



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 45-2014

13 October 2014

VADM. EDMUND C. TAN PCG (RET)

*Vice Chair, Cebu Port Commission,
General Manager, Cebu Port Authority*

CEBU PORT AUTHORITY (CPA)

CIP Complex, Serging Osmena, Boulevard,
North Reclamation Area, Cebu City

Re: Cancellation of Notice of Award (NOA)

Dear General Manager Tan:

This is in response to your letter, seeking guidance regarding the cancellation by the CPA of the NOA issued in favor of Philippine Long Distance Telephone Company (PLDT).

It is represented PLDT-Net Pacific Joint Venture participated in the procurement for the project entitled "Design, Supply, Installation, Commissioning, Training, and Maintenance of the Video Surveillance Notification, and Verification Alarm System for the Cebu Baseport". A NOA was thereafter issued to PLDT. However, CPA General Manager cancelled the NOA when it was discovered that there were defects and deficiencies on the submitted documents, which were overlooked by the Bids and Awards Committee, such as:

1. Lack of Board Resolution authorizing Mr. Eparwa to sign for and in behalf of PLDT or PLDT-Net Pacific Joint Venture and represent the latter in all stages of the bidding process. The Board Resolution revealed that a certain Napoleon L. Nazareno was authorized to bid. While the Omnibus Sworn Statement was signed by Mr. Nazareno, the Bid Proposal was signed by Mr. Eparwa. The authorization issued by Mr. Nazareno in favor of Mr. Eparwa was likewise flawed due to its defective notarization. While the documents states that it was subscribed and sworn to before a notary public in Makati City, but the stamp markings on the document reveal that it was notarized by a notary public for Cebu City;
2. While PLDT and Net Pacific have a Joint Venture Agreement (JVA) and PLDT was designated as the Venture Manager, the entity that submitted its bid is only PLDT and not PLDT-Net Pacific Joint Venture.
3. PLDT's non-submission of statement of all on-going and similar completed government and private contracts. PLDT cannot comply with the said requirement due to a Non-Disclosure Agreement (NDA) with its clients. PLDT cannot use Net Pacific Inc.'s experience since it was PLDT

alone that submitted the bid and not the Joint Venture of PLDT-Net Pacific, Inc;

4. The bidder's bid security and credit line certificate are defective. It was noted that while its JVA was entered in 26 November 2013, while the bidder's bond and Credit Line Certificate are issued 25 November 2013, in the name of PLDT.

The PLDT, in its several letters, sought reconsideration of the cancellation of its award, but the same was denied. Thereafter, in a Special Board Meeting, the Cebu Port Commission decided to recall the cancellation of the NOA and further advised the PLDT not to initiate the implementation of the project, pending the opinion of the GPPB on the queries submitted and the final deliberation of the Commission to resolve the matter.

As discussed in a previous opinion¹, the Government Procurement Policy Board (GPPB) and its Technical Support Office (TSO) only render policy and non-policy opinions respectively, on issues purely relating to the interpretation and application of our procurement laws, rules and regulations. It has no jurisdiction to rule over actual controversies with regard to the conduct of the bidding since it has no quasi-judicial functions under the law. Thus, the decision on whether or not an award should be cancelled lies within the authority and jurisdiction of the procuring entity.

We likewise note that per GPPB Resolution No. 36-2013 and GPPB Circular No. 06-2013, both dated 17 December 2013, the GPPB-TSO was given the full authority to refrain from rendering Non-Policy Matter Opinions relative to actual procurement controversies, issues, and concerns pending before the Procuring Entity (PE), Head of the Procuring Entity (HOPE) and/or its Bids and Awards Committee (BAC) where the GPPB-TSO is ultimately requested to decide and exercise discretion for and in behalf of the PE, HOPE and/or BAC.

Reservation Clause

For guidance, under Section 41 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the HOPE reserves the right to reject any and all bids, declare a failure of bidding, or not award the contract in the following situations:

- a) If there is prima facie evidence of collusion between appropriate public officers or employees of the procuring entity, or between the BAC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
- b) If the BAC is found to have failed in following the prescribed bidding procedures; or
- c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP, as follows: (i) if the physical and economic conditions have significantly changed so as to render the project no longer economically, financially, or technically feasible, as determined by the

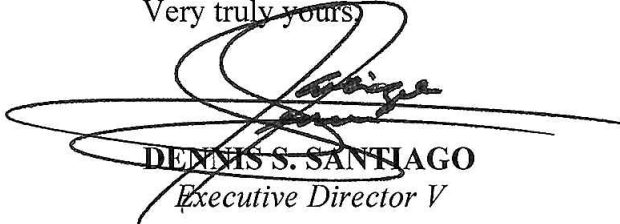
¹ NPM No. 044-2009 dated 18 August 2009.

