



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

NPM No. 103-2012

16 August 2012

MR. ACHILLES S. PONCE

Chairman, Bids and Awards Committee (BAC)

MACTAN-CEBU INTERNATIONAL AIRPORT AUTHORITY (MCIAA)

Lapu-Lapu City, Cebu

**Re: Return of bidding documents to losing bidder after
submission of waiver to file request for reconsideration**

Dear Mr. Ponce:

This refers to your letter requesting for opinion on whether the BAC may return the bidding documents submitted by a losing bidder upon the latter's submission of a waiver to file a request for reconsideration.

It is represented that during the recent public bidding conducted by MCIAA, the losing bidder requested for the return of its bidding documents. However, the BAC refused to do so, based on an information obtained from a seminar that this was no longer allowed.

Please note that the Generic Procurement Manuals: Manuals of Procedures for the Procurement of Goods and Services¹ provide that the BAC shall return the bid envelopes of a prospective bidder if it is declared "ineligible" and it does not signify its intention to file a request for reconsideration or expressly waives its right to file a motion for reconsideration. As such, it is legally permissible on the part of the procuring entity to grant the request of a bidder to have its documents returned.

The purpose of retaining documents with the BAC is to ensure that the integrity of the bid is protected in case a reconsideration is sought and the BAC reverses itself (or the HOPE rules in favor of the bidder if a protest is filed) and the procuring entity is duty bound to proceed with the evaluation of other documents (*e.g.*, opening of second bid envelope).³

Thus, when the bidder has waived its right to avail of the protest mechanisms under the law, the rationale behind the retention of documents no longer exists. Accordingly, the BAC may then return such documents.

In view of the foregoing, we wish to clarify that the BAC may return the original bid documents submitted by a losing bidder upon the latter's submission of a waiver to file a

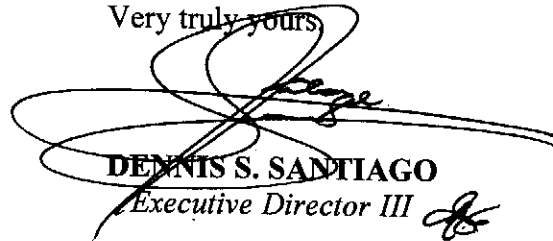
¹ See page 52, item 5 under Methodolgy: How are the eligibility and bid envelopes opened?

³ NPM 011-2010

request for reconsideration. However, it may be prudent for the BAC to keep a copy of the bid documents for record-keeping and auditing purposes.

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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