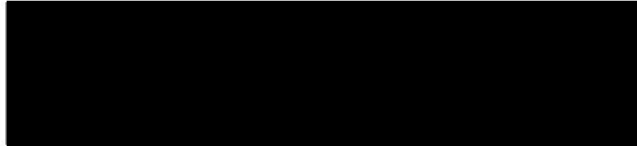


NPM No.124-2016

6 December 2016



Re: Exemption from the Single Largest Completed Contract Requirement under Small B category

Dear [REDACTED]

This refers to your letter seeking clarifications on whether a newly established contractor with no work experience can be declared eligible in accordance with Section 23.5.2.5 of the 2009 Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, which provides that:

The prospective bidder must have an experience of having completed, within a period of ten (10) years from the date of submission and receipt of bids, at least one (1) contract that is similar to the contract to be bid, and whose value, adjusted to current prices using the NSO consumer price indices, must be at least fifty percent (50%) of the ABC to be bid: *Provided, however,* That contractors under Small A and Small B categories without similar experience on the contract to be bid may be allowed to bid if the cost of such contract is not more than fifty percent (50%) of the Allowable Range of Contract Cost (ARCC) of their registration based on the guidelines as prescribed by the PCAB...

As represented, your company was issued a license by the Philippine Contractors Accreditation Board (PCAB) on 16 April 2016 under Category D, Small B in Project Range and Size. It participated in a bidding for construction of Fish Landing at Presentacion, Camarines Sur. However, your company was declared ineligible because it has no work experience. Hence, you filed a Motion for Reconsideration citing Section 23.5.2.5 of the 2009 IRR of RA 9184. It is in this context that our opinion is being requested.

For your guidance, Section 23.5.2.5 of the 2009 IRR of RA 9184 lays down the rule on Single Largest Completed Contract (SLCC) wherein two requirements must be met - (i) It must be similar to the contract to be bid; and (ii) It must be at least fifty percent (50%) of the approved budget for the contract to be bid. However, in case a contractor has no similar experience on the contract to be bid, and is registered with the PCAB under Small A or Small B category, it may be allowed to bid on contracts costing not more than fifty percent (50%) of its registration's ARCC. This rule provides opportunity for small contractors to participate and gain experience in government procurements without running the risk of having

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inexperienced contractors doing projects for the Government; and ensures that only those with sufficient capability are awarded the contract.

As regards the applicable ARCC, Section 23.5.2.5 of the 2009 IRR clearly provides that it should be based on the guidelines prescribed by the PCAB. The controlling guidelines on the matter is PCAB Circular No. 001¹ on the Implementation of the Second Stage of Adjustments on ARCC and Single Largest Completed/Track Record Requirements. Hence, the said circular should be used as basis in determining the amount of approved budget for the contract (ABC) for a project which a Small A or Small B contractor would be allowed to participate in even without having the required SLCC.

It is noteworthy, however, that Section 23.5.2.5 of the revised 2009 IRR has already been amended and re-numbered to Section 23.4.2.4 in the 2016 Revised IRR of RA 9184, which provides that:

The prospective bidder must have completed an SLCC that is similar to the contract to be bid, and whose value, adjusted to current prices using the PSA consumer price indices, must be at least fifty percent (50%) of the ABC to be bid: *Provided, however*, That contractors under Small A and Small B categories without similar experience on the contract to be bid may be allowed to bid if the cost of such contract is not more than the Allowable Range of Contract Cost (ARCC) of their registration based on the guidelines as prescribed by the PCAB.


Accordingly, under the 2016 Revised IRR, contractors under Small A and Small B categories may be allowed to bid if the contract cost is not more than the ARCC of their registration under the guidelines prescribed by the PCAB. The amended provision, however, applies only to projects that were advertised on or after 28 October 2016, which is the effectivity date of the 2016 Revised IRR of RA 9184.

Based on the foregoing, we are of the opinion that PCAB Circular No. 001, being the most recent issuance of PCAB on the matter, should be used in determining a bidder's ARCC. Considering that PCAB Circular No. 001 provides that the ARCC for Small B contractors is Php15,000,000.00, Small B contractors without the required SLCC may be allowed to bid on government infrastructure projects with an ABC that does not exceed Php7,500,000.00 (50% of Php15,000,000.00) in accordance with Section 23.5.2.5 of the revised 2009 IRR of RA 9184.

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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¹ Issued on 18 February 2009 and took effect on 1 July 2009.