



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

**NPM No. 138-2012**

30 October 2012

**MR. STEPHEN F. TORRES**

*Proprietor*

**MARY CURT BUILDERS & CONSTRUCTION SUPPLY**  
787 Phase 2 Guio Street, VGH Concepcion Grande  
Naga City

**Re : Status of Opinion under NPM 39-2004**

Dear Mr. Torres:

This refers to your letter<sup>1</sup> seeking clarification whether the opinion stated in Non Policy Matter (NPM) No. 39-2004<sup>2</sup> relative to Section 23.11.2(3) of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act (RA) 9184 subsists and may still be considered in the interpretation of Section 23.5.2.5 of the Revised IRR of RA 9184.

To put proper context on our opinion in NPM No. 39-2004, please note that the issue resolved therein was whether the requirements for a Philippine Contractors Accreditation Board (PCAB) license and a similar experience on the contract to be bid should both be complied with for purposes of eligibility under Section 23.11.2(3) of the IRR-A.

In resolving the issue, the opinion took into consideration the requirement for the submission of a valid PCAB license and registration for the type and cost of the contract to be bid, and explained that it is not enough for a bidder to show that it has the capacity to undertake the completion of the project under consideration by satisfying the eligibility criterion on single largest completed contract. The bidder should likewise show that the project under consideration is within the allowable range of contract cost of its PCAB registration to be considered eligible to bid in the project.

Please note that Section 23.5.2.5 of the revised IRR and Section 23.11.2(3) of the IRR-A pertain to the same rule. Although the revised IRR provision does not reflect the IRR-A provision *verbatim*, it adopts the same rule that the value of the single largest completed similar contract submitted by a bidder should be at least fifty percent (50%) of the Approved Budget for the Contract (ABC) to be bid when adjusted to current prices using the National Statistics Office consumer price indices. Both Sections also provide that contractors under Small A and Small B categories may be allowed to bid even if they cannot provide a similar contract of the required amount, provided that the ABC to be bid is at least fifty percent

<sup>1</sup> Dated 6 April 2011.

<sup>2</sup> Dated 29 March 2004.

(50%) of the allowable range of contract cost of their PCAB registration. Moreover, the revised IRR still requires the submission of a PCAB license and registration for the type and cost of the contract to be bid.

Considering that the legal bases for the discussions in NPM 39-2004 have been maintained in the revised IRR, we wish to clarify that our view espoused in NPM 39-2004 subsists and may still be considered in relation to Section 23.5.2.5 of the Revised IRR, specifically, that it is not enough for a bidder to show that it has the capacity to undertake the completion of the project under consideration by satisfying the eligibility criterion on single largest completed contract; the bidder should also be able to show that the project under consideration is within the allowable range of contract cost of its PCAB registration to be considered eligible to bid in the project.

We hope our advice 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 other concerns, please do not hesitate to contact us.

Very truly yours,

  
**DENNIS S. SANTIAGO**  
*Executive Director III*

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