

NPM No. 052-2017

21 December 2017

MR. MARC ANTHONY P. APARECIO

BAC Secretariat, Head

BASILAN GENERAL HOSPITAL

Isabela City, Basilan

Re: Refund of Payments for Bid Documents -

Dear Mr. Aparecio:

This pertains to your electronic mail (e-mail) inquiring whether a supplier may request for refund of the amount paid for the bidding documents after the Head of the Procurement Entity (HOPE) declared a failure of bidding based on circumstances under Section 41.

Section 41, referred to as the “reservation clause”, authorizes the Head of the Procuring Entity (HOPE) to reject any and all bids, declare a failure of bidding, or not award the contract if any of the mentioned situations exist. Thus, in invoking the “reservation clause”, it is incumbent upon the HOPE to prove that at least one (1) of the situations exist to warrant the exercise of the reserved right.¹

Section 17.5 of the 2016 revised Implementing Rules and Regulations (IRR) of R.A 9184 provides that Bidding Documents Fee may be refunded in accordance with the aforementioned Guidelines based on the grounds provided for under Section 41 of the Act and this IRR. Consequently, as long as the declared failure of bidding is based on Section 41, and there was no fault attributable to the supplier, request for a refund of the bidding documents fee already paid is allowed.

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,



DENNIS S. SANTIAGO
Executive Director V

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¹ NPM No. 030-2016