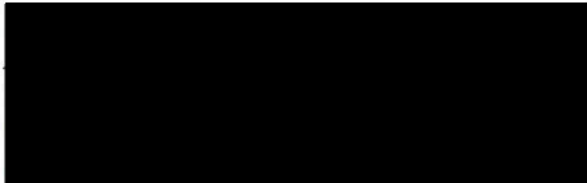


NPM No. 123-2016

6 December 2016



Re: Integrity Pledge

Dear [REDACTED]

This refers to your letter seeking our opinion on whether requiring additional eligibility documents from the prospective bidders, such as the Integrity Pledge, is allowed under Republic Act (RA) No. 9184 and its Implementing Rules and Regulations (IRR) during the opening of the bids or a requirement to a bidder having the Lowest Calculated and Responsive Bid (LCRB) but prior to the issuance of the Notice of Award (NOA).

Prohibition on Additional Eligibility Requirements

We wish to clarify that Procuring Entities (PEs) are proscribed from requiring additional eligibility requirements. For purposes of determining the eligibility of bidders, only the documents mentioned in Section 23.1 for the procurement of Goods and Infrastructure projects and Section 24.1 for the procurement of Consulting Services of the 2016 IRR of RA 9184 are required. The PE cannot include another requirement to, nor delete any requirement from, the identified list of eligibility requirements. This is because the list of minimum eligibility requirements under the 2016 IRR of RA 9184 has already been streamlined¹ alongside the governing principle of government procurement, *i.e.* a streamlined government procurement process.² The rationale for this is to allow greater participation, enhance competition among prospective bidders, and reduce transaction costs.³

The same is true even during the post-qualification process, or after the bidder has been declared as the LCRB but prior to the issuance of the NOA since the documents that should be required by the PEs are only those provided for under Section 34.2⁴ of the 2016

¹ NPM No. 79-2013 dated 20 September 2013.

² Section 3(c) of the IRR of RA 9184.

³ NPM No. 65-2009 dated 17 December 2009.

⁴ Section 34.2 Within five (5) calendar days from receipt by the bidder of the notice from the BAC that the bidder has the Lowest Calculated Bid or Highest Rated Bid, the bidder shall submit to the BAC its latest income and business tax returns, and other appropriate licenses and permits required by law and stated in the Bidding Documents.

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IRR. Please note, however, that in certain instances, the PhilGEPS Certificate of Registration will still be submitted during the post-qualification stage.⁵

Omnibus Sworn Statement

It bears stressing that Sections 25.2(a)(viii) for the procurement of Goods; 25.2(b)(ix) for the procurement of Infrastructure projects; and 25.2(c)(vi) for the procurement of Consulting Services of the 2016 RA 9184 require the prospective bidder to submit as part of its bids an Omnibus Sworn Statement (OSS) where one of the statements⁶ provides that:

It did not give or pay, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

Accordingly, the purpose of the integrity pledge where prospective bidders formally and concretely express their commitment to abide by ethical business practices and to support a campaign against corruption has already been addressed by the OSS.

In sum, we wish to clarify that procuring entities are prohibited from requiring additional eligibility documents, such as the Integrity Pledge, other than those mentioned in Section 23.1 for the procurement of Goods and Infrastructure projects and Section 24.1 for the procurement of Consulting Services of the 2016 IRR of RA 9184. Further, no additional documents may be required during the post-qualification process, or after the bidder has been declared as the LCRB but prior to the issuance of the NOA, other than those provided for under Section 34.2 of the 2016 IRR. Thus, the Integrity Pledge cannot be required by the procuring entity as part of the eligibility documents. Additionally, the Omnibus Sworn Statement has already addressed the purpose of the Integrity Pledge.

We hope 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 you have further questions, please do not hesitate to contact us.

Very truly yours,

(sgd.)

DENNIS S. SANTIAGO
Executive Director V

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⁵ From 28 October 2016 until 30 April 2017, bidders may still submit their Class "A" Eligibility Documents required to be uploaded and maintained current and updated in the PhilGEPS pursuant to Section 8.5.2 of the same IRR, or if already registered in the PhilGEPS under Platinum category, their Certificate of Registration and Membership in lieu of their uploaded file of Class "A" Documents. In the former, the Certificate of PhilGEPS Registration (Blue Membership) will remain as a post-qualification requirement in accordance with Section 34.2 of the 2009 Revised IRR of RA 9184.

⁶ Section 25.3(h).