



## TECHNICAL SUPPORT OFFICE

Unit 2506 Raffles Corporate Center,  
F. Ortigas Jr. Avenue, Ortigas Center,  
Pasig City, Philippines 1605

**NPM No. 05-2006**

April 03, 2006

**MS. NORI S. PLAZO**

Assistant Vice President, General Services Department  
Head, BAC Secretariat  
Land Bank of the Philippines  
LandBank Plaza  
1598 M.H. Del Pilar cor. Dr. J. Quintos Street,  
Malate, Manila

**Re : Failure of Bidding under RA 9184 and its IRR-A**

Dear Ms. Plazo:

This refers to your letter dated 16 February 2006 which we received on 20 February 2006 seeking guidance on the appropriate action of the Bids and Awards Committee (BAC) under Republic Act 9184 (RA 9184) and its Implementing Rules and Regulations Part A (IRR-A) in relation to the procurement of its janitorial and sanitation services.

### **Failure to Follow the Prescribed Bidding Procedures**

Section 37.2.2 of the IRR-A provides that "contract award shall be made within the bid validity period and, should it become necessary to extend the validity of the bids and, if applicable, the bid securities, the procuring entity through its BAC, shall request the participating bidders for such extension before the expiration date thereof."

Based on your letter, it was stated that the BAC did not require the bidders to extend or renew their respective bid securities, it follows then that the respective bid securities of the participating bidders, LBP Service Corporation (LBPSC) and Power Master, Inc. (PMI), have already expired on the date of opening of the second envelope which is one hundred seventy-five (175) days after the opening of the first envelope. It is important to note that under Section 28 of the IRR-A, bid and bid securities can only be valid for a reasonable period as determined by the head of the procuring entity concerned, but in no case shall exceed one hundred twenty (120) days.

In view of the foregoing, the head of the procuring entity can declare a failure of bidding due to the failure of the BAC to follow the prescribed bidding procedures under

RA 9184 and its IRR-A<sup>1</sup>, in particular, to request the participating bidders to extend the validity periods of their respective bids and bid securities before the expiration date thereof. Furthermore, PMI should not have been declared as the bidder with lowest calculated bid due to its expired bid and bid security on the date of opening of the second envelope. In addition, applicable sanctions may be applied to the erring officers, as provided in Section 65 of the IRR-A, without prejudice to the provisions of other laws.

Accordingly, Land Bank of the Philippines should conduct a re-bidding with re-advertisement/posting for the procurement of its janitorial and sanitation services following the procedures of RA 9184 and its IRR-A.

Please note that that this opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not be necessarily applicable upon a different set of facts or circumstances.

We trust that this clarifies matters.

Very truly yours,

  
**ESTANISLAO C. GRANADOS JR.**  
Executive Director IV

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<sup>1</sup> Section 41.1 of the IRR-A of RA 9184