Head of the Procuring Entity; (ii) if the project is no longer necessary as determined by the Head of the Procuring Entity; and (iii) if the source of funds for the project has been withheld or reduced through no fault of the procuring entity.

Accordingly, if the HOPE determines that any of the above-cited grounds is present in the conduct of the procurement activity, such as when the BAC failed to follow the prescribed bidding procedures, which include the evaluation of a bidder's eligibility, the HOPE has the right to reject any and all bids, declare a failure of bidding or not award the contract, in accordance with Section 41 of the IRR of RA 9184.

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

//skp 

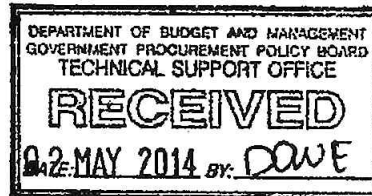
CEBU PORT AUTHORITY

CiP Complex, Sergio Osmeña Boulevard, North Reclamation Area, Cebu City

E-mail : cpa@cpa.gov.ph

Telephone : 232-1461 to 63 • 231-6856 to 57

Fax No. : 231-6848



28 April 2014

Government Procurement Policy Board
Unit 2506, Raffles Corporate Center
F. Ortigas Road,
Ortigas Center, Pasig City

Dear Sir,

This pertains to the decision of the Cebu Port Commission to cancel the "Notice of Award" issued to Philippine Long Distance Telephone (PLDT) for the project: **DESIGN, SUPPLY, INSTALLATION, COMMISSIONING, TRAINING, AND MAINTENANCE OF THE VIDEO SURVEILLANCE, NOTIFICATION AND VERIFICATION ALARM SYSTEM FOR THE CEBU BASEPORT.**

With the highest esteem to the Government Procurement Policy Board, the Cebu Port Commission which is the governing board of the Cebu Port Authority, in its meeting on 26 April 2014, decided to clarify certain matters which will guide them of its action. The Commission wishes to be clarified on whether the Authority or the HOPE may cancel the Notice of Award when, after legal review, it has discovered that there were deficiencies or defects in the documents submitted.

The Brief – Statement of Facts:

1. That on 13 November 2013, the Cebu Port Authority published the Invitation to Bid for the above mentioned project;
2. That on 06 December 2014, the Opening of Bid was conducted;


3. That three (3) bidders submitted their bids, namely:
 - a. PLDT-Net Pacific Joint Venture
 - b. Hello Marketing
 - c. AGI Security;
4. That AGI Security failed to pass the "PASSED FAILED CRITERIA" while PLDT-Net Pacific Joint Venture and Hello Marketing passed;
5. That the bid of PLDT-Net Pacific, Inc. Joint Venture was considered the lowest calculated bid. Subsequently, after the post qualification process, the same was declared as the Lowest Calculated Responsive Bid;
6. That on 17 December 2014, a Notice of Award was issued to PLDT through MR. Michael P. Eparwa, Relationship Manager of PLDT;
7. That a review of bid documents submitted by PLDT-Net Pacific, Inc. Joint Venture as part of the contract review was conducted by the CPA Legal Affairs Department;
8. That on 18 February 2014, General Manager Edmund C Tan cancelled the Notice of Award issued to PLDT when after legal review, it was discovered that there were defects and deficiencies on the submitted bid documents, which was overlooked by the Bids and Awards Committee; (Please see attached **Annex A** - letter of CPA to PLDT dated 18 February 2014)
9. That in response, PLDT through Mr. Michael P. Eparwa, wrote a letter dated 05 March 2014 seeking reconsideration, marked as **Annex B**;

10. That on 12 March 2014, CPA through GM Tan responded (**Annex C**) to the letter of PLDT citing that there is no cogent reason to reverse the CPA's earlier decision to cancel the "Notice of Award" issued;
11. That on 26 March 2014, PLDT again wrote a letter (**Annex D**) citing that there is no legal and factual basis for CPA's cancellation of the "Notice of Award"
12. That on 24 April 2014, PLDT through counsel, ACCRA, wrote a letter (**Annex E**) to the Cebu Port Commission appealing the decision of the Authority to cancel the Notice of Award.

