

NPM No. 058-2017

21 December 2017

ENGR. SIEGFRED LANDOY
DEPARTMENT OF TRANSPORTATION (DOTR)
The Columbia Tower, Brgy. Wack-Wack, Ortigas
Avenue 1555, Mandaluyong City

Re: Functions of the BAC Secretariat -

Dear Engr. Landoy:

This refers to your letter inquiring whether the Bids and Awards Committee (BAC) Secretariat has an oversight function over the Technical Working Group (TWG) and the right to dictate on the content or context of the TWG report.

It is represented that the roles of the various units of the BAC have been quite challenging, such that there is a need to clarify and delineate the functions of the BAC Secretariat and the TWG. Hence, this request.

Under Section 14 of Republic Act (RA) No. 9184, the Government Procurement Reform Act, and its 2016 revised Implementing Rules and Regulations (IRR), the Head of the Procuring Entity (HOPE) shall create a Secretariat that will serve as the main support unit of the BAC. The HOPE may also designate an existing organic office within the agency to serve as the Secretariat. Sec. 14.1 specifically enumerates the BAC Secretariat functions and responsibilities, thus:

- a) Provide administrative support to the BAC and the TWG;
- b) Organize and make all necessary arrangements for BAC and the TWG meetings and conferences;
- c) Prepare minutes of meetings and resolutions of the BAC;
- d) Take custody of procurement documents and other records and ensure that all procurements undertaken by the Procuring Entity are properly documented;
- e) Manage the sale and distribution of Bidding Documents to interested bidders;
- f) Advertise and/or post bidding opportunities, including Bidding Documents, and notices of awards;
- g) Assist in managing the procurement processes;
- h) Monitor procurement activities and milestones for proper reporting to relevant agencies when required;
- i) Consolidate PPMPs from various units of the Procuring Entity to make them available for review as indicated in Section 7 of this IRR and prepare the APP; and
- j) Act as the central channel of communications for the BAC with end-user or implementing units, PMOs, other units of the line agency, other

government agencies, providers of goods, infrastructure projects, and consulting services, observers, and the general public.

Based on the foregoing, it is the BAC Secretariat's duty to "provide administrative support to the BAC and the TWG. As such, it is not the BAC Secretariat's function to dictate or impose upon the TWG as regards the content or context of the TWG's Report or findings. As a matter of fact, the TWG's Report or its findings relative to the conduct of the bid evaluation and/or post-qualification should be independent from any influence or control, as the function of the TWG is to submit its Report or findings to BAC for the latter's consideration. In creating the TWG from a pool of technical, financial, and/or legal experts, the BAC under Section 12.1 of the 2016 IRR expects the TWG to assist in the following tasks, to wit:

- a) Review of the Technical Specifications, Scope of Work, and Terms of Reference;
- b) Review of Bidding Documents;
- c) Shortlisting of Consultants;
- d) Eligibility Screening;
- e) Evaluation of Bids;
- f) Post-Qualification; and
- g) Resolution of Request for Reconsideration.

Accordingly, there is no conflict between the functions of the BAC Secretariat and TWG as these are clearly delineated in the procurement law and its associated rules. The BAC Secretariat provides "administrative" support to both the BAC and the TWG, while the TWG provides "technical" support to the BAC relative to the functions and responsibilities above-enumerated. Clearly then, and per the identification of the duties, functions and responsibilities of both, the BAC Secretariat has no oversight over the TWG nor the authority to dictate upon the content or context of the TWG Report or findings. If at all, the duty of the BAC Secretariat in the main is to provide administrative support to the TWG apart from other tasks identified by the rules.

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