



Unit 2506 Raffles Corporate Center,  
F. Ortigas Jr. Road, Ortigas Center,  
Pasig City, Philippines 1605

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**CIRCULAR 06-2016**

20 December 2016

**TO : Heads of Departments, Bureaus, Offices and Agencies of the National Government including State Universities and Colleges, Government Owned and/or Controlled Corporations, Government Financial Institutions, and Local Government Units**

**SUBJECT : Expenses Related to the Conduct of Post-Qualification**

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**1.0 Purpose**

This Circular is being issued to remind the HOPE, BAC, TWG and Secretariat, including all officials and personnel involved in the procurement activities that all expenses incurred during the conduct of post-qualification shall be for the account of the procuring entities.

**2.0 Coverage**

All Departments, Bureaus, Offices and Agencies of the National Government, including State Universities and Colleges, Government-Owned and/or Controlled Corporations, Government Financial Institutions, and Local Government Units.

**3.0 Post-Qualification**

3.1 Section 34 of Republic Act (RA) No. 9184 states that the post-qualification is the stage where the bidder with the Lowest Calculated Bid (LCB), in the case of Goods and Infrastructure Projects, or the Highest Rated Bid (HRB), in the case of Consulting Services, undergoes verification, ascertainment and validation whether he has complied with all the requirements and conditions as specified in the Bidding Documents.

3.2 Section 34.3 of the 2016 Revised Implementing Rules and Regulations (IRR) of RA 9184 provides that the post-qualification shall verify, validate, and ascertain all statements made and documents submitted by the bidder with the LCB/HRB, using non-discretionary criteria, as stated in the Bidding Documents

3.3 Pursuant to the Generic Procurement Manuals issued by the

Government Procurement Policy Board (GPPB), in verifying the information contained in the documents submitted by bidders, the Technical Working Group (TWG) may make inquiries with appropriate government agencies and examine the original documents kept in the bidder's place of business. In addition, the Bids and Awards Committee (BAC)/ TWG may conduct a site inspection of the bidder's place of business and/or plant/factory, where applicable.

#### **4.0 Expenses Related to the Conduct of Post-Qualification**

- 4.1 During the conduct of post-qualification, the ocular or on-site inspection would sometimes entail cost on the part of the procuring entity, which cost shall be borne by the procuring entity considering that this is to be performed in the course of official duties.
- 4.2 Shifting to the bidders the burden to shoulder the post-qualification expenses, which will, in effect, make the bid prices higher than the usual, is not in consonance with existing laws, rules and regulations, and may even create an impression of partiality, conflict of interest, and receiving undue favor from the bidders.
- 4.3 Section 7(d) of RA 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees prohibits public officials and employees from soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.
- 4.4 Presidential Decree (PD) No. 46, s. 1972 provides that it is punishable for any public official or employee, whether in the national or local governments, to receive, directly or indirectly, and for private persons to give, or offer to give, any gift, present or other valuable thing on any occasion, including Christmas, when such gift, present or other valuable thing is given by reason of his official position, regardless of whether or not the same is for past favor or favors or the giver hopes or expects to receive a favor or better treatment in the future from the public official or employee concerned in the discharge of his official functions.
- 4.5 Under Section 3(b) of RA 3019 or the Anti-Graft and Corrupt Practices Act, it is prohibited to directly or indirectly request or receive any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law is considered as a corrupt practice
- 4.6 Thus, to ensure impartiality, in keeping with the principle of fairness and equity in the procurement process, and in line with the mandate of

PD 46, RA 6713, RA 3019 and other allied laws, rules and regulations, procuring entities are hereby reminded to shoulder all expenses to be incurred in connection with the performance of official functions of the BAC, especially during post-qualification, such that, the BAC, TWG and Secretariat, including all officials and personnel involved in the procurement activities, shall not require, solicit or accept, directly or indirectly from the bidders, any fee, allowance, per diem, honorarium, gift, commission, benefit, favor or anything of monetary value.

**5.0** This Circular shall take effect immediately.

**6.0** For guidance and compliance.

(sgd.)

**BENJAMIN E. DIOKNO**

*Chairperson*