On 26 April 2014, during its 17th Special Board Meeting, the Cebu Port Commission decided to recall the cancellation of the Notice of Award to PLDT and further advised PLDT not to initiate the implementation of the project, pending the opinion of GPPB on the queries submitted and the final deliberation of the Cebu Port Commission to resolve the matter.

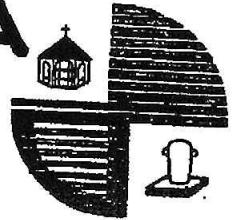
Looking forward to your immediate reply.

For and in behalf of the Cebu Port Commission:

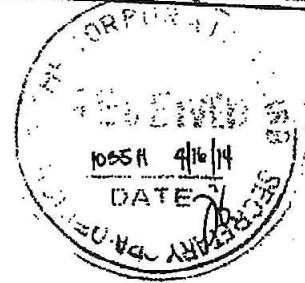

VADM EDMUND C TAN PCG (Ret)
Vice Chair, Cebu Port Commission &
General Manager, Cebu Port Authority

Cc:

ogcc



18 February 2014



MR. MICHAEL EPARWA

Relationship Manager

PLDT Corporate Relationship Management Group

2nd Floor, PLDT North Cebu Building

J. Luna Ave., Mabolo

Cebu City

Re: Design, Supply, Installation, Commission
Training and Maintenance of Video Surveillance,
Notification, Verification, Alarm System for the
Cebu Baseport

Dear Mr. Eparwa:

This refers to the Notice of Award issued to you for the above-mentioned project.

After a thorough review of the bid documents, this Authority found the following defects or deficiencies, which were overlooked by the Bids and Awards Committee (BAC), to wit:

1. Lack of board resolution from the PLDT or PLDT-Net Pacific, Inc. Joint Venture authorizing Mr. Michael P. Eparwa, Relationship Marketing Manager, who signed the Bid Proposal dated 04 December 2013, to represent PLDT or PLDT-Net Pacific, Inc. Joint Venture in all the stages of the bidding process. While, there is a Secretary's Certificate issued by the Assistant Corporate Secretary of PLDT Florentino D. Mabasa, Jr., stating that the authorized representative of PLDT Napoleon L. Nazareno "has instructed and ordered Mr. Michael P. Eparwa, xxx to transact with the Cebu Port Authority and its personnel, and to sign, execute, and deliver any and all bidding documents and papers required thereof," dated 02 December 2013, such certification is not sufficient to authorize Michael P. Eparwa to represent PLDT or PLDT-Net

Pacific, Inc. because the authorized representative of PLDT is Napoleon L. Nazareno.

2. The Omnibus Sworn Statement dated 02 December 2013, submitted by PLDT states that the authorized representative is one Napoleon L. Nazareno, not Michael P. Eparwa. While this sworn statement mentioned of an attached duly notarized Secretary's Certificate issued by PLDT, none is attached thereto.
3. Lack of board resolution from PLDT-Net Pacific Joint-Venture authorizing Mr. Michael P. Eparwa, Relationship Marketing Manager, who signed the Bid Proposal dated 04 December 2013, to represent Joint Venture PLDT-Net Pacific in all the stages of the bidding process. There is no board resolution also from Net-Pacific authorizing Mr. Eparwa to represent it in the bidding process.
4. While PLDT and Net Pacific have a Joint Venture Agreement and PLDT is designated as the "Venture Manager," the entity which made its bid for the project is only PLDT, not PLDT-Net Pacific Joint Venture or made for and in behalf of the joint venture. Under the Joint Venture Agreement of PLDT and Net Pacific, it is not Michael Eparwa but Napoleon L. Nazareno who is the authorized representative of PLDT.
5. PLDT failed to comply with the submission of "on-going and similar completed government and private projects." PLDT reasoned that it cannot comply with the requirement due to a Non-Disclosure Agreement (NDA) which prohibits PLDT from providing information of whatever nature relating to the services provided by it. Such rationalization may be acceptable in case of private contracts, but not in the case of government contracts since these are public documents.
6. PLDT cannot use the experience of Net Pacific, Inc., since this is personal to Net Pacific, Inc., especially so because it was PLDT alone who submitted the bid, not the Joint Venture PLDT-Net Pacific, Inc.
7. The bid bond, credit line certificate, bid security are all in the name of PLDT alone and not in the name of the Joint Venture PLDT-Net Pacific, Inc.
8. It is also noted that while the Joint Venture Agreement was entered into in 26 November 2013, the Credit Line Certificate is dated 25 November 2013, or a day before the JVA was entered into and only in the name of PLDT. The same is true as regards the Bidder's Bond which is dated 25 November 2013.
9. Finally, the "Authorization" dated 03 December 2013, signed by Napoleon L. Nazareno authorizing Michael Eparwa is patently defective considering the

