

Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE**NPM No. 149-2012**

29 November 2012

HON. JAMES H. ROLDAN*Assistant Commissioner, Enforcement Committee
Chairman, Bids and Awards Committee***BUREAU OF INTERNAL REVENUE**BIR National Office Bldg., BIR Road,
Diliman, Quezon CityRECEIVED
James H. Roldan
12-7-12

Dear Assistant Commissioner Roldan:

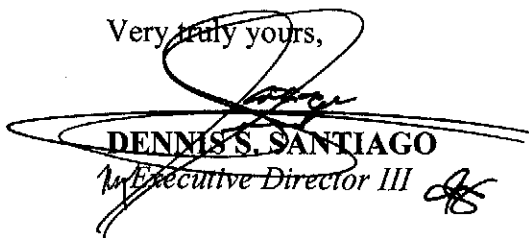
This is in response to your letter dated 22 October 2012, seeking clarification on whether Section 3.2.4.1 of Government Procurement Policy Board (GPPB) Circular No. 03-2012 dated 17 August 2012 (Circular) on Post-Qualification and Issuance of Notice of Post-disqualification, is applicable only to the procurement of infrastructure projects as it mentions "negative slippage", a concept conceived to be peculiar only to civil works procurement.

Section 34.3 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 lays down the procedure to be followed during the post-qualification of the bidder with the Lowest Calculated Bid/Highest Rated Bid for the procurement of goods, infrastructure and consulting services. Please note that Section 3.2.4.1 of the Circular pertains to Section 34.3(b)(ii) of the revised IRR of RA 9184, relative to the verification of availability and commitment, and/or inspection and testing for the required capabilities and operating conditions of equipment units, as well as checking and verifying the performance of the bidder in its ongoing government and private contracts for the procurement of infrastructure projects.

It is well-settled rule in statutory construction that where the language of the law is clear and unequivocal, it must be given its literal application and applied without interpretation. Since Section 34.3(b)(ii) of the revised IRR of RA 9184 specifically states that it applies to the post-qualification of infrastructure projects, it is our view that Section 3.2.4.1 of the Circular likewise particularly applies to infrastructure projects.

We hope that our advice provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of the 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 S. SANTIAGO
Executive Director III