

NPM No. 94-2012

3 August 2012

ATTY. MARK JOSEPH N. OCAMPO
Bids and Awards Committee (BAC) Chairman
PHILIPPINE POSTAL SAVINGS BANK, INC.
Postal Bank Center, Liwasang Bonifacio
Manila

**Re: Award of Contract to the Bidder with Higher Price Quotation
Using Small Value Procurement (SVP) as Alternative Modality**

Dear Atty. Ocampo:

This refers to your letter seeking clarification whether the BAC of Philippine Postal Savings Bank, Inc. (Bank) can award the contract to a supplier who offered better specifications, but with price higher than the lowest received quotation.

It is represented that the Bank has adopted SVP as an alternative modality in the procurement of its Voice Over Internet Protocol (VOIP) System. After the BAC's evaluation of the quotations submitted by the suppliers, it has become apparent that one of the suppliers offered better specifications but with a price higher than the lowest received quotation. For this reason, the Bank prefers to award the contract to the supplier that offered goods with better specifications notwithstanding a higher price quotation.

Please note that Republic Act (RA) No. 9184 mandates that in all cases, the contract shall be awarded only to the Bidder with the Lowest Calculated and Responsive Bid (LCRB).¹ It also states in clear and unequivocal language that the Procuring Entity (PE) is duty bound to ensure that the most advantageous price to the Government is obtained² when resorting to any of the alternative methods of procurement. In like manner, under the Guidelines for Shopping and Small Value Procurement³, the PE shall award the contract to the supplier who offered the lowest quotation⁴.

In the preparation of technical specifications, procuring entities are presumed to have carefully considered the necessity and underlying reason for the procurement of the intended goods. Consequently, "[t]he specifications and other terms in the Bidding Documents shall reflect minimum requirements or specifications required to meet the needs of the procuring entity in clear and unambiguous terms."⁵ As such, the bidder complying with the minimum technical specifications, whose price proposal is determined to be the lowest, must perforce be awarded the contract. Thus, an offer providing higher technical specifications, coupled with a higher price, is

¹ Section 34, RA 9184.

² *Id.*, Section 48

³ GPPB Resolution 09-2009 dated 23 November 2009.

⁴ *Id.*, Section 3(h).

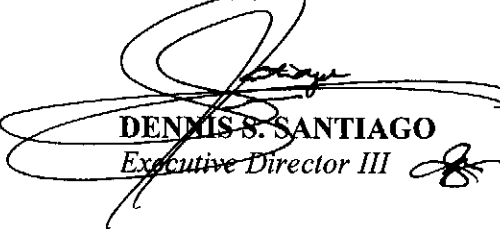
⁵ Section 17.2, Revised Implementing Rules and Regulations, RA 9184.

not entitled to award of contract. It is noteworthy to stress that “[n]o incentive bonus, in whatever form or for whatever purpose, shall be allowed.”⁶

In view of the foregoing, we opine that the Bank should award the contract to the supplier that complied with the specified minimum technical requirements and offered the lowest price quotation. Any preference in favor of the supplier that offered better specifications at a higher price would be a blatant violation of the provisions of RA 9184 and the Guidelines.

We hope our advice provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular circumstances 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

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⁶ *Id.*, Section 42.4.