defective notarization of the document, which states that the document was "subscribed and sworn" to before the notary public in and for the City of Makati but the Notary Public as shown in the stamp markings on the document is Atty. Pepito C. Suello, who is a Notary Public for Cebu City.

Considering all of the foregoing, the Notice of Award issued to you is hereby cancelled.

Very truly yours,


VADM EDMUND C TAN PCG (Ret)
CPC Vice Chair and CPA General Manager

cc: PSSSED, BAC, LAD

fox: 2 / 25/14
manila 4.6.14

ANNEX B

March 5, 2014

VADM EDMUND C TAN PCG (Ret)
CPC Vice Chair and CPA General Manager
Cebu Port Authority
CIP Complex, Serging Osmeña Boulevard
North Reclamation Area, Cebu City

**Re: Design, Supply, Installation, Commission
Training and Maintenance of Video Surveillance,
Notification, Verification, Alarm System for the
Cebu Baseport**

Dear Sir:

We write in reply to your letter dated February 18, 2014, which we received on February 27, 2014, advising us of the cancellation of the Notice of Award in favor of Philippine Long Distance Telephone Company ("PLDT"), as Venture Manager of the unincorporated joint venture between PLDT and Net Pacific, Inc. ("Joint Venture") for the Design, Supply, Installation, Commission, Training, and Maintenance of Video Surveillance, Notification, Verification, Alarm System for the Cebu Baseport (the "Project").

Please find below our responses, *in seriatim*, to the alleged deficiencies that you mentioned in your letter.

1. We respectfully submit that our Relationship Management Executive, Mr. Michael P. Eparwa, is duly authorized to represent PLDT, the Venture Manager of the Joint Venture between PLDT and Net Pacific, Inc., in all stages of the bidding process. PLDT submitted as part of the Bid Proposal a copy of the Joint Venture Agreement between the Joint Venture, Section 5 of which authorizes PLDT, among others, to (a) negotiate the terms of any contract that the Joint Venture may wish to pursue, and (b) execute the necessary authorizations in favor of qualified persons in applications relating to, or negotiations for, projects such as the Project. As Venture Manager, PLDT authorized its President and CEO, Mr. Napoleon L. Nazareno, to execute, sign and deliver, contracts and all other documents necessary in connection with the bid for the Project. Such authority is evidenced by the Secretary's Certificate issued by PLDT's Assistant Corporate Secretary, Atty. Florentino D. Mabasa, Jr. That same Secretary's Certificate further states that for the bid for the Project, Mr. Nazareno authorizes Mr. Eparwa to represent PLDT. Under the law, an agent may delegate his obligations as such to another unless otherwise prohibited by his principal (Art. 1892, Civil Code of the Philippines). In this case, PLDT was expressly appointed by the Joint Venture as its Venture Manager or agent. PLDT, in turn, authorized Mr. Nazareno to sign, execute and deliver any and all documents for and on behalf of PLDT. Mr. Nazareno, in turn, authorized Mr. Eparwa to represent PLDT in any and all transactions relating to the bid for the Project. Clearly, the authorizations issued by Net Pacific, Inc., PLDT, and Mr. Nazareno to their respective agents, namely PLDT, Mr. Nazareno and Mr. Eparwa are valid delegations of authority since none of the aforementioned principals issued a prohibition against their respective agents' delegation of their respective authorities.

