



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

NPM No. 83-2014

24 October 2014

MS. MARICHU V. PORTADES
Member, Technical Working Group (TWG)
DEPARTMENT OF EDUCATION (DEPED)
DIVISION OF ALBAY
Legazpi City, Albay

Re: Sale of Bidding Documents

Dear Ms. Portades:

This refers to your query sent thru electronic mail (e-mail) regarding the Sale of Bidding Documents relative to Negotiated Procurement under Section 53.2¹ (Emergency Cases) of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184.

It is represented that DepEd-Albay Division will be procuring hardware materials for the construction of makeshift classrooms. Due to the impending eruption of Mt. Mayon, they intend to resort to Negotiated Procurement under Emergency cases. Thus, opinion is sought as to whether the sale of bidding documents may be dispensed with.

As provided in Section 17.4 of the IRR of RA 9184, bidders in a competitively bid project may be asked to pay for the bidding documents to cover the cost of their preparation and development. The Bids and Awards Committee (BAC) shall issue the bidding documents to the prospective bidders upon payment of the corresponding cost to the collecting/disbursing officer of the procuring entity.

In this regard, we wish to stress that the decision in charging fees for bidding documents depends upon the procuring entity, taking into account the need to recover the cost of its preparation and development *vis-a-vis* the effects on competition and participation of bidders².

For your guidance, we refer to Section 4.4 of the *Guidelines on the Sale of Bidding Documents (Guidelines)*³, thus:

¹ Section 53.2. In case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities. In the case of infrastructure projects, the procuring entity has the option to undertake the project through negotiated procurement or by administration or, in high security risk areas, through the AFP.

² NPM 068-2013 dated 28 June 2013.

³ GPPB Resolution No. 04-2012 dated 24 February 2012.


The standard rate for the sale of bidding documents shall be based on the fixed rate on a fixed range approach and shall be applicable in the procurement of goods, consulting services, and the contracting for infrastructure projects by the procuring entity, whether procured by way of public bidding or **any of the alternative methods of procurement that utilize processes and procedures in competitive bidding**. (Emphasis supplied)

Please note that the Guidelines do not apply to all alternative modalities, but only to those that adopt processes and procedures akin to competitive bidding, such as Limited Source Bidding under Section 49 and Negotiated Procurement under Section 53.1 (Two-Failed Biddings) of the IRR of RA 9184.

Under Section 53.2 of the IRR of RA 9184, that is, Negotiated Procurement through Emergency Cases, procuring entities are allowed to directly negotiate with a legally, technically, and financially capable supplier or contractor for the procurement of the goods, works, and/or consulting services, provided that the required conditions, parameters or instances are present. Thus, the Guidelines for the Sale of Bidding Documents finds no application for acquisition, through negotiated procurement under Emergency Cases modality.

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

Wskp 

01/15/15

From: Choi Portades <choiportades@yahoo.com>
 Sent: Wednesday, October 01, 2014 3:02 PM
 To: secretariat@gppb.gov.ph
 Subject: quiry on the adoption of negotiated procurement (emergency cases)

Sir/Madam:

Hello there!

DepED-Albay Division will be procuring hardware materials for the construction of makeshift classrooms. Due to Mt. Mayon Eruption, alternative mode of procurement, specifically, Negotiated procurement (emergency cases) will be resorted to.

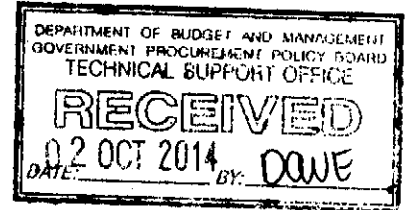
May we be enlightened if the sale of bidding documents to our shortlisted suppliers will still be necessary, considering the total amount of budget which is P 13M? If we can dispense from the sale, for the reason of the urgency of the procurement, what shall be our legal basis?

We will truly appreciate your immediate response.

Thank you very much.

Very truly yours,

MARICHU V. PORTADES
 Member, TWG



Koron,
 please prepare OPMAW.
 Bid docs may be distributed
 for free or be sold to
 bidders. AS 00