

NPM No. 086-2017

29 December 2017

MR. DANNI BUKID
<dannibukid@gmail.com>

Re: Award of Contract Per Item -

Dear Mr. Bukid:

This refers to your electronic-mail requesting for an opinion regarding procurement by items. You inquire on whether in the procurement under negotiated modality of Shopping, the award of contract is based on lowest price per item and not on the total bid of the lowest bidder. You inquired on this because the instructions in your procurement activity is to award the items being procured separately and execute contract or purchase order for each item.

It will be noted that in the Procuring Entities' (PEs) pursuit or performance of its mandate, it will procure items that may be grouped into lots necessary to conduct activities identified under particular projects pursuant to the approved programs of the PE. Each item in the Project Procurement Management Plan (PPMP) created by the end-user unit has a corresponding budget. This budget becomes the Approved Budget for the Contract (ABC) when the decision of the PE is to procure such item or lot as the subject of a contract separate from all other items in the Annual Procurement Plan (APP).

Procurement of projects by lot or by item is a recognized mechanism under existing government procurement rules. The Philippine Bidding Documents (PBD) for the Procurement of Goods, particularly the Bid Data Sheet (BDS) provision to qualify the Instruction to Bidders, that is, Clause 28.3 of the PBD for Goods explains that lots should be formed of similar items that are likely to attract the maximum competition, and defines "lot" as the quantity and number of items that will be included in a single contract. It also states three options that PEs may choose from in grouping and evaluating lots, as follows:

- (i) each item to be evaluated and compared with other bids separately and recommended for contract award separately;
- (ii) all items to be grouped together to form one complete lot that will be awarded to one bidder to form one complete contract; and
- (iii) similar items, to be grouped together to form several lots that shall be evaluated and awarded as separate contracts.

Accordingly, **the PE may identify – each item to be evaluated and awarded separately under separate contracts**; or, several items grouped together to form one complete lot to be awarded to a single bidder to form a singular complete contract; or, similar

items to be grouped into several lots, and evaluated and awarded as separate contracts. In these wise, bids shall be evaluated by the Bids and Awards Committee depending on the packages, lots or items identified in the bidding document. Consequently, depending on the requirements provided for under Section 28.3 of the ITB, alongside specific instructions contained in BDS Clause 28.3 as to the manner for which a bidder should submit its bid: i) a bidder may be awarded a contract for an item; or, ii) a contract for a lot, or contracts for several lots; or, iii) a singular contract for all of the lots.

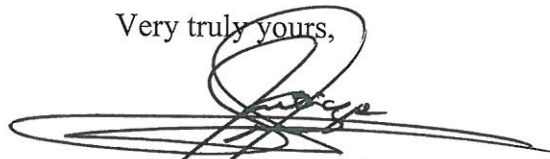
The same rule applies in Shopping¹ and the Negotiated Modality under Small Value Procurement², the grouping of items/lots shall be based on what is provided in the Request for Quotations. Thus, a bidder may be awarded a contract for an item; or, a contract for a lot, or contracts for several lots; or, a singular contract for all of the lots.

In your letter, you mentioned that your instruction is to award the items separately and execute separate purchase orders, hence, we assume, as indicated in your request for quotations, that you allowed bidders to submit an offer in any of the items, thereby allowing a bidder to be awarded only one (1) item or all of the items altogether.

Based on all the foregoing, in determining whether the contract will be awarded per item or total of the bid depends on the grouping of items/lots as indicated in the Request for Quotations in case of Shopping or Negotiated Procurement under the Small Value Procurement modality.

We hope 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 you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V *MM*

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¹ Section 52, RA 9184 and its 2016 IRR.

² *Id.*, Section 53.9.