



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

**NPM No. 104-2013**

20 December 2013

**ENGR. WILFREDO GUANTERO**  
*Proprietor/Manager*  
**GUAMOR CONSTRUCTION & SUPPLY**  
519 Magsaysay, Bibincahan, Sorsogon City

**Re : Post-disqualification; Protest Mechanism**

Dear Engr. Guantero:

This is in response to your letter dated 8 November 2013, requesting the Government Procurement Policy Board (GPPB) to resolve the issue of the disqualification of Guamor Construction & Supply (Guamor) by the Department of Public Works and Highways (DPWH) in relation to its procurement for the Health Facilities Enhancement Program for the Pandan District Hospital.

As represented, Guamor recently participated in the procurement of an infrastructure project for the construction of health facilities in Catanduanes by the DPWH. Guamor was declared as the bidder with the Lowest Calculated Bid, but was subsequently post-disqualified allegedly without concrete justification provided by the procuring entity. It is in this context that Guamor is requesting the GPPB to resolve the issues of its disqualification.

At the outset, we wish to remind you that the GPPB and its Technical Support Office (TSO) do not have the authority to decide for and on behalf, or overturn a decision, of a procuring entity. The GPPB is a quasi-legislative body mandated to formulate and amend the IRR.<sup>1</sup> It has no quasi-judicial powers and functions; hence, cannot investigate and ascertain the existence of facts, hold hearings, and exercise discretion of a judicial nature over actual controversies with regard to the conduct of bidding by procuring entities. Thus, we wish to clarify that the GPPB and the GPPB-TSO cannot dictate to the procuring entity how to decide or resolve issues relative to its procurement activities.


For your guidance, however, please note that the GPPB issued Circular No. 03-2012 dated 17 August 2012 reminding procuring entities to state all the grounds for the post-disqualification pursuant to the requirements or conditions of the Bidding Documents that the bidder failed to comply with. This is to provide the post-disqualified bidder the opportunity to question the decision of the BAC following Section 55 of the revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184 on the Protest Mechanism.

<sup>1</sup> Section 63 of RA 9184.

In view of the foregoing, we regret that we cannot grant your request to resolve the issues that you have identified relative to your post-disqualification. Nonetheless, we urge you to follow the prescribed rules and procedures on Protest Mechanism laid down in Section 55 of the IRR of RA 9184.

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

Very truly yours,

  
**DENNIS LORNE S. NACARIO**  
*Officer-in-Charge*

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