2. The Omnibus Sworn Statement executed by PLDT's President and CEO, Mr. Nazareno, which document was submitted by PLDT as part of the Bid Proposal, states that Mr. Nazareno is the authorized representative of PLDT. The same document also states that Mr. Nazareno is duly authorized to perform any and all acts necessary to enable PLDT to bid for the Project as evidenced by a Secretary's Certificate issued by PLDT. PLDT apologizes for its failure to attach to the Omnibus Sworn Statement a copy of the Secretary's Certificate referred to, but requests your good office to nonetheless consider Mr. Eparwa's authority to be valid, considering that the Secretary's Certificate issued by Atty. Mabasa attesting to Mr. Nazareno's authority was submitted by PLDT as part of the Bid Proposal. The failure of PLDT to attach the Secretary's Certificate to the Omnibus Sworn Statement is a negligible error since the same document is found within the Bid Proposal submitted by PLDT, thereby constituting substantial compliance on the part of PLDT. It is established doctrine that technical rules should not be rigidly and strictly applied if the same tends to frustrate rather than promote substantial justice (*Peñoso v. Dona*, G.R. No. 154018, April 30, 2007, *Bank of the Philippine Islands v. Court of Appeals*, G.R. No. 168313, October 6, 2010).
3. Since the Joint Venture between PLDT and Net Pacific, Inc. is an unincorporated joint venture, there is no joint venture Board that can issue a resolution authorizing Mr. Eparwa to represent the Joint Venture. However, as explained in Item No. 1 above, PLDT was able to exhibit Mr. Eparwa's authority to represent the Joint Venture in bidding for the Project. The Joint Venture Agreement executed by the parties to the Joint Venture expressly authorized PLDT to represent the Joint Venture partners. PLDT, in turn, authorized Mr. Nazareno, its President and CEO, to represent PLDT. Mr. Nazareno, in turn, issued a valid authorization in favor of Mr. Eparwa as evidenced by the Secretary's Certificate and the Authorization, copies of which formed part of PLDT's Bid Proposal.
4. As explained in Items 1 and 3 above, the Joint Venture between PLDT and Net Pacific, Inc. is an unincorporated joint venture, which is allowed under the law. Parties who wish to collaborate on certain transactions need not always create a juridical entity to establish a joint venture. It is sufficient that the parties agree on the terms of their joint venture partnership. The Joint Venture Agreement between PLDT and Net Pacific, Inc. expressly authorized PLDT to transact for and on behalf of the Joint Venture; hence, the documents submitted by PLDT are deemed documents submitted by it for and on behalf of the Joint Venture.
5. We respectfully submit PLDT complied with the requirement that it submit a list of ongoing and similar completed government and private projects. The Bid Proposal submitted by PLDT included, as Annex "D" thereof, a list of similar contracts between Net Pacific, Inc. and several of its clients. On the other hand, while PLDT did not submit a similar list for its own contracts, PLDT submitted in lieu thereof a Certification on Non-Disclosure Agreement explaining that PLDT's inability to submit a list of ongoing and similar completed government and private projects should not be taken against PLDT since PLDT is bound under several agreements with various clients to keep confidential the existence of such agreements and the contents thereof. In PLDT's case, its similar projects involved private entities and as such, PLDT is not permitted to disclose the details of such contracts.
6. We respectfully disagree with your good office's finding that PLDT cannot claim that the submission of a list of Net Pacific, Inc.'s similar projects does not constitute compliance with the requirement that the bidder submit a list of ongoing and similar completed government and

private projects because, as explained above, the Bid Proposal submitted by PLDT was submitted for and on behalf of the unincorporated Joint Venture partnership between itself and Net Pacific, Inc.

7. The submission of the bid bond, credit line certificate and bid security in the name of PLDT constitutes compliance with the bid requirements since PLDT procured the same in its capacity as Venture Manager of the unincorporated Joint Venture. Net Pacific, Inc. was aware of such acts by PLDT and authorized such acts.
8. Although the Joint Venture Agreement was executed on November 26, 2013, a day after PLDT procured the bid bond, credit line and bid security, PLDT and Net Pacific, Inc. already had an agreement in principle that they would establish an unincorporated joint venture and reduce their specific agreements in writing through the execution of the Joint Venture Agreement. Thus, PLDT's acts for and on behalf of the Joint Venture made even before the actual execution of their written contract were in fact authorized by Net Pacific, Inc.
9. With respect to the Authorization dated December 3, 2013, the failure to indicate the actual place where the same was notarized was due to the honest mistake of Notary Public Atty. Pepito C. Suello. Atty. Suello has executed an Affidavit explaining his error. Attached hereto is the original copy of Atty. Suello's Affidavit.

