



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

NPM No. 52-2012

2 May 2012

MR. REYNALDO G. PARADERO

General Manager

ASSURANCE CONTROLS TECHNOLOGIES CO., INC. (ACTCI)

Room 210 Señor Ivan de Palacio Bldg.,

139 Malakas corner Matalino Sts.,

Diliman, Quezon City

Re: Period of Action for Procurement Activities

Dear Mr. Paradero:

This is in response to your letter dated 19 March 2012 requesting for a formal opinion on whether the Philippine Heart Center (PHC), in its bidding for Digital Radiology System, could accept an unbranded equipment, and whether it could validly issue a Notice of Award (NOA) eighty four (84) calendar days after the date of submission and receipt of bids.

It is represented that the Bids and Awards Committee (BAC) of PHC set the date of competitive bidding for Digital Radiology System on 15 December 2011. It is further represented that the BAC of PHC issued the NOA to EfotoExpress Philippines, Corp. (EPC) for having the Lowest Calculated and Responsive Bid, only on 8 March 2012, or eighty four (84) calendar days from the date of receipt of bids. In addition, it is claimed that the equipment offered by EPC is unbranded. Thus, ACTCI is in the process of protesting the award made by the BAC in favor of EPC.

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 functions² under the law. Hence, this office has consistently refrained from passing upon decisions of the BAC pertaining to the determination of compliance with the bidding documents for a particular project. The determination whether the submission of unbranded equipment is compliant with the

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

² Quasi-judicial is defined as the term applied to the actions or discretions of public administrative officers or bodies required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial nature. (See Agpalo, Philippine Administrative Law 1999 Ed., p. 216 citing *Lupangco v. CA*, 160 SCRA 848, series of 1988.)

specifications and requirements provided in the bidding documents for Digital Radiology System is properly within the discretion of the PHC BAC to decide.

Anent your concern on the issuance of the NOA, Section 38.1 of the IRR requires that the procurement process starting from the opening of bids up to the award of the contract shall not exceed three (3) months or ninety (90) calendar days. Considering that the submission of the bids took place on 15 December 2011 and the NOA was subsequently issued on 8 March 2012, it took the procuring entity a total of eighty four (84) calendar days to complete such actions, which is well within the three (3) months or ninety (90) calendar days period prescribed in RA 9184 and its IRR.

Based on the foregoing, we are of the view that the issuance of the NOA within eighty four (84) calendar days from the date of opening of bids is valid since it is within the allowable time frame under RA 9184 and its IRR.

We hope our advice provided sufficient guidance on the matter. This opinion is based on the information presented, and may not be applicable to 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 III