

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office
Mezzanine 125, Mabini Hall, Malacañang, Manila
Telefax Nos. (02) 735-4962; (02) 736-5758

NPM No. 040-2004

March 29, 2004

ATTY. MA. CIELO MARTINEZ
City Legal Officer
City of Tacloban

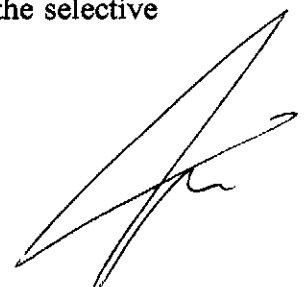
Re: Exemption of Cooperatives from Compliance with Eligibility Requirements

Dear Atty. Martinez:

This refers to your letter dated January 28, 2004, which you sent via e-mail on the same date wherein you raised several issues, one of which is the exemption of cooperatives from the eligibility requirements. As a response to your letter, the Government Procurement Policy Board-Technical Support Office ("GPPB-TSO") rendered an opinion on the matter that was embodied in TSO-NPM No. 015-2004 dated February 18, 2004. In the said document, the GPPB-TSO's initial opinion was that cooperatives were exempt from the eligibility requirements.

However, when it was raised before the Government Procurement Policy Board ("GPPB") during its 2nd GPPB Meeting held last March 10, 2004, the GPPB gave a different opinion on the matter. According to the GPPB, the fact that cooperatives are exempted from the pre-qualification requirement under paragraph 9, Section 63 of Republic Act No. 6938 ("R.A. 6938"), otherwise known as the Cooperative Code, does not necessarily mean that they are also exempted from the simple eligibility requirements provided under Republic Act No. 9184 ("R.A. 9184").

At this point, it is noteworthy to consider that R.A. 9184 has already abolished the pre-qualification process, which was required under Presidential Decree No. 1594 ("P.D. 1594") for infrastructure projects and Executive Order No. 302 ("E.O. 302") for goods. The pre-qualification bidding requirement, which was sanctioned under these old procurement laws, is understood to mean the selective



process wherein only those bidders or contractors who possess the capabilities to undertake the procurement at hand may be allowed to participate in the bidding for such purpose.

Consequently, it may be inferred that the legislative intent of R.A. 9184 is to subject the cooperatives to simple eligibility check. The exemption granted to cooperatives by R.A. 6938 was only limited to pre-qualification. The concept of "pre-qualification" has been replaced by a procedure known as the "simple eligibility check", which utilizes an objective and non-discretionary pass or fail criteria in the examination of the eligibility documents submitted by the bidder. Therefore, since R.A. 9184 had already abolished pre-qualification, there is nothing from which cooperatives will be exempted.

Furthermore, the intent of R.A. 9184 to subject cooperatives to the simple eligibility check may be further deduced from the fact that under Section 23.11 of the Implementing Rules and Regulations Part A ("IRR-A") of R.A. 9184, the registration with the Cooperatives Development Authority ("CDA") is made part of the eligibility criteria which cooperatives must comply with to enable them to participate in the bidding for the supply of goods or infrastructure projects.

Hence, in order to avoid confusion, our office wishes to clarify that this new ruling by the GPPB has already superseded the previous opinion that we have rendered on the same issue.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director

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March 29, 2004

Hon. CORAZON M. AGUINALDO
Assistant Secretary
Office of the President
Malacañang, Manila

Dear Asec. Aguinaldo:

This is to advise your office that Resolution No. 025-2004 of the Sangguniang Panlungsod of the City of Tabaco requesting the President of the Republic, through the Secretary of the Department of Budget and Management to suspend the implementation of Republic Act No. 9184 ("R.A. 9184") has been acted upon by the Government Procurement Policy Board – Technical Support Office ("GPPB-TSO") through an opinion (NPM No. 40-2004) rendered on March 29, 2004.

Attached herewith is the copy of said opinion for your information.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director