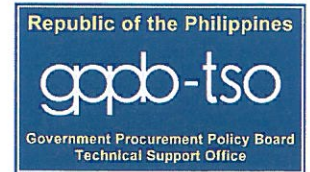


Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 109-2016

6 December 2016

ENGR. ARNALDO C. REYES
Chief, General Services Division
DEPARTMENT OF SCIENCE AND TECHNOLOGY
Gen. Santos Ave., Bicutan
Taguig City

**Re: Delegation to the Technical Working Group of the Site
Visit During Post Qualification; Small Value Procurement**

Dear Engr. Reyes:

This pertains to your letter seeking clarification on inquiries raised during the Informational Session on the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184, to wit:

1. Is the Bids and Award Committee (BAC) in violation of Section 32.1 of RA 9184 and its IRR when it authorizes its Technical Working Group (TWG) to visit a supplier during post qualification for validation of submitted documents prior to award of the contract?
2. Is Small Value Procurement the appropriate mode of procurement for acquisition of laptops?

Ocular Inspection or Visit during Post Qualification

Your letter inquired if there will be a violation of Section 32.1 of the 2016 Revised IRR or the “No Contact” Rule should the TWG be allowed to conduct ocular visit during post qualification.

The “No Contact” Rule under Section 32.1 of the 2016 Revised IRR prohibits the members of the BAC, including its staff and personnel, as well as its Secretariat and TWG, from making or accepting any communication with any bidder regarding the evaluation of their bids until the issuance of the Notice of Award. In an earlier opinion¹ we emphasized our discussion in Non-Policy Opinion No. 20-2006 that the prohibition under Section 32.1 of the IRR of RA 9184

¹ NPM 003-2012 dated January 04, 2012

is absolute and covers **all kinds of information relating to the evaluation of bids**. The rationale for this rule is to avoid any opportunity for qualified bidders to influence or collude with employees or officials of the procuring entity into skewing the award of contract in their favor.

As such, other than for purposes of inquiring on the status of the proceeding, bidders whose bids are being evaluated by the BAC are **prohibited to make any communication with the BAC pertaining to the evaluation of bids** from the time bids are opened until a Notice of Award is issued.

On the other hand, as we had the opportunity to discuss in an earlier opinion², the objective of **post-qualification for the procurement of goods** under Section 34 of RA 9184 is to **determine whether the bidder complies with and is responsive to all the legal, technical and financial requirements and conditions specified in the bidding documents**. During post qualification, the procuring entity verifies, validates and ascertains all statements made and the documents submitted by the bidder with the Lowest Calculated Bid (LCB) using non-discretionary pass/fail criteria as stated in the bidding documents. These **criteria shall consider the legal, technical and financial requirements**, such as, but not limited to, the bidder's stated competence and experience, the availability and commitment, and/or **inspection and testing of the goods/product, after-sales and/or maintenance capabilities, in applicable cases**. Hence, the verification entailed under the post-qualification stage is not limited to the mere examination of documents submitted by the bidder, but will necessitate the interaction between the BAC through the TWG and the bidder during inspection of the goods/product *vis-à-vis* the technical specifications specified in the bidding documents.

This act of the procuring entity of verifying, validating, and ascertaining the conformity of the goods/product to be delivered with the technical specifications is in accordance with the verification of technical requirements mandated under the rules for post-qualification. If, on the scheduled date of inspection, the bidder fails to present the subject equipment for examination or evaluation without justifiable cause, the BAC has the prerogative to declare the bidder post-disqualified for failure to comply with the requirements.

In sum, the "No Contact" Rule applies to making or accepting any communication with any bidder regarding the evaluation of their bids. On the other hand, the conduct of inspection of the premises or the testing of goods offered by the bidder as part of post qualification, is a part of the verification process to ensure that the bidder complies with all the legal, technical and financial requirements and specifications indicated in the bidding documents, hence, not violative of the "No Contact" Rule.

Small Value Procurement

Under the 2016 Revised IRR, Small Value Procurement is allowed where the procurement does not fall under Shopping in Section 52, and the amount of the procurement is within the threshold amount prescribed and subject to the procedural requirements under Annex "H" of the 2016 Revised IRR.

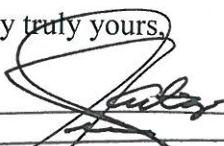
² NPM 064-2012 dated May 25, 2012

On the other hand, Shopping as defined under the 2016 revised IRR, is a method of procurement of goods where the Procuring Entity requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications. Shopping may be utilized when there is an unforeseen contingency requiring immediate purchase or the purchase of ordinary or regular office supplies and equipment not available in the Procurement Service involving an amount not exceeding the thresholds prescribed in Annex “H” of the 2016 revised IRR.

For guidance, Section 52.2 of the 2016 revised IRR provides that the phrase “**ordinary or regular office supplies**” includes those **supplies, commodities, or materials which are necessary in the transaction of official business and consumed in the day-to-day operations**. An examination of the mandate³ of the Department of Science and Technology under Executive Order No. 128 alongside the definition of the phrase “ordinary or regular office equipment” shows that laptop computers may be considered as such as they are necessary in the transaction of DOST’s official businesses, as well as in its day-to-day operations. Hence, in the event that the laptop computers needed by the DOST are not available from the Procurement Service, and the amount for which does not exceed the prescribed threshold, the same may be procured through Shopping under Section 52.1(b). As such, the procurement of which shall follow the procedures prescribed in Section 52.1(b) and Annex “H” of the 2016 revised IRR.

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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³To provide central direction, leadership and coordination of scientific and technological efforts and ensure that the results therefrom are geared and utilized in areas of maximum economic and social benefits for the people.