

NPM No. 122-2016

6 December 2016

MS. LENY GRACE BALBIDO

Bids and Awards Committee (BAC) Secretariat Member

LOCAL GOVERNMENT UNIT OF TAGBILARAN

City Hall Complex, J. A. Clarin Street,
Tagbilaran City, Bohol

Re: Exceptional Cases in Post-Qualification

Dear Ms. Balbido:

This refers to your electronic mail (e-mail) inquiring on what are the exceptional cases in post-qualification that may extend the period of post-qualification from seven (7) days to thirty (30) days.

At the outset, we wish to inform you that the maximum period for post-qualification has been amended in the 2016 revised Implementing Rules and Regulations (IRR)¹ of Republic Act (RA) No. 9184, specifically under Section 34.8 thereof, which provides that:

“The post-qualification process shall be completed in ***not more than twelve (12)*** calendar days from the determination of the Lowest Calculated Bid/Highest Rated Bid. ***In exceptional cases***, the post-qualification period may be extended by the HoPE, but in no case shall the aggregate period ***exceed forty-five (45) calendar days*** for Goods and Infrastructure Projects, ***or thirty (30) calendar days*** in Consulting Services.

In case of post-disqualification of the bidder with the lowest calculated bid/highest rated bid, the BAC shall be given the same fresh period to conduct the post-qualification of the next lowest calculated bid/highest rated bid until a bidder is post-qualified or failure of bidding is declared based on Section 35.1(c) of this IRR.” (Emphasis supplied)

The 2016 Revised IRR of RA 9184 does not provide for a categorical definition of exceptional cases that would warrant the extension of post-qualification period as it is to be determined on a case-to-case basis. Instead, the rules leave it to the sound discretion of the Head of the Procuring Entity (HoPE) to determine what may be considered as exceptional cases, depending on the nature and complexity of the post-qualification activities to be undertaken. For guidance, however, we refer you to the provision of the Generic Procurement Manual (GPM) Volume II (Manual of Procedures for the Procurement of Goods

¹ Published in the Official Gazette on 29 August 2016 and took effect on 28 October 2016.

and Services) where it cited an instance of an exceptional case, that is, when the procurement requires an elaborate testing such as equipment sourced from abroad.

In this regard, it is our considered view that the determination of what constitutes an exceptional case warranting the extension of post-qualification period, *e.g.*, when the procurement requires an elaborate testing involving an equipment sourced from abroad, lies within the sound discretion of the HoPE taking into consideration the nature and complexity of the procurement project.

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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