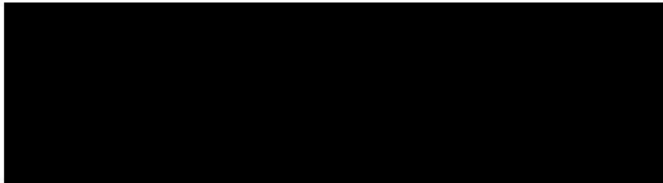


NPM No. 135-2016

29 December 2016



Re: Observers

Dear [REDACTED]

This refers to your electronic mail (e-mail) seeking clarification on the remedy available to the procuring entity in the event that no observer, as required under Section 13.1.1(a) of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, is available in a specific area (La Union).

Section 13.1.1(a) of the 2016 Revised IRR of RA 9184 requires that in order to enhance the transparency of the process, the Bids and Awards Committee (BAC) shall invite, for infrastructure projects, a representative from a duly recognized private group in a sector or discipline relevant to the procurement at hand, for example, national associations of constructors duly recognized by the Construction Industry Authority of the Philippines (CIAP), such as, but not limited to the following:

1. Philippine Constructors Association, Inc.; or
2. National Constructors Association of the Philippines, Inc.

We wish to clarify that the cited provision does not impose any requirement that the duly recognized private group, from which one (1) of the observers will be coming from, shall be located within the same geographical area of the procuring entity. Further, the list of the recognized group mentioned in Section 13.1.1(a) is not exclusive as it can be gleaned from the use of the qualifying terms “for example” and “such as, but not limited to the following”. The requirement imposed by the rules is that the private group must be duly registered with the Securities and Exchange Commission (SEC) or the Cooperative Development Authority (CDA).¹

In this regard, for purposes of complying with Section 13.1.1(a) of the 2016 Revised IRR of RA 9184, it is sufficient that the BAC was able to invite, in writing, an observer from a private constructors group duly registered with the SEC or CDA such as the Philippine Constructors Association, Inc. or the National Constructors Association of the Philippines, Inc.,

¹ 2016 Revised IRR of RA 9184, Section 13.2.

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even though they are not located in the same geographical area of the procuring entity, at least five (5) calendar days before the date of the procurement stage or activity pursuant to Section 13.3 of the 2016 Revised IRR. It also bears stressing that the absence of observers will not nullify the BAC proceedings.²

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.

Very truly yours,

(sgd.)

 **DENNIS S. SANTIAGO**
Executive Director V

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² *Ibid*, Section 13.3.