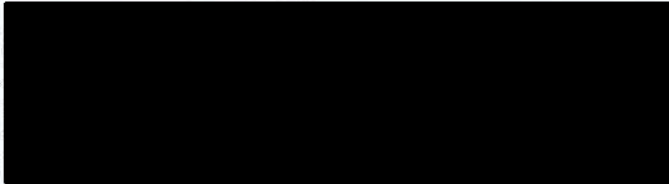


NPM No. 46-2015

9 October 2015



Re: Pre-bid Conference

Dear [REDACTED]


This refers to your letter inquiring on the legality of the following activities:

1. The difference in calendar days between Pre-bid Conference and the Submission and Opening of Bids is less than twelve (12) calendar days; and
2. The issuance of bid documents was stopped before the pre-bid conference.

As represented, the Local Government of Gainza posted the bidding documents for the procurement of Local Road Construction and Concreting, and made the same available for sale only from 5 May 2015 to 13 May 2015. On the other hand, it has scheduled the pre-bid conference on 14 May 2015, while the deadline for the submission and opening of bids was set on 25 May 2015.

Conduct of Pre-bid Conference

For your guidance, Section 22.2 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 provides that “[t]he pre-bid conference shall be held **at least twelve (12) calendar days before the deadline for the submission and receipt of bids**. If the procuring entity determines that, by reason of the method, nature, or complexity of the contract to be bid or when international participation will be more advantageous to the GOP, **a longer period for the preparation of bids is necessary, the pre-bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids**”. In computing the period, the first day shall be excluded, and the last day included¹.

The identified timeline between the pre-bid conference and the day of the opening of bids must be complied with to allow the prospective bidders to study and review the requirement of the Procuring Entity, and for them to be able to submit a responsive bid. 

¹ Art. 13, par.3, New Civil Code.

Availability of Bidding Documents

With respect to the sale and issuance of bidding documents, we refer to Section 17.3 of the IRR of RA 9184, thus:

Section 17.3. To provide prospective bidders ample time to examine the Bidding Documents and to prepare their respective bids, the concerned BAC shall make the Bidding Documents for the contract to be bid available for the following period:

- a) For the procurement of goods and infrastructure projects, **from the time the Invitation to Bid is first advertised/posted until the deadline for the submission and receipt of bids.** (Emphasis ours)

Accordingly, the issuance or sale of the bidding documents should not be stopped or withheld before the pre-bid conference, but should continue, without any interruption, from the time the Invitation to Bid is first advertised/posted until the deadline for the submission and receipt of bids.

Summary

In sum, it is our considered view that:

1. The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of bids, or in case a longer period for the preparation of bids is necessary, the pre-bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids;
2. In computing a period, the first day shall be excluded, and the last day included; and,
3. Bidding documents should be made available to the bidders from the time the Invitation to Bid is first advertised/posted until the deadline for the submission and receipt of bids.

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. SAN DIAGO~~
Executive Director V