We trust that the foregoing sufficiently explains PLDT's position on the matter, and we pray that you find the foregoing meritorious to justify the reversal of your good office's decision to cancel the Notice of Award dated December 17, 2013. We wish to inform you that we have begun the performance of the Joint Venture's obligations pursuant to such Notice of Award and it would be unfair to notify us of the cancellation thereof more than two months after our receipt of the same, especially considering that we have substantially complied with all of the requirements for the Project, as in fact, your good office previously found us to be qualified to deliver the services for the Project.

We hope for your favorable response to this request.

Very truly yours,

PHILIPPINE LONG DISTANCE TELEPHONE COMPANY

By:



MICHAEL P. EPARWA
Relationship Management Executive

Annex A
ANNEX C

12 March 2014

Mr. MICHAEL EPARWA
Relationship Manager
PLDT Corporate Relationship Management Group
2nd Floor, PLDT North Cebu Building
J. Luna Ave., Mabolo
Cebu City

Dear Mr. Eparwa:

This refers to your letter dated 5 March 2014 sent in reply to this Authority's cancellation of Notice of Award for the project: **Design, Supply, Installation, Commission Training and Maintenance of Video Surveillance, Notification, Verification, Alarm System for the Cebu Baseport.**

After a careful review of your responses, this Authority finds no cogent reason to reverse its earlier decision to cancel the award to you.

For your information.

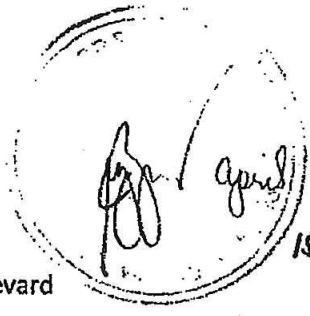
Very truly yours.


VADM EDMUND C TAN PCG (Ret)
CPC Vice Chair and CPA General Manager

Cc: BAC
PSSD
LAD



The Board of Directors
Cebu Port Authority
CIP Complex, Sergio Osmeña Boulevard
North Reclamation Area, Cebu City



CEBU PORT AUTHORITY
OFFICE OF THE GENERAL MANAGER
RECEIVED
By _____
Date: 03.26.14 1540H

Re: **Design, Supply, Installation, Commission
Training and Maintenance of Video Surveillance,
Notification, Verification, Alarm System for the
Cebu Baseport**

CEBU PORT AUTHORITY
Legal Affairs Dept.
RECEIVED
Date: 3/27/2014
Time: 9:30am

Gentlemen:

This is an appeal from the March 12, 2014 decision of the Cebu Port Authority (the "Authority") denying the request of Philippine Long Distance Telephone Company (PLDT) to reverse the cancellation of the Notice of Award as Venture Manager of the unincorporated joint venture between PLDT and Net Pacific, Inc. ("Joint Venture") for the Design, Supply, Installation, Commission, Training, and Maintenance of Video Surveillance, Notification, Verification, Alarm System for the Cebu Baseport (the "Project"). We received the Authority's March 12, 2014 letter on March 14, 2014. A copy thereof is attached to this letter as Annex "A".

In its March 12, 2014 letter, the Authority informed PLDT that it found no cogent reason to reverse its earlier decision to cancel the Notice of Award previously issued in favor of PLDT.

However, PLDT believes that there is no legal and factual basis for the cancellation of the Notice of Award, since in its letter to the Authority dated March 5, 2014, PLDT was able to explain that there were no deficiencies in its bid proposal, a copy of which is attached hereto as Annex "B". which would merit the cancellation of the Notice of Award in its favor.

1. In response to Item No. 1 of the Authority's letter dated February 18, 2014 (a copy of which is attached to this letter as Annex "C"), stating that Mr. Michael P. Eparwa, PLDT's Relationship Management Executive, was not authorized to represent the Joint Venture in the bidding process, we explained that Mr. Eparwa is authorized to represent the Joint Venture in all stages of the bidding process. PLDT submitted as part of the Bid Proposal a copy of the Joint Venture Agreement between the PLDT and Net Pacific, Inc., Section 5 of which authorizes PLDT, as Venture Manager of the Joint Venture, to, among others, (a) negotiate the terms of any contract that the Joint Venture may wish to pursue, and (b) execute the necessary authorizations in favor of qualified persons in applications relating to, or negotiations for, projects such as the Project. A copy of the Joint Venture Agreement was submitted by PLDT as part of the Bid Proposal. As Venture Manager, PLDT authorized its President and CEO, Mr. Napoleon L. Nazareno, to execute, sign and deliver, contracts and all other documents necessary in connection with the bid for the Project. Such authority is evidenced by the Secretary's Certificate issued by PLDT's Assistant Corporate Secretary, Atty. Florentino D. Mabasa, Jr. That same Secretary's Certificate further states that for the bid for the Project, Mr. Nazareno authorizes Mr. Eparwa to represent PLDT. Under the law, an agent may delegate his obligations as such to another unless otherwise prohibited by his principal (Art. 1892, Civil Code of the Philippines). In this case, PLDT was

