

NPM No. 29-2017

20 December 2017

MR. ALWIN I. REYES
ASSISTANT VICE PRESIDENT
PROCUREMENT DEPARTMENT
LAND BANK OF THE PHILIPPINES
25/F Land Bank Plaza, 1598 M.H. Del Pilar St.
Malate, Manila

Attention: MS. REMEDIOS S. LACADEN
Procurement Department

Re: PhilGEPS Certificate of Registration and Membership

Dear Mr. Reyes:

This refers to your letter inquiring on the validity of the submission of a Philippine Government Electronic Procurement System (PhilGEPS) Certificate of Registration (Platinum Membership) together with a copy of the valid and updated documents, which are already expired in the said Certificate.

It is represented that in a bidding held by Land Bank on 20 April 2017, a bidder submitted its PhilGEPS Certificate of Registration under Platinum Membership and a copy of its current and valid Mayor's Permit and Tax Clearance, which have already expired as reflected in the PhilGEPS Certificate. A competing bidder pointed this out, stating that the bidder should be declared ineligible as its PhilGEPS Certificate should be considered invalid as the Mayor's Permit and Tax Clearance already expired as listed in its Annex A.

It is further represented that upon verification, it was found that the bidder concerned has not uploaded yet its current and valid Mayor's Permit and Tax Clearance in the PhilGEPS website as of the deadline of submission of bids. Hence, clarification is sought on whether the combined submission of the PhilGEPS Certificate and other documents are valid, when the Certificate states that it shall be automatically revoked if any of the documents listed under its Annex A expires before the indicated date of expiration on the face of the said Certificate.

We wish to clarify that as stated in GPPB Circular No. 03-2016¹, which deferred the implementation of the mandatory submission of PhilGEPS Certificate of Registration until 30 April 2017, bidders have the option whether to submit its PhilGEPS Platinum Certificate or to submit the specified Class "A" Eligibility Documents manually.

For this reason, to serve the purpose of the Circular, we are of the view that a combination of the foregoing may be allowed for submission. In doing so, and as

¹ Dated 27 October 2016.

jurisprudence would put it, we defer not to "the letter that killeth" but to "the spirit that vivifieth," to give effect to the lawmaker's will.² Thus,

The spirit, rather than the letter of a statute determines its construction, hence, a statute must be read according to its spirit or intent. For what is within the spirit is within the letter but although it is not within the letter thereof, and that which is within the letter but not within the spirit is not within the statute. Stated differently, a thing which is within the intent of the lawmaker is as much within the statute as if within the letter; and a thing which is within the letter of the statute is not within the statute unless within the intent of the lawmakers.³

Thus, in cases where the advertisements or invitations for bids were issued prior to 1 May 2017, Procuring Entities may still allow bidders to submit either their Class "A" Documents or the PhilGEPS Certificate of Registration under Platinum Category, or a combination thereof, which intention was later reflected and embodied in GPPB Circular No. 07-2017,⁴ Paragraph 4.1.3 of which provides:

4.1.3. In cases where the advertisements or invitations for bids were issued prior to 1 May 2017, Procuring Entities may still allow bidders to submit either their Class "A" Documents or the PhilGEPS Certificate of Registration under Platinum Category, or a **combination thereof.** (emphasis supplied)

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

(sgd.)

Executive Director 

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² *Carlos Alonzo vs. Intermediate Appellate Court*, G.R. No. 72873, dated May 28, 1987.

³ *Statutory Construction*, Ruben E. Agpalo, pp. 64-65, 1986, citing *Manila Race Horse Trainers' Assn. v. De la Fuente*, 88 Phil. 60; *Go Chi v. Go Cho*, 96 Phil. 622; *Hidalgo v. Hidalgo*, 33 SCRA 105; *Roa v. Collector of Customs*, 23 Phil. 315; *Villanueva v. City of Iloilo*, 26 SCRA 578; *People v. Purisima*, 86 SCRA 542; *US v. Go Chico*, 14 Phil. 128.

⁴ 31 July 2017.