

Jocelyn Bayubay
Email: daliwaya_bayubay@yahoo.com
Re: Ground for Disqualification

Dear Ms. Bayubay:

This refers to your FOI request inquiring if it is a ground for disqualification in the bidding the Office of the Undersecretary for Administration (OUA) Memorandum (memo) issued by the Department of Education (DepEd) dated 23 January 2020. As represented, the DepED OUA Memo states that to be eligible, the bidder must have Philippine Contractors Accreditation Board (PCAB) Category A, even if the Approve Budget for Contract (ABC) of the electrification projects is less than Thirty Million Pesos (Ph 30 M). You further represent that your company has Category D which under the Contraction Industry Authority of the Philippines (CIAP) you are allowed to bid for projects Ph 30 M and below.

At the outset, be advised that the Government Procurement Policy Board (GPPB) and its Technical Support Office (TSO) has no jurisdiction to rule over actual controversies with regard to the conduct of the bidding of Procuring Entities (PEs) and has consistently refrained from passing upon decisions of the Bids and Awards Committee (BAC) or the PE on its procurement activities.

The decision to disqualify a bidder is within the exclusive jurisdiction of the PE through the BAC.¹ However, we have stated in several NPMs² that PEs are prohibited from requiring additional eligibility requirements other than those mentioned in Section 23 for the procurement of Goods and Infrastructure projects and Section 24 for the procurement of Consulting Services of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 .

In your case, what is required under the legal eligibility requirement is a valid PCAB license, regardless of category, and under the technical eligibility requirement is a ***Single Largest Completed Contract (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.

In short, it is only when you do not have an SLCC that is similar to the contract to be bid that your Category can be used to allow you to bid.

We hope to have provided sufficient guidance on the matter. Note that our reply is based on the particular facts and circumstances presented in your email, and on the evaluation of the GPPB-TSO Officer assigned to address emails for the day. The same may not, therefore, be applicable given a different set of facts and circumstances, nor does it serve as the official position of the GPPB. Should there be other concerns, please do not hesitate to contact us.

¹ Section 12.1 of the 2016 revised IRR of RA No. 9184; Non Policy Matter Opinion (NPM) No. 104-2017 dated 29 December 2017.

² NPM No. 129-2016 dated 29 December 2016; NPM No. 136-2017 dated 29 December 2017; and NPM No. 012-2018 dated 13 April 2018.