expressly appointed by the Joint Venture as its Venture Manager or agent. PLDT, in turn, authorized Mr. Nazareno to sign, execute and deliver any and all documents for and on behalf of PLDT. Mr. Nazareno, in turn, authorized Mr. Eparwa to represent PLDT in any and all transactions relating to the bid for the Project. Clearly, the authorizations issued by Net Pacific, Inc., PLDT, and Mr. Nazareno to their respective agents, namely PLDT, Mr. Nazareno and Mr. Eparwa are valid delegations of authority since none of the aforementioned principals issued a prohibition against their respective agents' delegation of their respective authorities.

2. In response to Item No. 2 of the Authority's February 18, 2014 letter, which stated that the PLDT's Omnibus Sworn Statement dated December 2, 2013 only authorized Mr. Nazareno but not Mr. Eparwa, to represent PLDT. PLDT explained that the Omnibus Sworn Statement executed by PLDT's President and CEO, Mr. Nazareno, which document was submitted by PLDT as part of the Bid Proposal, states that Mr. Nazareno is the authorized representative of PLDT. The same document also states that Mr. Nazareno is duly authorized to perform any and all acts necessary to enable PLDT to bid for the Project as evidenced by a Secretary's Certificate issued by PLDT. Although PLDT was not able to attach to the Omnibus Sworn Statement a copy of the Secretary's Certificate referred to, such Secretary's Certificate issued by Atty. Mabasa attesting to Mr. Nazareno's authority was submitted by PLDT as part of the Bid Proposal, along with the Omnibus Sworn Statement. The failure of PLDT to attach the Secretary's Certificate to the Omnibus Sworn Statement is a negligible error since the same document is found within the Bid Proposal submitted by PLDT, thereby constituting substantial compliance on the part of PLDT. It is established doctrine that technical rules should not be rigidly and strictly applied if the same tends to frustrate rather than promote substantial justice (Peñoso v. Dona, G.R. No. 154018, April 30, 2007, Bank of the Philippine Islands v. Court of Appeals, G.R. No. 168313, October 6, 2010).
3. In response to Item No. 3 of the Authority's February 18, 2014 letter, which stated that PLDT's bid documents were deficient since PLDT did not submit a Board resolution from the Joint Venture and/or Net Pacific, Inc., authorizing Mr. Eparwa to represent the Joint Venture, PLDT explained that since the Joint Venture between PLDT and Net Pacific, Inc. is an unincorporated joint venture, there is no joint venture Board that can issue a resolution authorizing Mr. Eparwa to represent the Joint Venture. However, as explained in Item No. 1 above, PLDT was able to exhibit Mr. Eparwa's authority to represent the Joint Venture in bidding for the Project. The Joint Venture Agreement executed by the parties thereto expressly authorized PLDT, as Venture Manager, to represent the Joint Venture partners. PLDT, in turn, authorized Mr. Nazareno, its President and CEO, to represent PLDT. Mr. Nazareno, in turn, issued a valid authorization in favor of Mr. Eparwa as evidenced by the Secretary's Certificate and the Authorization, copies of which formed part of the Bid Proposal.
4. In response to Item No. 4 of the Authority's February 18, 2014 letter, which stated that it was not the Joint Venture, but PLDT, which submitted the Bid Proposal, PLDT explained that the Joint Venture between PLDT and Net Pacific, Inc. is an unincorporated joint venture, which is allowed under the law. Parties who wish to collaborate on certain transactions need not always create a juridical entity to establish a joint venture. It is sufficient that the parties agree on the terms of their joint venture partnership. The Joint Venture Agreement between PLDT and Net Pacific, Inc. expressly authorized PLDT to transact for and on behalf of the Joint Venture; hence, the documents submitted by PLDT are deemed documents submitted by it for and on behalf of the Joint Venture.