



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

**NPM No. 43-2011**

28 December 2011

**ENGR. ERNESTO V. CARIN**  
*Chairman*  
**DAVAO UNITED BUILDERS CORPORATION**  
Door No. 7, Mantex Arcade,  
Magallanes St., Davao City

**Re : Acceptable Forms of Bid Security**

Dear Engr. Carin:

We respond to your letter dated 10 October 2011 inquiring on whether the Bids and Awards Committee (BAC) of the National Irrigation Administration (NIA) Regional Office (RO) XII has the power or authority to alter or amend any part or section of the Implementing Rules and Regulations (IRR) of Republic Act (R.A.) No. 9184, particularly the provision on the acceptable forms of bid security.

As a background, you state in your letter that your office is about to be disqualified in a public bidding being conducted by NIA RO XII in relation to its project entitled "Maridagao RIS: Package 4-Road/Canal Embankment Construction and Compaction, Reshaping, Canal Lining, Construction of Canal Structures and Drainages Structures. The reason for the supposed disqualification is the submission of a bid security in the form of a surety bond. During the pre-bid conference, the BAC provided a verbal instruction that only bid securities in the form of a bank guarantee/certificate shall be considered. As a corollary issue, you are also asking whether such instruction limiting the acceptable forms of bid security to only bank guarantee/certificate can be upheld even though it was just provided verbally during the conduct of the pre-bid conference.

At the outset, we wish to inform you that the Government Procurement Policy Board (GPPB) pursuant to Section 63 of R.A. 9184 and its IRR has the sole authority to formulate and amend public procurement policies, rules and regulations, and amend or alter, whenever necessary the IRR of R.A. 9184. Procuring entities do not enjoy such authority, and as such, must follow the procurement rules and procedures prescribed in the IRR of R.A. 9184.

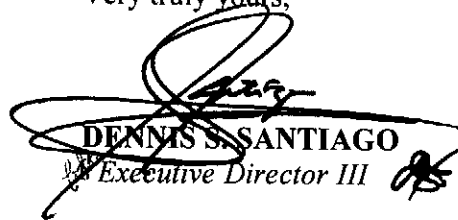
The procurement policy embodied in Section 27.2 of the revised IRR of R.A. 9184 stands, *i.e.*, bidders have the option to choose from any of the acceptable forms of bid security enumerated under the IRR of R.A. 9184, and procuring entities may not limit the

allowable forms of bid security nor prohibit bidders from submitting any of the acceptable forms of bid security<sup>1</sup>.

In view of the foregoing, we are of the opinion that the BAC of NIA RO XII may not limit the acceptable forms of bid security to bank guarantee/certificate for its procurement activities, more so require the same through verbal instructions during pre-bid conference. After all, no changes or modifications to the bidding documents may take effect unless identified in writing and issued through a Supplemental/Bid Bulletin<sup>2</sup>.

We trust that our advice addresses your concerns. Should you have additional concerns, please do not hesitate to contact us.

Very truly yours,

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

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<sup>1</sup> Non-Policy Matter 21-2010, dated 6 July 2010

<sup>2</sup> See Section 22.4, IRR of R.A. 9184