time of the deadline for the submission of bids and bid opening. In this regard, we reiterate our previous opinions<sup>3</sup> that a PCAB license as an eligibility requirement for the procurement of infrastructure projects under Section 23.1 (a) (iv) of the revised IRR of RA 9184 should be valid at the time of the deadline for the submission and opening of bids. In the case at hand, the bidders should have submitted a PCAB license that is *valid as of the date of the deadline for the submission of bids and bid opening*.

Likewise, GPPB Resolution No. 02-2015 applies only to the submission of the bidder's recently expired Mayor's Permit and the Official Receipt as proof that the bidder has applied for renewal of the permit within the prescribed period in compliance with the requirements under Section 23 of the revised IRR. It does not include the submission of an expired PCAB license and the corresponding proof of renewal thereof in lieu of a valid PCAB license.

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 V

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<sup>3</sup> NPM Nos. 103-2015 dated October 13, 2015 and 071-2013 dated August 2, 2013.