



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 07-2011

10 March 2011

HON. ARISTOTLE B. BATUHAN

Undersecretary

Chairperson, Bids and Awards Committee

DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

5th Flr., The Columbia Tower, Brgy. Wack-Wack,

Ortigas Avenue, Mandaluyong City

Re : Valid PCAB License and Registration for Joint Venture Bidders

Dear Sir:

We respond to your letters dated 3 February 2011¹ and 4 March 2011², requesting for clarification on the requirement for the submission of Joint Venture (JV) License by bidders forming into a JV in connection with the bidding of the Department of Transportation and Communications (DOTC) for the Purchase and Installation of Navigational Aids Equipment for Butuan and Tacloban Airports (Project).

As represented in your letter, one of the bidders for the Project that submitted as a JV entity is being sought to be disqualified for non-submission of a JV License as required under Section 38 of Republic Act (RA) 4566 otherwise known as the "Contractors' License Law".

Please note that Section 23.1 (iv) of the Implementing Rules and Regulations of RA 9184 prescribes the submission of a "valid PCAB license and registration". In determining the validity of such license and registration, reference should be made on RA 4566, specifically Sections 37 and 38 thereof, which is the specific law governing the licensing rules and requirements for contractors.

A reading of Section 38 of RA 4566 reveals that two or more contractors jointly submitting a bid are prohibited from doing so without first having secured a Joint License for acting in the capacity of such a JV. In this regard, we wish to clarify that a "valid PCAB license" for several contractors participating as a joint venture is the Joint License provided in the afore-mentioned Section of RA 4566. Corollary to this, a contractor's Individual License as provided in Section 37 of RA 4566 is considered a "valid PCAB license" only when such contractor is participating individually. This is further supported by the Generic Procurement Manual for Infrastructure Projects which states that, in case of joint ventures, the license and registration must be that of the joint venture, not any of its members.

¹ Received by this office on 14 February 2011.

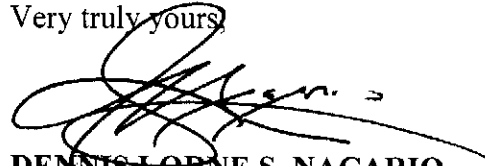
² Received by this office on 9 March 2011.

The requirement for a Joint License for JV bidders should not be confused with the requirement for the submission of a Joint Venture Agreement provided in Section 23.1 (b) of the IRR of RA 9184. The former pertains to the PCAB license and registration required from contractors engaging in construction business as mandated by RA 4566 while the latter pertains to the document establishing the status of the bidder as a JV entity.

In light of the foregoing, while we agree with your observation that Section 23.1 of the IRR of RA 9184 proscribes the Bids and Awards Committee from requiring the submission of documents other than those enumerated therein, the submission of a Joint License by bidders participating as JV is not considered an additional documentary requirement, but is rather the valid PCAB license and registration required for purposes of determining its eligibility as a contractor.

We hope to have provided sufficient guidance on the matter. Should you have additional concerns, please do not hesitate to contact us.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dennis Lorne S. Nacario', written over a horizontal line.

DENNIS LORNE S. NACARIO
OIC-Executive Director III